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BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL

MINUTES

BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL

MINUTES

VOLUME: 91

(AUGUST 27, 2013 – JULY 22, 2014)
(INDEX – 479)

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NATURAL AND CULTURAL RESOURCES

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Books 91-99

Exact dates of the records included:

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Tuesday – August 27, 2013 - 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Vice-Mayor Manheimer gave the invocation.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Mayor Bellamy, Consent Agenda Item "P" (Resolution to add a worksession on September 10, 2013) was added to the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 13, 2013

B. RESOLUTION NO. 13-176 - RESOLUTION TO ACCEPT FOREST LAKE DRIVE, MEADOW LAKE ROAD, SAWMILL ROAD, SIMPSON HOLLOW ROAD, GOLD FINCH LANE, GLENWOODS COURT AND KINGBIRD LANE, IN THE FOREST LAKE SUBDIVISION, AS CITY-MAINTAINED STREETS

Summary: The consideration of a resolution to accept Forest Lake Drive, Meadow Lake Road, Sawmill Road, Simpson Hollow Road, Gold Finch Lane, Glenwoods Court, and Kingbird Lane, located in the Forest Lake Subdivision, as city-maintained streets.

Typically, state-maintained streets that are entirely within the city and are classified as local type streets make good candidates to become city-maintained streets. Local type streets primarily provide access to property and many of these types of streets are found in residential communities.

Ordinance # 7-15-1(e)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The Forest Lake area was annexed into the City with an effective date of June 30, 2003.

- SR 3320 (Forest Lake Drive) from Rock Hill Road to Forest Lake Drive is a state-maintained street that has an average width of 20 width, a length of 0.88 mile, and a right-of-way width of 50 feet.

- SR 3321 (Meadow Lake Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.19 mile, and a right-of-way width of 50 feet.

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- SR 3322 (Sawmill Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.06 mile, and a right-of-way width of 50 feet.

- SR 3328 (Simpson Hollow Road) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.14 mile, and a right-of-way width of 50 feet.

- SR 3334 (Gold Finch Lane) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.02 mile, and a right-of-way width of 50 feet.

- SR 3337 (Glenwoods Court) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.05 mile, and a right-of-way width of 50 feet.

- SR 3338 (Kingbird Lane) from SR 3320 (Forest Lake Drive) to its dead-end is a state-maintained street that has an average width of 20 feet, a length of 0.05 mile, and a right-of-way width of 50 feet.

Transportation and Engineering Department staff and Public Works Department staff have inspected these streets and recommend their change of ownership from state-maintained streets to city-maintained streets.

Following City Council's approval of this resolution and approval by the N.C. Dept. of Transportation, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accepts Forest Lake Drive, Meadow Lake Road, Sawmill Road, Simpson Hollow Road, Gold Finch Lane, Glenwoods Court, and Kingbird Lane as city-maintained streets.

RESOLUTION BOOK NO. 35 - PAGE 406

C. RESOLUTION NO. 13-177 - RESOLUTION DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR EXPENDITURES INCURRED IN CONNECTION WITH THE ACQUISITION, CONSTRUCTION AND IMPROVEMENT OF VARIOUS CAPITAL PROJECTS AND THE ACQUISITION OF VEHICLES AND EQUIPMENT FROM THE PROCEEDS OF AN INSTALLMENT FINANCING CONTRACT TO BE EXECUTED AND DELIVERED IN FISCAL YEAR 2014

Summary: The consideration of a resolution declaring the intent of the City to reimburse itself for expenditures incurred in connection with the acquisition, construction and improvement of various capital projects and the acquisition of vehicles and equipment from the proceeds of an Installment Financing Contract to be executed and delivered in FY 2014.

The City of Asheville plans to issue debt in FY 2014 to fund Council approved capital projects and equipment authorized as part of the FY 2014 budget. These projects include the construction and improvement of various streets, sidewalks, and other City infrastructure and facilities; along with the purchase of vehicles and equipment. The City reasonably expects the maximum principal amount necessary to fund these projects to not exceed $19,000,000.

The purpose of the Reimbursement Resolution is to provide the City with the ability to move

forward with the projects and reimburse its accounts upon the issuance of the debt. The Resolution does not specifically authorize the issuance of the debt. Those resolutions will be drafted in connection with the debt issuance in early 2014. Additionally, as a number of the projects, vehicles and equipment are bid, the actual size of the new money financing can be further refined.

Pro:

- Enables the City to begin spending money on the Council's approved capital projects, vehicles and equipment that were to be financed from debt proceeds.

Con:

- Lost opportunity to earn interest (although at very low interest rates in the range of 1/10 of 1% to 1/4 of 1%) on the City's unrestricted cash and investments which are temporarily diverted to pay for the capital projects pending reimbursement from the debt issuance.

The Reimbursement Resolution will result in some minimal loss of interest income. Bidding and proceeding with the authorized capital projects may result in better pricing thus lower the actual amount of the debt financing. The repayment of the debt issuance is incorporated in the debt management plan.

Staff recommends City Council adopt the FY 2013-14 Resolution.

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D. RESOLUTION NO. 13-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH BUNCOMBE COUNTY TO SHARE THE COSTS FOR A COMPOSTING FEASIBILITY STUDY

Summary: The consideration of a resolution authorizing the City Manager to enter into a financial agreement with Buncombe County to share the costs for a Composting Feasibility Study.

In order to work towards Council's strategic goal of reducing community wide solid waste staff is pursuing a multi-dimensional strategy over time. In 2012, the primary strategy was to make curbside recycling service easier for customers by increasing the size of the recycling container and eliminating the need to sort materials. This effort successfully resulted in a 6.4% reduction of waste going into the landfill. In 2013, the City will install recycling containers on sidewalks throughout downtown, Haywood Rd, and Biltmore Village to provide a user friendly opportunity to recycle for pedestrians. Looking forward, staff recommends assessing the feasibility of a curbside compost collection service that would compliment garbage and recycling collection. To conduct the feasibility study staff will partner with Buncombe County to assess a variety of composting components to include: composting facility locations, composting technology, service collection design, and financial feasibility. The City will share the costs of this study with the County.

The cost of the study will not exceed $50,000. Funding for the study will come from the approved Fiscal Year 2013-14 Public Works' Recycling budget.

City staff recommends Council approve a resolution authorizing the City Manager to enter into a financial agreement with Buncombe County to share the costs for a Composting Feasibility Study.

Councilman Smith noted that this action will also work towards Council's strategic goal of reducing community wide solid waste. This is an element of the City of Asheville Food Action Plan.

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E. RESOLUTION NO. 13-179 - RESOLUTION AMENDING RESOLUTION NO. 13-146 REGARDING APPOINTMENT OF THE CIVIL SERVICE BOARD CHAIR

Summary: The term of Marvin Rosen (an appointed member), expired in March, 2013; however, the Civil Service Board extended his term until the employee election in September, 2013. On June 25, 2013, City Council adopted Resolution No. 13-146 appointing: (1) Carolyn Worthington and Lynn Moffa as members to the Civil Service Board; and (2) Marvin Rosen as Chair to serve a full year, or until his successor is appointed by City Council. On July 12, 2013, Civil Service Board members expressed concern that City Council appointed Marvin Rosen to serve as Chair beyond his current term of office. It is the intent of Council in adopting this Resolution to clarify that in accordance with the provisions of the Civil Service Law, Marvin Rosen may not be reappointed as a member of the Civil Service Board, nor may his replacement be appointed by the Civil Service Board, until after the 2013 Employee Civil Service Board Elections. Therefore, (1) The terms of Carolyn Worthington and Lynn Moffa, are hereby restated to each serve a two-year term, terms to expire May 21, 2015, or until their successors have been appointed; and (2) Marvin Rosen, 6 Graystone Road, Asheville, N.C., be and he is hereby appointed (effective June 25, 2013) as Chair of the Civil Service Board to serve a one year term or until his successor is duly appointed by the City Council, whichever occurs first.

RESOLUTION BOOK NO. 35 - PAGE 418

F. RESOLUTION NO. 13-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MICHAEL BAKER ENGINEERING INC. FOR THE INNSBROOK/MAPLEWOOD ROAD AND MOUNTAIN CREST/PATTON CEMETERY ROAD WATER LINE REPLACEMENTS PROJECT

ORDINANCE NO. 4222 - BUDGET AMENDMENT FOR THE INNSBROOK/MAPLEWOOD ROAD AND MOUNTAIN CREST/PATTON CEMETERY ROAD WATER LINE REPLACEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Michael Baker Engineering, Inc., for engineering services in the amount of $180,000.00 for the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project; and a budget amendment in the amount of $95,250.00 from combining the professional services budget from two capital projects into one.

The City of Asheville Water Resources Department has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance with these projects. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville standards. The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project. In response to the RFQ, the department received twelve (12) proposals. Companies responding were:

1. Brooks Engineering Associates - Asheville, NC
2. Brown Consultants, PA - Asheville, NC
3. GAI Consultants, Inc. - Charlotte, NC
4. Lamm Engineering Associates, PLLC – Raleigh, NC
5. Mattern & Craig, Inc. - Asheville, NC
6. McGill Associates - Asheville, NC
7. Michael Baker Engineering, Inc. - Asheville, NC
8. The Wooton Company - Raleigh, NC
9. Vaughn & Melton Consulting Engineers - Asheville, NC
10. Weston and Sampson - Charleston, SC
11. Willis Engineers - Charlotte, NC
12. W. K. Dickson & Co., Inc. - Charlotte, NC

A review team, comprised of staff from the City of Asheville Water Resources Department, reviewed these proposals and selected the firm Michael Baker Engineering, Inc. Subsequent to this

selection, Water Resources staff met with Michael Baker Engineering, Inc., and has negotiated an Engineering Services Contract in the amount of $180,000.00.

The Water Resources Department currently has $180,000.00 budgeted for professional services for the overall project, but these funds are currently split into two separate capital projects and need to be combined into one. The budgets will be combined into the Innsbrook / Maplewood Roads WL Professional Services budget. In order to combine the professional services budgets, a budget amendment is necessary.

Amount in Innsbrook / Maplewood Roads WL Professional Services	$ 84,750.00
Amount in Mountain Crest / Patton Cemetery WL Prof. Services	$ 95,250.00
Total Amount Needed for Professional Services	$180,000.00

After the department accepts bids for the construction portion of the project and is ready to award the construction contract, the construction budgets in those projects will be combined as well. Staff will seek Council approval on combining those budgets.

City staff recommends City Council approval of the City Manager to execute a professional services agreement with Michael Baker Engineering, Inc., for engineering services in the amount of $180,000.00 for the Innsbrook / Maplewood Road and Mountain Crest / Patton Cemetery Road Water Line Replacements Project; and a budget amendment in the amount of $95,250.00 to combine the professional services budget from two capital projects into one.

Regarding the City's living wage policy and in response to Councilman Smith, Interim City Attorney McGlohon said that House Bill 74 became law on August 23, and in it, among other things, contains a provision that prohibits cities from requiring a private contractor to abide by any restriction that the city cannot impose on all employers in the city, such as paying minimum wage or providing paid sick leave to its employees, as a condition of bidding on a contract. She said that the City's living wage policy continues to be in effect for City employees, but is not valid for private entities.

Councilman Bothwell stated that this is one more step that Raleigh is taking to undercut the wages of workers in our state.

RESOLUTION BOOK NO. 35 - PAGE 419
ORDINANCE BOOK NO. 28 - PAGE 307

G. RESOLUTION NO. 13-181 - RESOLUTION ACCEPTING FAULKNER AVENUE, SAMUEL ASHE DRIVE, LA GRANGE DRIVE, LOWER BEND ROAD, WELLEN WAY AND DUBOIS DRIVE, LOCATED IN THE BEAUCATCHER HEIGHTS SUBDIVISION, AS CITY MAINTAINED STREETS

Summary: The consideration of a resolution to accept Faulkner Avenue, Samuel Ashe Drive, La Grange Drive, Lower Bend Road, Wellen Way and Dubois Drive, located in Beaucatcher Heights Subdivision, as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via a letter dated June 8, 2012 asking the City to accept the subject streets as city-maintained streets.

- Faulkner Avenue from McClain Street to Kenilworth Road is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.33 mile, and a right-of-way width of 50 feet.

- Samuel Ashe Drive from Reservoir Road to Faulkner Avenue is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.39 mile, and a right-of-way width of 50 feet.

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- La Grange Drive from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.18 mile, and a right-of-way width of 50 feet.

- Lower Bend Road from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.05 mile, and a right-of-way width of 50 feet.

- Wellen Way from McClain Street to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.06 mile, and a right-of-way width of 50 feet.

- Dubois Drive from Faulkner Avenue to its dead-end is a developer-constructed street that has an average width of 20 feet with 18-inch curb and gutter, a length of 0.06 mile, and a right-of-way width of 50 feet.

Transportation Department staff and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject streets were constructed to current City of Asheville standards.

The retaining walls that are located adjacent to Samuel Ashe Drive and encroach within the public right-of-way are privately-owned and they will be maintained by the Beaucatcher Heights Homeowners Association or some other private entity as indicated in Plat Book 128 Page 14. The City of Asheville is **not** responsible to maintain any retaining walls that are included in the Beaucatcher Heights Subdivision.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Faulkner Avenue, Samuel Ashe Drive, La Grange Drive, Lower Bend Road, Wellen Way, and Dubois Drive as city-maintained streets.

RESOLUTION BOOK NO. 35 - PAGE 420

H. RESOLUTION NO. 13-182 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL ON SEPTEMBER 21, 2013

RESOLUTION NO. 13-183 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITIZEN-TIMES CITY MARATHON 5K RACE ON SEPTEMBER 27, 2013

RESOLUTION NO. 13-184 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST ON OCTOBER 12, 2013

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Brewgrass Festival on September 21, 2013;

the Asheville Citizen-Times City Marathon 5K Race on September 27, 2013, and Oktoberfest on October 12, 2013.

- Big Brothers Big Sisters has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

  The Brewgrass Festival will be held on Saturday, September 21, 2013, from 12:00 p.m. – 7:00 p.m. within the boundaries of Martin Luther King Jr. Park, as referenced on the accompanying site map.

- Lend-A-Hand Foundation has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Citizen-Times City Marathon 5K Race and allow for consumption at this event.

  The Asheville Citizen-Times City Marathon 5K Race will be held on Friday, September 27, 2013, from 6:00 p.m. – 10:00 p.m. along various streets with all beer and/or unfortified wine restricted to a portion of Otis Street between Battery Park Avenue and North French Broad Avenue, as per the event area limits referenced on the accompanying site map.

- The Downtown Association has requested through the City of Asheville Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Oktoberfest and allow for consumption at this event.

  Oktoberfest will be held on Saturday, October 12, 2013, from 12:00 p.m. – 6:00 p.m. on Banks Avenue between Collier Avenue and Coxe Avenue and on Coxe Avenue between 135 Coxe Avenue and the intersection of Buxton Avenue, as per the event area limits referenced on the accompanying site map.

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Brewgrass Festival, Asheville Citizen-Times City Marathon 5K Race, and Oktoberfest.

RESOLUTION NO. 13-182 - RESOLUTION BOOK NO. 35 - PAGE 428
RESOLUTION NO. 13-183 - RESOLUTION BOOK NO. 35 - PAGE 431
RESOLUTION NO. 13-184 - RESOLUTION BOOK NO. 35 - PAGE 434

I. RESOLUTION NO. 13-185 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE A SEALED BID SALE OF THREE PARCELS OF CITY-OWNED PROPERTY , KNOWN AS THE (1) CURVE STREET LOT; (2) DEAVER STREET LOT; AND (3) MILLBROOK ROAD LOT

Summary: The consideration of a resolution directing the City Clerk to advertise a sealed bid sale of three parcels of City owned property, known as the (1) Curve Street lot, (2) Deaver Street lot, and (3) Millbrook Road lot.

The City of Asheville owns three properties that are currently designated as surplus, residential, vacant lots – the Curve Street lot (0.25 acres, PIN 9648-68-0689-00000), Deaver Street lot (0.19 acre, PIN 9638-76-4002-00000) and Millbrook Road lot (0.25 acres, PIN 9638-66-3884-00000). Over the past several weeks, there has been an increase in interest from local buyers in these parcels. To respond to this interest, staff is seeking authorization to commence a sealed bid process, as outlined below:

1. Upon approval of this resolution, the City Clerk will publish a notice of sealed bid sale in the Asheville Citizen-Times, identifying the parcels available for sale and all terms and conditions of the sale.

2. During the thirty day notice period, City staff will actively market the parcels with the assistance of the local realtor's network and the regional Multiple Listing Service (MLS).
3. On October 10th at 3:30 p.m. on the fifth floor of City Hall, City staff will host a public bid opening, and will review all sealed bids received for the parcels.
4. Staff will present highest bids for City Council authorization on October 22nd, 2013, with Council reserving the right to reject any and all bids.
5. Potential closing date(s) – December 1, 2013.

Staff is seeking to utilize the sealed bid process in effort to benefit from the thirty day marketing period, as well as to ensure a deliberate process for all persons that have shown interest in the parcels for sale.

The proceeds from the sale of the Curve Street parcel will benefit the Community Development Block Grant fund. The sale of the Millbrook Road and Deaver Street parcels will benefit the General Fund and will be designated for future economic and community development projects.

Economic Development staff recommends adoption of the resolution directing the City Clerk to advertise a sealed bid sale of three parcels of City owned property, known as (1) Curve Street lot, (2) Deaver Street lot, and (3) Millbrook Road lot.

RESOLUTION BOOK NO. 35 - PAGE 437

J. RESOLUTION NO. 13-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEMPORARY LABOR SERVICES AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF-HELP TREATMENT INC. FOR TEMPORARY LABORERS

Summary: The consideration of a resolution to allow the City Manager to enter into a temporary labor services agreement between the City of Asheville and Forsyth Initiative for Residential Self-Help Treatment, INC. (F.I.R.S.T.) for temporary laborers.

The City of Asheville is in need of temporary workers to perform a variety of tasks including unskilled work in concrete, asphalt, drainage, traffic control, building maintenance, and other like unskilled work for our Public Works and Civic Center Departments. These workers will perform unskilled labor and are typically used in crews of four to five on a sporadic, as-needed basis. The City will select a single Agency as the supplier for temporary workers. The anticipated contract amount will be written not to exceed $155,000.

F.I.R.S.T. is a local non-profit organization operating from 32 Knox Rd. in Ridgecrest, NC. F.I.R.S.T. offers a combination of therapeutic treatment, vocational training, and life skills development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized F.I.R.S.T. participants for the past ten years with excellent results.

As of June 30, 2013, the City of Asheville has reached the end of a four year general services contract with FIRST for temporary labor services. City staff along with F.I.R.S.T., desire to enter into a new agreement for temporary labor services at the prior rate of $9.00/hour. Because F.I.R.S.T. is running a program of assistance and provides additional benefits to its participants, this agreement would not be covered by City Council's adopted Living Wage policy for Fiscal Year 2013-2014. For these reasons, City staff is recommending that Council adopt a resolution to allow the City Manager to enter into a temporary labor services agreement with F.I.R.S.T., at a rate of $9.00/hour.

The contract amount has been allocated in the U.S. Cellular Center and Public Works operational budgets for Fiscal Year 2013-2014.

Staff recommends City Council adopt a resolution to allow the City Manager to enter into a temporary labor services agreement with F.I.R.S.T., at a rate of $9.00/hour, for an initial term of two years; with the option of continuation for two additional terms each equivalent to a single calendar year.

In response to Councilman Smith, Assistant City Manager Cathy Ball said that this agreement is with the place that the laborers reside in. They provide the laborers with food, shelter and provide transportation within which to bring them into and back from work every day.

RESOLUTION BOOK NO. 35 - PAGE 438

K. RESOLUTION NO. 13-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND CONVEY CERTAIN EASEMENTS RELATED TO THE DEVELOPMENT OF HUNT HILL APARTMENTS

Summary: The consideration of a resolution authorizing the City Manager to accept and convey certain easements related to the development of Hunt Hill Apartments.

There is a shared boundary line between the City of Asheville property known as Mountainside Park and the property owned by Biltmore Avenue, LLC slated for the development known as Hunt Hill Apartments. During the course of the project review for the development, it was discovered that the access driveway for Mountainside Park encroached upon land owned by Biltmore Avenue, LLC. Per the Conditional Zoning permit for the project, the City requested that the property owner convey an easement for said driveway into Mountainside Park. At this time, staff is requesting that City Council authorize the City Manager to accept an access easement from Biltmore Avenue, LLC to benefit the City owned property at Mountainside Park.

Along the same shared boundary between the two properties, the developer is requesting two temporary easements from the City of Asheville to Biltmore Avenue, LLC, as follows: (1) A temporary grading easement, approximately 30 feet in width, in order to balance out the grade change between the two properties and remove the need for retaining walls in that area, and (2) A temporary storm drain easement to install storm drainage infrastructure to tie in to existing storm drain lines that flow towards Memorial Stadium. Biltmore Avenue, LLC will enter into a maintenance agreement with the City of Asheville for the long term maintenance of the newly installed line. Staff is requesting that City Council authorize the City Manager to convey a temporary grading easement and a temporary storm line easement to Biltmore Avenue, LLC for the development of Hunt Hill Apartments.

There is no immediate financial impact to the City. City staff will be responsible for creating legal documents associated with this project, with the developer to provide all surveys and exhibits.

City staff recommends that City Council adopt the resolution authorizing the City Manager to accept and convey certain easements related to the Hunt Hill Apartments project.

RESOLUTION BOOK NO. 35 - PAGE 439

L. RESOLUTION NO. 13-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS UNDER THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM TO FUND A MULTI-JURISDICTIONAL DWI TASK FORCE

Summary: The consideration of a resolution authorizing the City Manager to sign the application to apply with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund a multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO).

In Asheville and Buncombe County, the number of impaired drivers has been a serious

concern to citizens and law enforcement. Since 2010, the total number of incidents involving impaired drivers has risen steadily. During this three year period, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies. There have been more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher. The goal of this proposed DWI Task Force would be to reduce the number of DWI – related collisions, injuries and deaths in Asheville and Buncombe County, as well as educate the public on impaired driving and its effects.

In recognizing these alarming statistics, the NCGHSP has contacted APD and proposed a $724,861 grant in FY 2014 that would provide APD and BCSO 100% of the cost, or $329,250 to purchase vehicles, uniforms, and equipment, and to train 6 additional officers. The remaining $395,611 of the grant proceeds covers 100% of salary and benefits costs for four years at a diminishing rate. Under this grant, APD would supply one (1) sergeant and three (3) officers while BCSO would supply 2 officers. These 6 officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The involved officers would also conduct educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

The NCGHSP grant would pay for full salary and benefits for the involved officers on a diminishing rate / costs are approximate depending on involved officer's salaries:

Year	Rate / # of Officers	Grant Payment	City Cost / 4 Officers
Year 1:	100% / 6 officers	= $395,611	City share: $0.00
Year 2:	5% / 6 officers	= $336,269	City share: $40,098
Year 3:	70% / 6 officers	= $276,927	City share: $80,197
Year 4:	50% / 6 officers	= $197,805	City share: $133,662

At the conclusion of year 4, it is recommended that the involved agencies continue with the DWI Task Force initiative, but is not mandated.

The Public Safety Committee reviewed this on March 25 with unanimous approval to move it forward to City Council.

The general fund impact to the City would be approximately $253,957 during the four year grant cycle. At the end of the four years, the general fund impact would be an increase of approximately $267,325 per year to add permanently the one (1) sergeant and three (3) officers and to provide equipment as needed.

City staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through the North Carolina Governor's Highway Safety Program.

RESOLUTION BOOK NO. 35 - PAGE 440

M. RESOLUTION NO. 13-189 - RESOLUTION AUTHORIZING SUBMITTAL OF FISCAL YEAR 2013 STATE EMERGENCY SOLUTIONS GRANT APPLICATION

Summary: The consideration of a resolution authorizing submittal of Fiscal Year 2013 State Emergency Solutions Grant (ESG) application.

The State of North Carolina announced the availability of funds and the application deadline for FY 2013 ESG grants last month. Like last year, the State required single applications for established Continuums of Care (CoC). The deadline for submittal of applications was August 21, 2013. The Homeless Initiative Advisory Committee, on behalf of the Asheville-Buncombe CoC, established an ESG Subcommittee to make recommendations to the Continuum of Care for project funding. Representatives

of agencies eligible for ESG funding were not appointed to the subcommittee. The subcommittee solicited letters of intent from eligible agencies, reviewed these, and proposed projects for ESG funding. Their recommendations were forwarded to the Homeless Initiative Advisory Committee. The Asheville Homeless Coalition and the Homeless Initiative Advisory Committee met together on August 6, 2013, and unanimously approved these recommendations. These groups also recommended that the City of Asheville continue to serve as Fiscal Agent for the Continuum of Care for this grant. The Housing and Community Development Committee accepted these recommendations on August 8, 2013. The HCD Committee was informed by staff that the application deadline preceded the next available Council meeting for consideration of the application. The HCD Committee agreed that staff should submit the application, conditional on Council approval at the next available Council meeting. Recommended application amounts are:

	Emergency Response	Housing Stabilization	Total
Organization			
ABCCM	$	$ 20,000.00	$ 20,000.00
Helpmate	$ 26,559.00	$	$ 26,559.00
Homeward Bound	$	$ 71,382.00	$ 71,382.00
Salvation Army	$ 23,441.00		$ 23,441.00
TOTAL REQUESTS	$ 50,000.00	$ 91,382.00	$ 141,382.00
TOTAL AVAILABLE			$ 141,382.00

If approved by the State, these funds will come to the City of Asheville, and then be allocated to the agencies. A small percentage of administrative funds will be given to the City of Asheville once the State determines final community allocations. The Community Development Division administers the program within approved budget constraints.

The HCD Committee requests City Council approve the application for the Emergency Solutions Grant funding for Fiscal Year 2013.

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N. RESOLUTION NO. 13-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR THE CRAVEN STREET IMPROVEMENTS PROJECT FOR ADDITIONAL PROFESSIONAL SERVICES FOR COMPLETING THE DESIGN AND CONSTRUCTION ADMINISTRATION OF THE PROJECT

ORDINANCE NO. 4223 - BUDGET AMENDMENT TO FUND THE CHANGE ORDER FOR THE CRAVEN STREET IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a change order for the Craven Street Improvements project for additional professional services for completing the design and construction administration of the project; and (2) a budget amendment in the amount of $286,961 from various sources to fund the change order.

On June 12, 2012, City Council had previously approved a contract with ColeJenest & Stone for professional services in the amount of $514,221 plus a 10% contingency. This change order will increase that contract amount to $852,604. This project includes improvements to the existing two lane roadway by implementing a complete street approach to the design. The new facility will include bike lanes, sidewalk, stormwater improvements, stream stabilization, greenway, parking areas and two-way vehicular traffic. The City had previously selected ColeJenest & Stone through a Request for Qualifications process in which 14 other teams had submitted.

The City has three funding partners on this project, Golden Leaf Foundation has provided $300,000, the Economic Development Grant from the Department of Commerce has partnered to provide approximately $1.2M, and the Clean Water Management Trust Fund through RiverLink has provided $400,000 toward this great project. The remaining cost of the project will be paid through the Stormwater, Water, and Parking Funds and General Fund debt proceeds.

The additional services required to complete this project include working with the North Carolina Department of Public Safety to acquire a parcel that was previously held by Buncombe County and to provide ground water monitoring at this same site.

Due to the topography, retaining walls are needed along the greenway. The design and inspection of these specialized walls are also additional services. Since the greenway passes over a MSD sewer line, additional engineering services are required to design the sewer line to meet MSD standards with a greenway facility located above it.

The city continues to work closely with Duke Energy for right-of-way access and shared uses of rights-of-way. Additional services include performing necessary plat preparation, coordinating with property owners and surveying for the properties where the city will need easements or additional rights-of-way.

As the project had developed, additional services have been identified for the construction inspection and material testing of the project. This work is critical to the success of the project and the professional services team will have a full time inspector on site to perform material testing as necessary.

As there are many funding partners on this project, the professional services team will also assist staff with coordination and documentation with these organizations. These services include providing requested data and also assisting with key reporting dates as we move through the construction process.

The budget that City Council approved in June 2012 for this contract, including the 10% contingency, totaled $565,643. In order to fund this change order, an additional $286,961 in budget authorization is required. Funding for the change order will come from the following sources: 1) General Fund (debt proceeds): $177,418; 2) Parking Fund operating budget: $57,732; 3) Stormwater Fund fund balance: $51,811.

City staff recommends City Council 1) authorize the City Manager to execute change order with ColeJenest & Stone for the additional professional services associated with the Craven Street Improvement project - The total professional services contract is not to exceed $852,604; and 2) approve a budget amendment in the amount of $286,961 from various sources to fund the change order.

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ORDINANCE BOOK NO. 28 - PAGE 309

O. ORDINANCE NO. 4224 - BUDGET AMENDMENT TO REFLECT FINAL HUD FUNDING FOR THE CONSOLIDATED ACTION PLAN FOR CDBG AND HOME FOR 2013-14

Summary: The consideration of the budget amendment in the amount of $218, necessary to complete action on the final revised allocations for the Consolidated Action Plan for CDBG and HOME for Fiscal Year (FY) 2013-2014.

The final revised grants of HUD funds for CDBG and HOME have been received. The revised CDBG grant available for the current year is $993,543. The revised HOME grant is $938,716.

The proposed Budget Amendment will account for all funds awarded.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the budget amendment.

ORDINANCE BOOK NO. 28 - PAGE 311

P. RESOLUTION NO. 13-197 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE

Summary: The Asheville City Council will hold a worksession in the First Floor North Conference Room of City Hall, located at 70 Court Plaza, Asheville, North Carolina, on Tuesday, September 10, 2013, at 4:00 p.m. to obtain an update from City staff on the proposed North Asheville Dog Park.

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Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Hunt and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

III. PRESENTATIONS & REPORTS:

A. CHARLOTTE STREET CORRIDOR STUDY PRESENTATION

Transportation Director Ken Putnam introduced Mr. Don Bryson, consultant with Vanasse Hangen Brustlin (originally Martin/Alexiou, Bryson). He said that he will provide Council with a pdf version of the entire report, along with posting it on the City's website. City Council then viewed the computer modeling and heard the complete analysis of the traffic conditions today and what they are projected to be in the future of the Charlotte Street Comprehensive Traffic Study Report. Mr. Bryson said they did an extensive corridor study of traffic counts, travel speeds, level of service, and collision history. He then reviewed the 4-lane vs. 3-lane scenarios, adding bike lanes, parking on one side, narrower 3 lanes with wider sidewalks, hybrid 3-lane/4-lane etc. He stressed that access management is an issue, noting many properties have multiple driveways, excessively wide driveways, and driveways too close to intersections. Sidewalks are narrow (typically 4-5') and have obstacles in them (utility poles, signs, vegetation and driveways). He showed two simulations for the year 2035 with existing 4 lanes and then with 3 lanes. There are economic impacts including (1) effects of road diets on business activity and property values; and (2) sources of benefits. The results show (1) little difference in the short term; (2) queue lengths are issue with 3-lane; (3) hybrid could be acceptable, but yields minimal benefits; (4) potential for speeding on 3-lane segments; (5) no significant bicycle or pedestrian benefits; and (6) access conflicts remain unresolved.

Mr. Bryson and Mr. Putnam responded to various questions/comments from Council, some being, but are not limited to: any consideration given to limiting left turn lanes; can we force changes to existing driveways; what is the rationale and the factors of the trend nationwide with fuel prices and different modes of transportation; and would widening the sidewalks be beneficial for bike riders.

Vice-Mayor Manheimer felt the study is sufficient enough that we can come put together the vision and then let the professionals come up with the result, since there might be some consensus on pedestrian safety and preserving the access to businesses.

City Manager Jackson said that staff envisions taking on some of these issues (utility relocation and sidewalk widening) to the extent that the codes will promote redevelopment of corridors like this. We are trying to put these tools in place. A part of the most recent budget cycle was increasing the actual resources for multimodal transportation. We did not identify specific target areas. That will be the next phase and we want to use the Complete Streets Policy to identify those target areas. This is a tool to evaluate how these things can work together.

Assistant City Manager Ball felt that we have enough data to allow staff to go back and design the corridor with a more comprehensive plan more than grinding up the lanes and re-stripping - wider sidewalks, opportunity for bike lanes, etc. She said we can put the design of that project in this year's budget and fund the construction in next year's budget.

The following individuals made several comments about the Charlotte Street Corridor Study, some being, but are not limited to: the area is unattractive for pedestrian use; leave Charlotte Street 4-lanes; need for safe passage for pedestrians and bicyclists; need more information in the impact of the NC Dept. of Transportation intersection at I-240 that impacts the queuing; and need for pedestrian crossing at I-240 and Charlotte Street:

David Nutter, resident on Flint Street
Grace Curry, resident on Edgemont
Leah Karpen resident on Charlotte Street
Jane Mathews, resident of Albemarle Park
Max Alexander, resident on Sunset Drive
Two area residents

It was the consensus of Council (1) that in November of 2013, City staff report to the Planning & Economic Development (PED) Committee their alternatives/recommendations to enhance pedestrian safety and overall mobility, with public input; and (2) that in January, 2014, Council consider the recommendations from the PED Committee for the Charlotte Street Corridor.

B. QUARTERLY REPORTS

Public Safety Committee Chair Report

Vice-Mayor Manheimer, Chairman of the Planning & Economic Development Committee, provided Council with a brief update on some major accomplishments during this quarter.

Strategic Operating Plan

A report submitted by Deputy City Manager Jeff Richardson was provided to Council on the quarterly updates on key strategic initiatives associated with the six focus areas of the City's Strategic Plan. Staff has tracked projects using performance indicators and measurements through the Fiscal Year 2012-13. He then briefly summarized the 2012-13 end of the year review.

No action is necessary at this time.

City Manager Jackson thanked Deputy City Manager Richardson for this outstanding work on the quarterly and end-of-year reporting. Mr. Richardson has made this a higher performing organization. He wished him well as he begins his new venture on October 1, 2013, as Cleveland County's Manager.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO REZONE 103, 107, 113 AND 117 CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4225- ORDINANCE TO REZONE 103, 107, 113 AND 117 CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone 103, 107, 113 and 117 Caledonia Road from Institutional District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on August 16 and 23, 2013.

Mr. Esselstyn said that the subject site, roughly 0.6 acres of wooded, steeply sloped land, has been involved in or associated with multiple zoning actions and development proposals in recent years, as described in the above section. While the high-density multi-family development proposals for this area met technical requirements, there was consternation on the part of City Council, as well as multiple neighboring citizens, about the compatibility of that type of use in this location.

The current zoning designation, Institutional, can be traced back to circumstances years ago, when this property was under the same ownership as the complex to the northwest (now the Kenilworth Apartments), which was a medical institution at the time. The subject property, which may have at that time shared a PIN with the parcel on which the complex was built, was considered part of the institution's campus. When the building was converted to apartments, the existing zoning district allowed high density multi-family residential uses, and it was preserved.

Staff feels (as was reflected in the 2011 City-initiated rezoning effort) that the proposed zoning reflects a density more appropriate for these steeply sloped properties in a predominately single-family residential neighborhood, and eliminates the potential for certain commercial uses (allowed in the Institutional district) that are unlikely to be compatible at this location.
The site has already been subdivided into lots suitable for single-family development, and the Institutional Zoning District allows single-family uses, but the side setbacks in Institutional are more restrictive than in RS-8. While the single family lots exceed the minimum lot size for the RS-8 district, width is at a premium because of the steep incline, and the difference between the ten-foot side setback in Institutional and the six-foot setback in RS-8 was one factor prompting the applicant to request the rezoning.

The UDO (7-8-15) states that "The Institutional District is established to reserve land for the development of major educational facilities, major medical facilities and other complementary and supporting uses such as health related developments, office developments, and public services." Staff feels the land no longer is appropriate for this purpose.

By contrast, the stated intent of RS-8 is "to establish a high density per acre for single-family dwellings where public infrastructure is sufficient to support such development and to stabilize and protect the district's residential character in areas of existing high density single-family development while promoting a suitable environment for single-family living. Non-single-family development normally required to provide the basic elements of a balanced and attractive residential area is also permitted."

When a similar rezoning proposal was initiated by the City in 2011, the primary reason cited for objection on the part of reviewing boards was the lack of support of the property owner. Now that that situation has changed, the property has been subdivided, and the property owner is behind the rezoning, staff feels that the argument for the rezoning is further strengthened.

Unlike the similar recent rezoning request (described above) on Finalee, which was contiguous on two sides to existing RS-8 zoning, however, the petition in question would create an area of RS-8 zoning which only touches corresponding zoning at a single point. The 0.6-acre area would be

surrounded on three sides by Institutional zoning, and would face River zoning across the street along most of its frontage. Staff has expressed to the applicant that a petition including other adjacent parcels would be preferable, but the applicant was not prepared to expand the area at this time.

At the most recent two meetings of the Planning and Zoning Commission, certain Commissioners indicated concerns about the "piecemeal" approach under which rezoning is being pursued in this area. While staff would also rather see a larger area being proposed for rezoning by the applicant and adjacent property owners this report must consider the petition submitted on its own merits. Staff believes that the proposed rezoning would represent an improvement over the existing situation.

At the August 7 Planning and Zoning Commission meeting, two neighbors spoke in support of this rezoning, but voiced concerns about the "bigger picture." Several commissioners also expressed interest in a more extensive consideration of the zoning in this area, but nonetheless recommended approval of this rezoning request by a 6-1 vote. As a result of that concern, at the September 4 meeting of the Planning and Zoning Commission, staff was asked to present a summary of the findings and analysis from the broader City-initiated rezoning proposed in 2011 for discussion by the Commission.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pro:

- The rezoning establishes zoning on the properties that is more reflective of and compatible with the neighboring single-family neighborhood and the steeply sloping site.

Con:

- The minimal contiguity of the proposed area of RS-8 zoning to existing RS-8 zoning is less than ideal according to standard zoning practices.

Staff's analysis indicates that the proposed zoning district would support appropriate development and prevent incompatible development better than the existing zoning, and, accordingly, staff recommends approval.

Mayor Bellamy opened the public hearing at 6:26 p.m.

Mr. David Evers, resident on Finalee, supported the rezoning; however, felt they could be spot zoning. He felt it was time to ask City staff to rezone the larger tracts to avoid further spot zoning.

Mayor Bellamy closed the public hearing at 6:29 p.m.

Councilman Smith said that a process is underway to examine the areas that might have issues around land slides, and that sort of thing. There is also a process underway to look at zoning designations in an effort to make sure we are not creating any unintended problems.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4225. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

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B. PUBLIC HEARING TO REZONE 172 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

C. **PUBLIC HEARING TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ARTICLE 7-8-18) TO INCLUDE A PARCEL LOCATED AT 172 ASHELAND AVENUE IN THE OFFICIAL CENTRAL BUSINESS DISTRICT HEIGHT ZONE MAP AND KEY PEDESTRIAN STREETS MAP**

ORDINANCE NO. 4226 - ORDINANCE TO REZONE 172 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4227 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE (ARTICLE 7-8-18) TO INCLUDE A PARCEL LOCATED AT 172 ASHELAND AVENUE IN THE OFFICIAL CENTRAL BUSINESS DISTRICT HEIGHT ZONE MAP AND KEY PEDESTRIAN STREETS MAP

Mayor Bellamy said that since these two public hearings are related, she asked Mr. Glines to combine his presentation and that public comment would be taken on each item with two separate votes being taken.

Urban Planner Alan Glines said that this is the consideration of an ordinance to rezone 172 Asheland Avenue from Regional Business District to Central Business District. This public hearing was advertised on August 16 and 23, 2013.

He said this parcel is located along Asheland Avenue south of Hilliard Avenue. The property is adjacent to the western border of the Central Business District zone (CBD). The parcel slopes away from Asheland Avenue and has access to a small right of way called Federal Alley at the back side of the property. Recently the owners of 86 Asheland Avenue submitted an application to rezone their three parcels to CBD. That request was approved by City Council at their meeting on June 23, 2013. After receiving notification of that application, Douglas Fox called staff to inquire about changing the zoning of his parcel. Mr. Fox feels that the growth pattern for the south area of downtown is strongly in favor of an urban, denser form of development. He submitted this request with the knowledge that new substantial development changes on his property will be required to follow standards approved for the Central Business District.

The Downtown Commission considered this request at their July meeting, and most Commissioners were surprised to receive a second application for rezoning in the area. Staff explained that the property owner received notification from the earlier rezoning request and feels that a zoning change is also warranted for this property too. Although work on a corridor-long rezoning study is anticipated to start later in the year, this specific request to rezone was submitted and staff is compelled to consider and process it in a timely manner. Planning for this corridor project has not commenced but it will include community meetings with affected property owners and neighbors of the South French Broad neighborhood especially because of potential impacts from parcels on the west side of Asheland Avenue. Parcels on the east side such as 172 Asheland are not expected to have the same level of impact on the neighborhood. There was a similar discussion at the Planning and Zoning Commission review in August.

The Central Business District allows a wide range of residential and commercial uses with regulations in place for designing new structures so that new construction will be compatible with the urban context of downtown. Most of the regulations for downtown development were identified in the Downtown Master Plan completed in 2009 and later adopted with some amendments into the UDO in 2010. Building heights are defined by the Height Zone map and a recommendation to include these parcels on the map is associated with this application. There is also a Key Pedestrian Streets map (KPS) and certain streets that are primary pedestrian corridors are included in the map. Asheland Avenue north of Hilliard is on the KPS map. The intermediate height zone was approved for 86 Asheland and the key pedestrian streets map was extended to include those three properties. The Downtown Commission is recommending the same map amendments for this property too. This was also supported by the Planning and Zoning Commission.

The Regional Business District allows a large array of commercial uses and permits large structures (greater than 100,000 square feet). Building height is limited to 80 feet. The development zone is more common in suburban areas along busy highways, interchanges and thoroughfares. There is little character defining regulations in the ordinance and parking is allowed in front of buildings and at the sidewalk edge in regional business zones. In this area near downtown Regional Business zoning is a remnant of a prior focus for the area.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The zoning change is compatible with the neighboring downtown area.
- Supports the goals of the Downtown Master Plan and the Strategic Operating Plan
- Supports the redevelopment of the south area of downtown

Con:

- None noted.

The Planning and Zoning Commission voted unanimously to support the request to rezone the subject property at their meeting on August 7, 2013. The Downtown Commission reviewed the request as a policy discussion at their meeting on July 12, 2013 and voted 8-0 to support the request. In addition, three neighboring property owners called with questions and support for the zoning change before the Planning and Zoning Commission meeting.

Staff supports the proposed zoning change because the request is aligned with City adopted goals and plans for the downtown area.

Regarding the UDO map amendments, Mr. Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance (Article 7-8-18) to include a parcel located at 172 Asheland Avenue in the official Central Business District Height Zone Map and Key Pedestrian Streets Map. This public hearing was advertised on August 16 and 23, 2013.

The Planning and Development Department has received an application to rezone a parcel at 172 Asheland Avenue from Regional Business (RB) to Central Business District (CBD). Downtown CBD properties are subject to height regulations that are based on their specific location in the downtown area. Also, some streets in downtown are designated as Key Pedestrian Streets which have additional development regulations designed to enhance the pedestrian relationship for new construction. If the rezoning is approved, these maps should be reviewed and adjusted to consider the rezoned parcels.

Height Zone Map - The height zone map is adopted as a part of the Central Business District (7-8-18 of the UDO). The map identifies areas for the *tallest height zone* (265 feet) and the *intermediate height zone* (145 feet) and *buffer height* that moderates the tallest height zone along view shed corridors. The Planning and Zoning Commission and the Downtown Commission recommended that the intermediate height zone be applied to 172 Asheland Avenue. The intermediate height zone has been used at other locations that have bordered the edge of the downtown CBD. If the study proceeds later this year to expand the CBD further south along Asheland Avenue, the height zone will be reviewed again.

Key Pedestrian Streets - The Key Pedestrian Streets map (KPS) is a designation along specific streets that serve as primary pedestrian linkages throughout the downtown area. When a street is designated a KPS, there are several development regulations in place that are designed to enhance the pedestrian experience at the sidewalk level. For example, a building on a KPS, must provide 70% windows, doors or other openings at pedestrian level and parking garages must provide either an occupiable space for the first 20 feet of depth or provide fenestration details meeting regulations. Asheland Avenue is a KPS north of Hilliard Avenue and City Council approved the extension of the KPS map to include the recent request to rezone 3 parcels at 86 Asheland Avenue. The Downtown

Commission recommends that the KPS designation extend to the property at 172 Asheland Avenue. The designation would extend past a property between 86 Asheland and 172 Asheland but if approved, KPS standards will not apply to non-CBD zoned parcels. If Asheland Avenue is studied for further CBD expansion the issue of extending the KPS map will also receive discussion then.

City Council reviewed and approved a similar request to amend the same maps in relation to the 86 Asheland Avenue rezoning at the meeting on June 23, 2013.

Based on the above findings and the analysis in the report, staff finds the map amendment to be reasonable and conforming to the Comprehensive Plan.

The Planning and Zoning Commission reviewed the map amendment at their August 7, 2013, meeting and unanimously recommended the placement of the intermediate height zone on and the extension of the key pedestrian streets map to the subject property. The Downtown Commission supported a similar recommendation at their meeting on July 12, 2013. Staff concurs with this recommendation because it supports the goals of the Comprehensive Plan and its conformance with the adopted Downtown Master Plan.

Pros:

- Adjusts development maps in accordance with land use changes
- Implements portions of the *Downtown Master Plan* and supports City Council's *Goals and Vision Plan*
- Removes incongruous development patterns from an area suitable for more sustainable models

Con:

- None noted

City staff recommends City Council approve the amendment to the Height Zone map to include the intermediate height for the subject properties and also the amendment to the Key Pedestrian Streets map to extend this designation to the subject area and (find that the amendment is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 6:36 p.m., and when no one spoke, she closed the public hearing at 6:36 p.m.

Mayor Bellamy said that members of Council have previously received a copy of both ordinances and they would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4226. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

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Vice-Mayor Manheimer found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4227. This motion was seconded by Councilman Bothwell and carried unanimously.

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When Mayor Bellamy asked for the City to consider upgrading the appearance of the western corridor (Patton Avenue) coming into the City, City Manager Jackson said that staff has a vision in the conceptual stage and and included in the Capital Improvement Plan schedule there is a placeholder for $250,000 for the western downtown gateway. Staff will look for Council direction for that in the coming year.

At the request of Mayor Bellamy, it was the consensus of Council to ask the City Manager to provide them with a report on providing screens in other parts of the Council Chamber so the entire audience can view what is on the screen.

D. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CLARIFICATIONS TO AND MODIFICATIONS OF CURRENT SIGN REGULATIONS

ORDINANCE NO. 4228 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CLARIFICATIONS TO AND MODIFICATIONS OF CURRENT SIGN REGULATIONS

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance regarding clarifications to and modifications of current sign regulations. This public hearing was advertised on August 16 and 23, 2013.

Ms. Daniel said that in June, staff proposed a number of changes to the Sign Regulations. The Planning and Zoning Commission recommended approval of some of those changes, which were forwarded to Council and approved in July. The Commission requested further information from the staff on other proposed changes and staff returned to the Commission for that evaluation. This report outlines the proposed changes and the recommendations of the Planning and Zoning Commission.

The proposed modifications arise from staff observation that adjustments to the sign regulations should be considered that primarily allow more flexibility for businesses and development from a practical perspective, without causing any substantial increase in signage. This report includes the proposals for changes to off-premise signs, residential development signs, and signs for multi-tenant businesses.

Summary of Changes:

(1) Sec. 7-13-3: Off-premises signs

This section relates to signs that are prohibited. The proposed modifications for this section include two technical changes and one substantive change.

A technical change is proposed to the title of Sec. 7-13-3 to more clearly reflect the content of the section which contains both prohibitions and additional standards.

> **Sec. 7-13-3**. Signs prohibited or requiring additional standards in all zoning districts.

There are two changes to paragraph "6" and the first corrects a technical error. The more substantive proposed change will allow the use of off-premise signs in multi-family residential districts; as some developments are situated in locations without direct frontage on a public road, and directional signage would be helpful for those looking for the development. Initially, several members of the Planning and Zoning Commission expressed concern that this change could have the potential to allow signage in multi-family districts that have a substantial level of single-family housing. To address this concern, staff proposed additional safeguards in Sec. 7-13-5, which governs off-premise signs, discussed later in this report.

> (6). Off-premises signs – some districts. Off-premises signs in all single-family

residential zoning districts and in the Office, ~~Officer~~ *Office*, Business, Community Business I, Neighborhood Business, and Central Business Districts.

The Planning and Zoning Commission unanimously recommended approval of these modifications.

(2) Sec. 7-13-4(b)(1)(c): Residential development signs

The proposed change would allow more than two entry signs for residential developments. Currently one primary sign and one smaller secondary entrance sign are allowed. The change would still allow only one primary sign, but additional secondary entrances from public roads would be allowed the smaller directional sign. Staff believes that this change will provide helpful directional signage for residents and the public for larger developments or communities with multiple entrances on more than two roads.

> (c). Subdivision and multi-family development identification signs may contain the name of the development only and must be either free standing ground signs or attached wall signs. If the signs are free standing ground signs, the height shall be limited to six feet from grade and the minimum setback shall be ten feet. ~~Only two entrances to the development may have a sign.~~ There may be one sign, for each entry to the development from a public road, limited to one sign per road; but only one main entrance sign.
>
> The main entrance sign shall have no more than sixteen (16) square feet per face, two faces per sign. The secondary entrance signs shall have no more than eight (8) square feet per face, two faces per sign. Only two sign faces are ~~shall be~~ allowed at each entrance, however, ~~said~~ the sign faces for the main entrance may be on two individual sign structures.

Commissioners had mixed thoughts about this change, related to a concern about sign proliferation. Staff believes the safeguards on size for the secondary sign or signs, the limit of one main sign and one sign per public road entry are sufficient, and the benefits to the public in terms of directional assistance for secondary entrances will be helpful.

After discussion at the August meeting, the Commission voted 4-3 to not support this change.

(3) Sec. 7-13-4(c): On-Premises signs for multi-tenant development

The proposed changes once again reflect the usefulness of additional directional identification signage for development; in this case multi-tenant development which has access points on more than one public road. Staff believes the existing language to be somewhat confusing and unnecessarily restrictive and inflexible.

The proposed changes clarify that the two allowed identification signs for the building/ development (as opposed to tenant identification signs) may be either freestanding or attached. It clarifies the limit on the number of identification signs per development, and clarifies where the allowed attached tenant identification signs are regulated. And it clarifies that the regulations pertain to any tenant, not just a business tenant.

During the initial discussions some Commissioners expressed a concern that this change did not establish a smaller sign size for the added freestanding signage allowed. To address that concern, the staff proposed a modification that would require a smaller size for the additional identification sign. And to address another Commission concern, the new information was added in a "table" format. Also a designation for the Light Industrial district is also added, as we noticed that none was noted currently.

Sec. 7-13-4(c)(b): On premises signs: Multiple tenant development.

(a) Multiple tenant development may erect either a development identification or joint identification sign. In addition, tenant identification sign for individual businesses within a development are allowed.

(b) For a multiple tenant development, the development itself is allowed one identification sign either freestanding (maximum of two faces per sign) or attached for each property boundary with street frontage with a maximum of two identification signs allowed per development, ~~only one of which may be freestanding.~~ All other permitted tenant identification signs as allowed in 7-13-4(c)(b)(2) must be attached to the building(s).

1. Development and joint identification signs.
   a. Where a development or joint identification sign is selected, such as sign may be of the following types.
      Freestanding: Pole (except in Urban Residential District), Ground, Changeable copy (except in Central Business District and Urban Residential District)
      Attached: Wall, Projecting, Window, Awning/canopy, Suspended or transom

   b. The sign(s) shall meet the following requirement based on the zoning district in which it is located.

Zoning District	*Maximum Height Allowed*	*Maximum Size Per Face*	*Maximum Height Secondary Freestanding Identification Sign*
Residential (all districts)	6 ft.	25 sq. ft.	3 feet or ground sign
Office I & II, Office Business, INST, Resort	8 ft.	90 sq. ft.	4 feet or ground sign
CB II, HB, RB, River, CI, IND, Light IND, Airport	25 ft.	200 sq. ft.	12.5 feet or ground sign
CBD, Urban Village	20 ft.	75 sq. ft.	10 feet or ground sign
NBD, CBI, NCD, URD, UP	12 ft.	60 sq. ft.	6 feet or ground sign

After discussion, the Planning and Zoning Commission unanimously recommended approval of this change.

(4) Sec. 7-13-5(b)(3)(d): Off-premise signs

The regulations currently do not allow any off-premise sign within a 100 foot radius of any residentially zoned property. The intent of the proposed change is to allow an off premise sign to be used in proximity to multi-family zoned properties, easing the ability to use directional identification signs for developments that do not have direct frontage on a primary public road.

As noted earlier, some Commissioners initially expressed a concern that this change might lead to off-premise directional signs being placed near single family homes that are in a multi-family zoning district, a not uncommon situation in some Asheville neighborhoods. To address this concern, staff modified the proposed language to protect such homes in multi-family zoning districts.

(d) No off-premises sign shall be located within a 100-foot radius of a property zoned single-family residential or ~~residentially zoned~~ property in a multi-family zone that is in primarily single-family residential use.

After consideration, the Commission voted unanimously to support this proposed modification.

The Planning and Zoning Commission unanimously recommended approval of the proposed changes to:

- **Sec. 7-13-3** related to prohibited off-premise signs,
- **Sec. 7-13-4(c)** related to on-premise signs in multiple tenant developments; and
- **Sec. 7-13-5(b)(3)(d)** governing off-premise signs.

The Planning and Zoning Commission voted 4-3 to not support the proposed changes to **Sec. 7-13-4(b)(1)(c)** that govern residential development signs.

Staff believes the proposed amendments to be reasonable and consistent with the Comprehensive Plan and other adopted plans, and with Council's Strategic Operating Plan goals for job growth and business development through limited taxes, fees, and regulation as the proposed changes would lift some restrictions on signage that are helpful for businesses.

Pros:

- Allows the signage regulations to remain relevant to adjustments in community interests and business practices.
- Allows greater flexibility in providing signage guidance to the public.

Con:

- The nature of ordinance related to signs is such that they require review and adjustments over time.

In response to Vice-Mayor Manheimer, Ms. Daniel said that the residential development sign amendment is aimed at platted and approved subdivisions, not self-identified neighborhoods.

In response to Councilman Hunt, Ms. Daniel explained that basically the Planning & Zoning Commission did not support the changes to residential development signs because they felt there would be a proliferation of them. Staff, however, felt the application would be for larger developments that have widely separated entrances.

Mayor Bellamy opened the public hearing at 6:50 p.m., and when no one spoke, she closed the public hearing at 6:50 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4228 to approve the amendments to (1) **Sec. 7-13-3** related to prohibited off-premise signs; (2) Sec. 7-13-4(c) related to on-premise signs in multiple tenant developments; and (3) Sec. 7-13-5(b)(3)(d) governing off-premise signs. This motion was seconded by Councilman Pelly and carried unanimously.

Because a person who might request more residential development signs has the opportunity to apply for a variance through the Board of Adjustment, City Council did not approve the proposed amendments to Sec. 7-13-4(b)(1)(c) that govern residential development signs.

ORDINANCE BOOK NO. 28 – PAGE 323

E. PUBLIC HEARING REGARDING THE EAGLE MARKET STREETS DEVELOPMENT

RESOLUTION NO. 13-191 - RESOLUTION AUTHORIZING A SUBSTANTIAL AMENDMENT TO THE CITY'S CONSOLIDATED ANNUAL ACTION PLANS FOR 2013-2014 FOR USE OF SECTION 108 FUNDS FOR THE EAGLE MARKET PLACE COMMERCIAL DEVELOPMENT

RESOLUTION NO. 13-192 - RESOLUTION APPROVING A HOUSING TRUST FUND LOAN REQUEST FOR THE EAGLE MARKET PLACE PROJECT

RESOLUTION NO. 13-193 - RESOLUTION AUTHORIZING CAPITAL INVESTMENT LOAN FOR THE EAGLE MARKET PLACE AFFORDABLE HOUSING DEVELOPMENT

ORDINANCE NO. 4229 - BUDGET AMENDMENT REGARDING THE EAGLE MARKET PLACE AFFORDABLE HOUSING DEVELOPMENT

Assistant City Manager Cathy Ball said that this is the consideration of (1) a resolution approving the City and HUD funding by Mountain Housing Opportunities for the Eagle Market Place housing development project and commercial redevelopment project; (2) a resolution to approve a Housing Trust Fund loan for Eagle-Market Place Project; (3) a resolution authorizing the City Manager to negotiate a development agreement with Mountain Housing Opportunities and Eagle Market Street Development Corporation; and (4) a budget budget amendment in the amount of $2,200,000 to establish a project budget from previously approved FY 2014 EDCIP proceeds. The public hearing required for the substantial amendment was advertised on August 16 and 23, 2013.

The Eagle Market Place project, to be developed by Mountain Housing Opportunities (MHO) and Eagle Market Streets Development Corporation (EMSDC), is seeking Council approval of additional Housing Trust Funds, City Economic Development Capital Project Funds (EDCIP) and final commitment of HUD Section 108 funds. The developers hope to close project construction financing on or about September 15th in order to commence construction.

History: The redevelopment of the "Block," the neighborhood in the immediate vicinity of the intersection of Eagle and Market Streets, has been sought for over 25 years. This historic center of African American commerce in Asheville was dramatically affected by the federal urban renewal program of the 1970's. Businesses relocated, property investment tailed off, and physical deterioration of buildings and vacancies resulted.

Since 1986, when the City established the South Pack Square Reinvestment District, and developed guidelines for the renovation of the historic properties there, a number of redevelopment projects have been proposed, but none have become reality. In the 2000's, the City sought and obtained an $800,000 Section 108 loan from HUD, and a $300,000 HUD Economic Development Incentive grant. However, a lawsuit brought by an affected property owner whose holdings were not included in the plan (although later dismissed) derailed the project. The City lost the EDI grant, although it was able to retain the Section 108 funds for possible later use.

As recently as 2008, EMSDC in partnership with a private developer and with City support, proposed to redevelop the property for residential condominiums. The timing of the financing proposal coincided with the collapse of the housing market, and EMSDC chose to let a pre-development agreement lapse in 2010.

Mountain Housing Opportunities (MHO), at the encouragement of City officials, agreed to explore the possibility of developing a residential rental project, using Low Income Housing Tax Credits as the

primary financing vehicle. MHO, with a $1 million commitment of City general funds and $300,000 in Housing Trust Funds, and with a $2,000,000 County general fund and $300,000 County housing trust fund commitment, successfully applied for $5 million in federal Low Income Housing Tax Credits in 2012, for 62 new units of affordable housing.

Concurrent with the funding process, MHO and EMSDC pursued design and development permits, achieving concurrence from the South Pack Square Design Review Advisory Board, the Historic Resources Commission, the Downtown Commission and the City Planning and Zoning Commission. Because the project involved the demolition of buildings contributing to the Asheville Downtown National Historic District, an agreement was reached with the State Historic Preservation Office (facilitated by the City) to mitigate the adverse effect on historic resources. An agreement was reached with the City to help meet resident parking needs. All other permits necessary to move forward with construction have been granted.

Project Description: The project is planned as 62 apartments and 10,270 square feet commercial space, of which 3,500 square feet is planned as community space.

After construction, the commercial and the residential components of the project will be separated into two independent ownerships. The commercial component will consist of (1) the entire Del Cardo building at the corner of Eagle and South Market Streets, (2) the first floor of the Ritz Building at 42-44 South Market Street, (3) the first floor of a newly constructed building at 46 South Market Street, and (4) the first floor of the Dr. Collette Building (reserved as community space). MHO has proposed that the residential component will lease a portion of the Dr. Collette Building (19 Eagle Street), which will serve as the community space and leasing office. 62 affordable housing units comprised of one efficiency unit, 40 one bedroom, 18 two-bedroom and three three-bedroom apartments will be constructed in the remainder of the Ritz, and as new construction in a 6-story building rising from the interior of the 0.61 acre site. Rents will range from $250 to $780.

As the final design plans were completed, the cost of the project increased due to the impact of site conditions, affecting foundation and second floor deck costs, the constraints of the site, the impact of preserving existing structures, and rising construction costs in general due to improved economic conditions.

Given that the cost of the project had increased approximately $3 million in a two month period, city and county staff requested a third-party cost estimate. The third-party cost estimate provided by American South, the contractor for the County courthouse expansion on College Street and the AB Tech expansion was $600,000 higher the most recent cost estimate from MHO's general contractor, Weaver-Cooke.

While the cost estimate provided by the third-party was shared with MHO, Weaver-Cooke has agreed to hold their original price. The current sources and uses chart indicate the need for additional funds in the amount of $3,367,618. MHO and EMSDC are requesting these additional funds from the City of Asheville. Should Council approve the additional funding, the City's full commitment to the Eagle Market Place development will total $4,667,618, when added to $1,300,000 in loans previously approved for this project.

An event is scheduled for Monday, August 26th to help MHO and EMSDC reached their fundraising goal. This goal is included in their sources and uses chart.

HUD.– Section 108 Loan: The total commercial space to be developed is 10,720 SF. 3,500 square feet in the Dr Collette building is proposed to be leased to the residential ownership for office, community and historical display space.

Based upon these most recent estimates, EMSDC and MHO have identified an additional funding gap of $706,867. The organizations have assumed responsibility to fill this gap through their fundraising

efforts. They have applied for a $250,000 grant for the project from the Appalachian Regional Commission, and have been named a finalist for these funds.

The third-party cost estimate indicated that the projected cost for the project does not include electrical, plumbing, HVAC and interior finishes such as sheetrock. The cost for this work is included as an alternate at a cost of approximately $150,000. MHO stated that that the systems work can be completed within the projected budget and that interior sheetrock and other interior up-fit will be the tenant's responsibility. Staff's understanding is that EMSDC intends to provide rent relief to enable businesses to complete interior finishes to suit.

EMSDC and MHO request that $718,000 of HUD section 108 funds be loaned to the project on a 40 year schedule, to be repaid from net cash flow available after payment to the primary lender and keeping the debt coverage ratio at 1.2. They request that the City provide all additional collateral that may be required from HUD to approve an amendment to the existing Section 108 Agreement between HUD and the City of Asheville; and that the City make all payments above those available on the terms requested to satisfy the current repayment schedule for the Section 108 loan, from other funds available to the City, including but not necessarily limited to future CDBG program allocations and program income. In short, the City will repay HUD the outstanding balance over 9 years, while the project will repay the City over a 40-year amortization schedule, as explained below.

The City received approval from HUD in 2002 for a Section 108 loan in the amount of $800,000 for the redevelopment of properties in the Block. The City has been repaying interest on the Section 108 loan since 2004, and for the past two years, principal payments have also been made. The repayment schedule was provided to Council. To date, a total of $691,905 has been repaid, with $391,016 paid in interest and $240,000 repaid in principal. There is a principal balance of $540,000. The fund retains a total balance of $718,000, as the City has endeavored to make as much of the original loan available as possible for an Eagle-Market place project. Only some transaction costs (for the original loan) and a portion of the principal repayment has been made from the original balance. The City has used Program Income derived from past CDBG-funded activity to make the loan payments. This Program Income would otherwise have been used to fund current activities through the annual Action Plan process.

HUD has noted that the Section 108 funds are CDBG funds, and that the national objective for which these funds are made available has never been achieved. HUD urges the use of these funds. The City also has the option to repay the loan in full in 2014. HUD requires that an amendment be proposed by the City of Asheville for the use of these funds. The Section 108 loan is an advance of future CDBG funds to the City, and it is ultimately the future CDBG funding that is pledged to repay the advance.

HUD will evaluate the collateral offered and the reliability of the source of repayment for the project.

While HUD often sees projects that repay the Section 108 loan from project revenues alone, this is not a HUD requirement. EMSDC has projected a below-market rent structure for the project. EMSDC indicates that rents and expenses have been projected conservatively to avoid creating unrealistic expectations, and to enable marketing to small and start-up businesses, especially those who participate in the BLOCK Academy. EMSDC also has the stated goal of marketing directly to minority-owned business, and maximizing leasing of space to minority-owned businesses. Additionally, 3,500 square feet of the commercial space is proposed to be used as the housing rental office and as community space, including space for a historical display. The proposed lease rate for that space is $5/square foot (about $15/sq ft below market rates).

The result of this proposed rental structure is that the City of Asheville is requested to make-up the required payments to HUD for the remaining term of the Section 108 loan, and recover those payments over time as the project can afford to make them.

The proposed payment to the City during the remaining 9-year term of the Section 108 agreement between the City and HUD is $7,153. The City's obligation to HUD during that period is

$704,000. Assuming City Council approval of the developer request, the City would repay the balance of the Section 108 loan using CDBG funds or other City funds dedicated for that repayment. Staff's understanding is that the actual loan payment would be determined annually, based upon net income available after repayment of the first position loan, while ensuring a debt coverage ratio of 1.2.

The first position loan is being provided by NeighborWorks Capital. This loan must be replaced with other funds in three years. Staff requested information from MHO on how the loan would be replaced. MHO provided the following information:

> *"Based on conversations with the Initiative in recent weeks, we do not expect them to discontinue their commercial loan program for member Community Development Corporations (including MHO). It's my understanding that their loan capital did not originate from the State Legislature, but from private investments. After three years, we expect the commercial properties at EMP to be eligible for commercial loans from private banks as well, to take out the NW Capital funds."*

HUD requires sufficient collateral to fully secure the Section 108 loan. The maximum loan to value HUD will accept to fully collateralize the loan is 80% of all loans for the project.
The Section 108 program allows the advance use of CDBG funds for projects that meet both National Objective and Program Activity requirements. The Section 108 loan is subject to all CDBG regulations. HUD has provided the following guidance for this project:

Eligibility: Community Economic Development Project carried out by a CBDO [570.204(a)(2)] and [570.703(h)(2)]: Community economic development project includes activities that increase economic opportunity, principally for persons of low- and moderate-income, or that stimulate or retain businesses or permanent jobs, including projects that include one or more such activities that are clearly needed to address a lack of affordable housing accessible to existing or planned jobs and those activities specified at 24 CFR 91.1(a)(1)(iii); activities under this paragraph may include costs associated with project-specific assessment or remediation of known or suspected environmental contamination;

National Objective: Spot slums and blight 24 CFR 570.208(b) (2)

Public Benefit: Generally, the project must create at least one job (FTE) per $35,000 of CDBG invested. That is 21 jobs at $718,000.

Housing Trust Fund Request: The cost for the affordable housing units is greater than previously funded projects. The average cost per unit for Low Income Housing Tax Credit developments in the Asheville Regional Housing Consortium in past five years has been $127,700. The cost per unit in this project is $240,000. The average local subsidy per unit (including federal HOME funds) has averaged $9,332 with a range of $2,500 to $17,500. The estimated combined City/County subsidy per unit for Eagle Market Place is $120,000.

The proposed additional funding proposed for the residential element is sourced from the EDCIP and the Affordable Housing Trust Fund (HTF). The estimated funding gap in excess of the previously committed $1.3 million is $3.4 million.

One option that staff has proposed for funding part of the $3.4 million gap is to use an additional $500,000 from the Housing Trust Fund for Eagle Market Place. If approved, the HTF loan for the project would increase from $300,000 to $800,000. The existing $300,000 loan was approved at 2% interest-only payments with a term of 20 years. The same terms are requested for the increased amount. The annual payment amount would be $20,000.

The history of the $300,000 HTF loan previously approved for Eagle Market Place:

- March 8, 2011 — City Council approval of $300,000 loan, 2% interest-only payments, 20-year term.

- October 23, 2012 — City Council approval of release of HTF funds to MHO; 100% draw immediately for project "soft" costs
- January 22, 2013 — Eagle Market Place HTF Loan Agreement is executed and $300,000 disbursed to MHO for the purchase of the "Ritz" property. The City's loan is secured by a second security interest in the subject property.

The residential element of the project supports Council's strategic goal of Affordable Housing and Community Development, by increasing the number of affordable housing units within the City limits to encourage density. The commercial element supports the goal of Economic Growth and Financial Stability, by helping create mixed use neighborhoods, contributing to downtown vitality and supporting job growth.

Pros:

- The community has attempted for years to rejuvenate the Eagle Market Street area, only to see failure. The Eagle Market Place project represents an opportunity to see this effort through to completion.
- The project's impacts will benefit downtown Asheville, and may extend investment and redevelopment interest southward toward the Mt. Zion Church properties.
- The project would yield 10,000 square feet of rehabilitated commercial space in downtown Asheville, and has the goal to recruit minority-owned job-creating businesses into this space.
- The project will be energy efficient with Energy Star and System-Vision certification.
- If the affordable housing portion of this project is not completed the state would lose federal Low Income Housing Tax Credits (LIHTC) earmarked for this project. The housing tax credits cannot be transferred to another project in the city of Asheville or in the state. The loss of credits could negatively affect future applications for credits.
- The proposed project has a significant economic impact. Construction wages and material purchases, especially with the project's proposed use of minority contractors, will positively affect the local and regional economy. MHO, EMSDC and the project general contractor, Weaver-Cooke, have made a commitment to maximize the use of minority contractors and "Section 3" employees.
- The revitalization of the "Block" has been a City/County priority for 25 years.
- The proposed project will create a new locational efficient residential development, particularly affecting downtown service-sector employees. The project will create housing that will be affordable for at least 30 years.

Cons:

- Plumbing, electrical and HVAC for the commercial space in not provided in the base bid. The additional cost for this work is estimated at $150,000.
- The cost of interior finishes is not included in the commercial element budget.
- Staff has not reviewed a marketing plan for the commercial space.
- The projected commercial rents are lower than the rents cited by the appraisal in determining the value of the completed project.
- The proposed Section 108 repayment schedule will require ongoing subsidy from CDBG allocations and program income for the full remaining period of repayment of the Section 108 loan. The exact amount of the subsidy is not clear, since the repayment from the project is indexed to net income after superior loan obligations are paid.
- The use of CDBG funds to further subsidize the project during the initial eight years will affect funding available for other CDBG-eligible activities in Asheville.
- There are some unknowns about the housing project cost. Based on the third party review, the project could cost an additional $400,000.
- In order to receive the full tax credit, the housing units must obtain a temporary certificate of occupancy (TCO) by December 31, 2014. Receiving a TCO late could result in penalties. Weaver-Cooke believes the project can be completed within 14 months. The third party contractor indicated that if they were bidding the project, 16 month construction period would be the least amount of time they could complete the project.

- Many projects will be delayed in order to provide additional funding for this project. A revised EDCIP was provided to Council to demonstrate the potential changes to the original conceptual EDCIP approved by City Council in June 2013. Additionally, funding a portion of this project with Affordable Housing Trust Fund Money will decrease the funding for additional affordable housing units available in the City.

The project financing would not require these funds until the 16th month of construction. Should Council choose to approve this request, staff would recommend that $3,867,618 from the EDCIP and $500,000 from Affordable Housing as the sources for the funding.

Funding sources for Council's approved EDCIP provides $2,200,000 in pay-as-you-go (pay-go) funds in FY 2014 and 1,764,250 in pay-go funding in FY 2015. Due to the project's construction cash flow requirements, approval of this request will commit all of the EDCIP pay-go investment over the next two years to the Eagle Market Place project. The budget amendment will create a multi-year project budget that will allow the City to carry over the $2,200,000 from FY 2014 EDCIP funds to be available in FY 2015 when the payment request is expected to be received. Staff has updated the EDCIP to reflect the fact that the FY 2014 and FY 2015 pay-go investments will go toward the Eagle Market Place project.

The HTF loan request, if approved, would total $800,000 with 2% interest-only payments for a 20 year term. The annual interest payment would be $20,000. This amount includes the $300,000 previously committed and expended on the purchase of the Ritz property.

An event is scheduled for Monday, August 26th to help MHO and EMSDC reached their fundraising goal. This goal is included in their sources and uses chart.

The Housing Trust Fund currently has an available loan balance of $769,621. The project, if approved at the requested amount, would leave an anticipated balance of $269,621 to lend for other developments. Due to the project's cash flow requirements during construction, the Housing Trust Fund investment could be spread over two years, lessening its impact to support affordable housing developments this year.

It has been the policy of the HCD Committee and Council to request proposals from developers for the use of Housing Trust Funds one-time annually, with decisions typically made in December or January. Should these funds be allocated now, the range of proposals that may be considered at that time will be limited.

Current Housing Trust Fund policy limits the amount of funds that may be loaned to one project as follows:

Per-unit Subsidy Requested	Maximum Loan Amount
More than $20,000	Ineligible
$15,001 to $20,000	$150,000
$10,001 to $15,000	$200,000
$ 5,001 to $10,000	$300,000
Less than $5,000	$500,000

Based upon the amount requested per unit ($12,097), this project is eligible for a maximum loan of $200,000. The current policy maximum per project is $500,000. To grant the request, both of these policies will need to be waived.

In summary, the total requested City investment from EDCIP and Housing Trust Funds is approximately $4.7 million. This would require a new total commitment of $3.4 million.

This investment must be loaned to the project in order to protect the tax-credit equity investment. However, it is unlikely that the City will recover this financial investment due to the nature of the project

and its anticipated cash flow. Maintaining affordability of the rental units over the 30+ years is only achieved through no debt or low performing debt. Therefore, the investment must be structured as a low- or no-interest loan, with an expectation that the debt will be either renewed or forgiven upon its maturity.

Staff requests the following actions:

- City and HUD funding by Mountain Housing Opportunities for the Eagle Market Place housing development project and commercial redevelopment project:
- Authorization for the City Manager to negotiate a development agreement with Mountain Housing Opportunities (MHO) and Eagle Market Street Development Corporation (MHO) ; and,
- Adopt a budget amendment in the amount of $2,200,000 to establish a project budget from previously approved FY 2014 EDCIP proceeds.

If Council approves this investment, staff recommends the following conditions on for development agreement:

1. Second lien security interest in the residential project;
2. Project completion unconditionally guaranteed by Mountain Housing Opportunities;
3. Last funds disbursed to the project and only upon the project's completion as represented by MHO;
4. The funding approved at this time represents the final and full funding commitment of the City to the project;
5. City staff participates in all monthly progress meetings. Full documentation of project expenses to City; all change orders affecting project financing to be disclosed at least two weeks before presentation for approval. Additionally, the city review all change order requests and approve change orders, over $25,000.
6. Any inspection reports from MHO/EMSDC/TD Bank's representatives are provided to the City within two weeks of the inspections.
7. MHO/EMSDC would comply with all reporting requirements from the federal monies in the project.
8. MHO/EMSDC work with the City on the City's financing structure so that it is most advantageous to the City. This could require the ability of the City to own some portion of the project in order to debt finance the loan.
9. Qualification for LIHTC: Then City commitment to be conditional on MHO meeting the requirements for full delivery of the LIHTC. City funds will only be disbursed if the City is assured this condition will be met.
10. Second lien security interest in the commercial project, additional collateral may be required pending HUD's review of the project;
11. Project completion unconditionally guaranteed by Mountain Housing Opportunities, to include fully operational systems, with only required tenant up-fit being finishes such as sheet rock or specialty finishes;
12. EMSDC enter into a CDBG Contract with the City of Asheville, and agree to meet all regulatory requirements, including the documentation of job creation as necessary to meet the programmatic requirements in a final amended Section 108 agreement with HUD.

Mayor Bellamy opened the public hearing at 7:00 p.m.

The following individuals spoke in whole-hearted support of this important project, that has lingered on for a long time, for the historic neighborhood and the wider community:

Mr. Scott Dedman, Executive of MHO
Mr. Mike Romero, Board member of MHO
Mr. Marvin Chambers
Ms. Caldwell, commercial tenant for Eagle Market Place
Owner of Limones
Mr. Mike Campbell, Board member of EMSDC

Mr. Darryl Hart, Chairman of EMSDC
Mr. Matthew Bacoate Jr., Board member of MHO
Mr. David Nutter, Board member of EMSDC
Ms. Stephanie Swepson-Twitty, President and CEO of EMSDC

Mayor Bellamy closed the public hearing at 7:23 p.m.

Council members were very pleased to see this project come to life.

Mayor Bellamy said that members of Council have previously received copies of the resolutions and ordinance and they would not be read.

Councilman Pelly moved for the adoption of Resolution No. 13-191. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 443

Councilman Smith moved for the adoption of Resolution No. 13-192. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 444

Vice-Mayor Manheimer moved for the adoption of Resolution No. 13-193_. This motion was seconded by Councilman Hunt and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 445

Councilman Bothwell moved for the adoption of Ordinance No. 4229. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 326

Upon inquiry of Mayor Bellamy, Assistant City Manager Ball said that staff will bring back the development agreement for Council consideration at their September 10, 2013, meeting.

V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-194 - RESOLUTION APPROVING THE RECOMMENDATION OF THE HOUSING & COMMUNITY DEVELOPMENT COMMITTEE FOR THE 2014 OUTSIDE AGENCY PROGRAM

Community Development Director Jeff Staudinger said that this is the consideration of a resolution approving of the recommendations of the Housing & Community Development (HCD) Committee for the 2014 Outside Agency Program.

The HCD Committee received applications from 13 eligible organizations for Outside Agency funding for 2014. The Committee considered these applications at their meeting of August 8, 2013, and now recommends 9 applications for funding. The recommendations are:

Agency	Purpose	Amount

Asheville Buncombe Community Relations Council	Provide services to improve relations between City residents and law enforcement; and act as a local resource for Asheville residents who feel that they have been discriminated against in housing, employment, law enforcement and schools.	35,000.00
Asheville Design Center	Assist Hall Fletcher School develop the first phase of the Outdoor Learning Center.	4,000.00
Asheville Green Works	Act as a liaison between city, other governments and community agencies and citizens to improve the environment.	8,000.00
Child Abuse Prevention Services	Reduce/prevent child abuse, strengthen families, and assist children and families who have experienced abuse through prevention education, parenting education, and crisis intervention/counseling.	5,000.00
Children First	Support Learning Center programs at Pisgah View, Deaverview and Woodbridge communities.	20,000.00
Green Opportunities	GO Kitchen Ready program to prepare participants for jobs in Asheville restaurant and hospitality industry.	25,000.00
Homeward Bound -A HOPE	A HOPE Day Center outreach, intake and support for homeless persons, support for weekend operations.	25,900.00
United Way 2-1-1	Community service information line that connects people to community resources.	2,500.00
YWCA	The MotherLove program helps pregnant and parenting teens stay in school, access higher education and vocational training, develop the skills and knowledge to become strong parents and delay another teen pregnancy.	8,000.00
TOTAL		**$133,400**

This action complies with the City Council Strategic Operating Plan in (1) Affordable, buy supporting initiatives to end homelessness; (2) Safe, by supporting recreation and employment alternatives for youth at risk of gang exposure; (3) Job Growth and Community development, by continuing to support the Economic Development Coalition; and by considering tools and programs the City can use to promote job growth and creation.

Pros:

- Approval of Outside Agency Grants provides operating support to Asheville- based organizations that are providing direct services for Asheville residents.

- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Funding is included in the FY 2013-14 adopted General Fund budget for the Outside Agency Grants recommended above.

The HCD recommends approval of the 2014 Outside Agency Program grants as presented.

Councilman Davis, Chair of the HCD Committee thanked Councilman Pelly and Councilman Smith for their hard work on this Committee. He was pleased that Council provided the funding and noted that this year their emphasis was on helping young people.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 13-194. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. RESOLUTION NO. 13-195 - RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Affordable Housing Advisory Committee.

The terms of Barber Melton, Scott Dedman, Lindsey Simerly and David Dills expire on September 1, 2013.

The following individuals have applied for the vacancies: Robin R. Raines, Brandee Boggs and Dawn Nelson.

On August 13, 2013, it was the consensus of the Boards & Commissions Committee, and consensus of City Council to (1) reappoint Ms. Melton, Mr. Dedman and Ms. Simerly; and (2) interview Robin Raines.

Councilman Smith moved to (1) reappoint Barber Melton, Scott Dedman and Lindsey Simerly Dills as members to the Affordable Housing Advisory Committee, to each serve a three year term, terms to expire September 1, 2016, or until their successors are appointed; and (2) appoint Robin Raines to serve a three-year term, term to expire September 1, 2016, or until her successor is appointed.. This motion was seconded by Councilman Hunt and carried unanimously.

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C. RESOLUTION NO. 13-196 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE CRIMESTOPPERS BOARD OF DIRECTORS

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Crimestoppers Board of Directors.

Mr. David Herbert has resigned from the Board, thus leaving an unexpired term until June 30, 2014.

The following individuals have applied for the vacancy: Fred Cooke and Anthony Mitchell.

On August 13, 2013, it was the consensus of the Boards & Commissions Committee and consensus of Council to interview Mr. Cooke and Mr. Mitchell.

Councilman Hunt moved to appoint Anthony Mitchell as a member of the Asheville-Buncombe Crimestoppers Board of Directors, to serve the unexpired term of Mr. Herbert, term to expire June 30, 2014, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

In addition, at Mayor Bellamy's request, and Council's concurrence, Councilman Pelly moved to request the Citizens-Police Advisory Committee appoint Mr. Fred Cooke to one of their two ad hoc voting members seats. This motion was seconded by Councilman Davis and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Grant Millin provided Council with a draft Asheville happiness initiative proclamation.

Lawsuits

On August 9, 2013, the City was served with a Complaint in the matter of Suzayne Reeves, RBC Centura Bank, and the City of Asheville. This is a tax foreclosure for 62 Ivanhoe Avenue in the City of Asheville. This matter will be handled in-house.

On August 19, 2013, the City was served with a Complaint in the matter of David Wade Hall, Mrs. David Wade Hall, Karen M. Hall, John Doe Hall, Citizens Fidelity Bank & Trust Company, and the City of Asheville. This is a tax foreclosure for 220 Hazel Mill Road in the City of Asheville. This matter will be handled in-house.

Closed Session

At 7:42 p.m., Councilman Pelly moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: (A) State of North Carolina; Metropolitan Sewerage District of Buncombe County; and City of Asheville; and (B) Lisa Richmond (formerly "Lisa Roth"), City of Asheville, Timothy Splain, Michael Downing, William Hogan, and Gary Jackson. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(3); (3) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); and (4) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 9:05 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:05 p.m.

CITY CLERK MAYOR

36

Tuesday – September 10, 2013- 4:00 p.m.
First Floor North Conference Room - City Hall

Worksession

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

North Asheville Dog Park

Assistant City Manager Cathy Ball said that this is a high level overview of the North Asheville dog park process to date. She said the City prepared a Parks Master Plan that direct and guide staff. The Plan notes that it is a low priority to add new parks unless they meet certain criteria. That is because of the limited resources staff has. The Plan also shows shortages and needs in each of the areas. In the north Asheville area, the Plan recommends that continue to maintain existing parks; look for opportunities to add additional park components and amenities to existing parks; and if possible, add a neighborhood park to the north end of the sub-area. She noted that the Plan designates north Asheville as north of W.T. Weaver Boulevard. City Council also adopted its Strategic Plan which an outcome of a dog park in north Asheville would be where people can enjoy a high quality of life. Finally, there is a budget process that identifies capital projects, prioritizing them, and making recommendations. She showed the 5-year capital budget, honing in on what was in the Parks & Recreation budget.

Regarding the issue of the dog park in north Asheville, she noted the City currently has two dog parks - one in west Asheville and one in east Asheville. A north Asheville community group has been active for over a year in pursuing an opportunity to be able to locate a dog park in north Asheville. The developer for the Thoms Estate has shown a willingness to donate land for the purpose of a passive park and dog park. On May 14, 2013, City Council approved $5,000 to support and endorse efforts to establish a dog park. She showed a map of the area, noting that the Killian House is not a part of this project.

She said that developer will not agree to give the City the land until we sign a Memorandum of Understanding (MOU) with the developer that basically outlines the conditions of which the land will be turned over. Most of those are strongly related to the design of the facility; the maintenance and upkeep of it; and whose responsibility it will be. If the developer does not agree to the MOU based on the ability to provide maintenance, then we would have to be another process of a new site selection and then work with that property owner. If the developer does agree to the MOU, then it would be moved forward to develop the scope of work, request for proposals to do the design (the City would contribute $5,000 and the citizens group would provide the match of $5,000 for the design purpose), and then identifying funding. There has been discussion about whether the capital can be raised by the public (any government money) and it may not be a possibility. It may require private funding. For public funding, staff looks to see if it meets a public purpose, if it aligns with Master Plan, and if it aligns with the Strategic Plan. If it does, then it is prioritized during the budget process. Again, there is a process to prioritize funding and projects. Because there is an established 5-year capital plan, one of the existing projects in the 5-year capital plan would have to come off the list.

She was not prepared to discuss other considerations because without having a design and a lot of other information, staff can only speculate what some of the other issues would be,

some being, but are not limited to: environmental, noise, water quality, traffic, Killian House, parking, driveway location, multi-use path location, and other park amenities.

She then reviewed the following two options: Option 1 - If community group serves as a steering committee, staff would (1) complete/execute the MOU; (2) develop scope of work; (3) develop Request for Proposals; (4) select consultant; and (5) complete design and environmental. Or, Option 2 - If community group serves as the lead and staff provides backup technical assistance; staff would (1) complete/execute the MOU; (2) develop design criteria and provide to community group; and (3) provide technical review of design with $5,000.

Mayor Bellamy supported Option 2 because the original request was that the City work with the community as a community-driven project. She noted that we have a Master Plan and a Capital Improvement Plan that many people have worked hard on to get their projects prioritized and funded. She felt that if the dog park rises up to more of a commitment from the City, then something has to come off Capital Improvement Plan. She also thought there was an Option 3 - that the dog park go through the normal process for prioritizing and funding. Here again, she didn't think we should supersede what is already planned and what other people in our community have waiting for.

In response to Councilman Hunt, Ms. Ball noted that Option 2 was the understanding of the community.

Councilman Bothwell wondered if there was any consideration that it be just a walkable park for people who want to walk their dogs from the surrounding neighborhoods. He felt the City should not spend anymore time and money on the dog park until the environmental impact of the dog park is determined.

Councilman Hunt felt that the potential for a gift of land and potential for fund-raising to fund the construction are reasons for him to consider doing this out of order of the Master Plan. If this happens, he suggested it be entirely with private donated money. Another cost factor is the annual maintenance cost. He said that ideally locating this at another site that is more publicly accessible and more walkable, but he didn't think that was feasible. He was open to seeing this move forward, but there are key feasibility questions that need to be addressed before spending money on engineering and site planning.

City Manager Jackson said that the MOU is drafted with a standard of maintenance that we think we can perform but are not sure it will match with their expectations. He said that staff will submit it to the property owner after this meeting and we will then know their reaction to it. The City can only commit to the standards of development for maintenance of the existing dog parks. We will seek to get a clear answer on the MOU before we commit any of the City's money or the private money. We will report that back to Council and then staff can then come back with what preliminary traffic counts can be done, what we think the environmental assessment will cost, how it links to the transportation system, etc. But before we commit any City or private resources, we need to know whether the property will be available.

Councilman Davis was concerned about spending money on the environmental study because we already have a dog park along the French Broad River. And, if we are not in violation of the law there, he didn't think we would be in violation at this proposed dog park.

City Manager Jackson said that we are here because there isn't any money in the Capital Improvement Program for land acquisition. Volunteers in the community have worked hard, along with Councilman Pelly, to try to identify a location. He reiterated that before we spend money we must confirm that this is a genuine opportunity. Then the next dollars will be the private dollars to do the feasibility work and the environmental studies necessary. City staff is still abiding by the policy direction and Master Plan, but are responding to volunteers in the community who are trying to obtain land for an opportunity we would not have had.

Councilman Pelly said he has been meeting with the Friends of North Asheville Dog Park since last fall and the initial discussion was the location. In the 28804 area, this was the only location with potential. The Friends met last night and there was an informal consensus that they are prepared to raise $100,000 towards the capital and maintenance associated with the development of this dog park. One idea circulated regarding maintenance was raising the license fee for a dog owner from $10/year to $15-20/year which would generate more funds to be dedicated to maintenance of all three dog parks. He asked staff to look at that question as well.

With Council's concurrence; City Manager Jackson said that the fee structure would be reviewed at the Finance Committee level in concert with the budget process.

Vice-Mayor Manheimer noted that there is a lot of information that we need to know and that choosing Option 2 as a direction is not committing ourselves to creating the dog park. We are going to explore all the issues concerning environmental impacts, traffic, cost of construction, cost of maintaining it at a satisfactory level, etc. We are only at this point affirming a direction, but it will come back to Council after the information is obtained.

Councilman Smith also favored Option 2. Because we have a lot of deferred maintenance on our parks, he will be interested in seeing the private capital show up and will be interested in seeing the maintenance numbers. It's just not another project that might get bumped, but it's also the on-going maintenance that can suffer.

In response to Mayor Bellamy, Vice-Mayor Manheimer said that Resolution No. 13-107 says that City Council supports and endorses efforts to establish a dog park. The dog park may not be successful because the capital required may be too much. The resolution is silent regarding long-term maintenance. Councilman Pelly noted that the dog park will be contingent upon the successful negotiation of the MOU.

Ms. Ball said that first step is to negotiate the MOU and that will be the first test on whether we move forward or not. Staff is prepared to do that next week. Under Option 2, the community will have to speak to how long it will take for them to move through the process of the design.

In response to Mayor Bellamy's request for timeline, Assistant Parks & Recreation Director Debbie Ivester said that she has worked with the community's steering committee on identifying tasks with dates and will update the existing timeline, which is on the City's website. City Manager Jackson noted that Ms. Ivester is the staff contact for this project.

It was the consensus of Council to reaffirm Option 2.

At 4:55 p.m., Mayor Bellamy adjourned the worksession.

Tuesday – September 10, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Bellamy led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Bothwell gave the invocation.

I. PROCLAMATIONS:

A. RESOLUTION NO. 13-198 - RESOLUTION OF APPRECIATION TO JEFFREY B. RICHARDSON

Mayor Bellamy read the resolution of appreciation to Jeffrey B. Richardson, current Deputy City Manager who has taken the position as County Manager in Cleveland County effective October 1, 2013.

On behalf of City Council, Mayor Bellamy expressed Council's great appreciation to Jeff for meritorious service, loyalty and dedication to the City of Asheville and its citizens.

Deputy City Manager Richardson thanked City Council and his family for their support. He also thanked City employees for the responsiveness.

Councilman Pelly moved to adopt Resolution No. 13-198. This motion was seconded by Councilman Hunt and carried unanimously.

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B. PROCLAMATION PROCLAIMING SEPTEMBER 23-27, 2013, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Bellamy read the proclamation proclaiming September 23-27, 2013, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Mr. James Lee, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 27, 2013

B. RESOLUTION NO. 13-199 - RESOLUTION ACCEPTING ESTES COURT AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept Estes Court as a city-maintained street.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on June 22, 2013 asking the City to accept the subject street as a city-maintained street.

Estes Court from Davenport Road to its dead-end is a developer-constructed street that has an average width of 20 feet with stand-up curb, a length of 0.09 mile, and a right-of-way width of 35 feet.

Transportation Department staff and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject street was constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Estes Court as a city-maintained street.

RESOLUTION BOOK NO. 35 - PAGE 452

C. RESOLUTION NO. 13-200 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH SITEWORK STUDIOS FOR FIVE POINTS ROUNDABOUT IN THE TOWN BRANCH AND CLINGMAN FOREST GREENWAY PROJECT

Summary: The consideration of a resolution amending the contract, in the amount of $125,000, with Sitework Studios to increase the existing contract to add the design and preparation of engineering construction documents for the "Five Points Roundabout" in the Town Branch and Clingman Forest Greenway project for this new project element.

On January 8, 2013, City Council approved the contract with Sitework Studios to develop architectural and engineering construction documents for the Clingman Forest and Town Branch Greenways, and to conduct other necessary pre-development activities for a project budget not to exceed $370,000.

The River Arts District Transportation Improvement Plan (RADTIP) included a schematic design for a new roundabout to replace the existing five-way stop traffic pattern at the "Five Points" intersection of Clingman Avenue Extension, Depot Street, Roberts Street, and Bartlett Street. This intersection is integral to many of the public improvements now in the design stage in the River Arts District and general "East of the Riverway" area, including the Clingman Forest and Town Branch Greenways and the Craven and Roberts Streets improvements related to the New Belgium Brewery development. The decision not to fund the RADTIP design and construction documents from the TIGER II planning grant, but rather from the EDCIP released funds from TIGER II for this roundabout element. Those funds are sufficient to fully fund the new roundabout design and construction documents preparation.

The Federal Transit Administration has indicated that adding this element is an acceptable change in the scope of work for the TIGER II grant.

The development of final design and construction documents for this roundabout will enable the City to meet commitments for public sector improvements to accommodate truck traffic from New Belgium Brewery; will provide for safe bicycle and pedestrian access from residential neighborhoods to the Wilma Dykeman Riverway; and will support improved traffic management in the Clingman Avenue Extension/Depot Street area.

In consideration of amending the Sitework Studios contract, staff consulted with the Federal Transit Administration, as well as internally, to determine that the amendment was consistent with federal procurement procedures and city procurement policies.

This contract amendment of $125,000 is fully funded by Department of Transportation TIGER II Grant funds which have already been budgeted. Pledged cash resources and City in-kind staff hours are more than sufficient to meet the match required by the grant. The result of this planning activity will be a "construction ready" transportation infrastructure project, with a well-developed cost estimate for CIP or EDCIP budget purposes. EDA grant funds for Roberts/Craven Street may be able to be used to help fund the construction.

City staff recommends City Council to approve an amendment authorizing the City Manager to increase the contract with Sitework Studio by an amount not to exceed $125,000 to develop the engineering construction documents for the Five Points Roundabout.

At Councilman Hunt's request, Transportation Director Ken Putnam explained the pedestrian and safety aspects of the roundabout.

Mayor Bellamy felt this was a good opportunity to partner with Healthy Buncombe regarding bicycle safety in their bicycle rodeos.

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D. RESOLUTION NO. 13-201 - RESOLUTION ADOPTING CITY COUNCIL'S 2013-14 STRATEGIC PLAN

Summary: The consideration of a resolution adopting City Council's Strategic Plan for Fiscal Year 2013-2014.

At the March 11, 2013, Council Retreat, Asheville City Council discussed and prioritized focus areas for the coming year. During the retreat, it was noted that presenting goals in a way that highlights the interconnected nature of Council's strategic goals would be ideal. The 2013-2014 strategic focus areas are broken into three broad categories that relate to economic systems, social systems and environmental systems.

The focus areas are:

Economic Growth & Financial Sustainability - Seek to ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work and invest.

Affordable Housing & Community Development - Seek to ensure a sustainable future for Asheville through a standard of living that is affordable and attainable for people of all incomes, life stages and abilities.

High Quality of Life - Seek to ensure a sustainable future for Asheville by promoting a safe environment where basic needs are met and all people can enjoy a high quality of life.

During the 2012-2013 fiscal year, City staff continued to provide City Council with quarterly management reports on performance tied to the organization's adopted strategic goals and related initiatives.

Moving forward with the comprehensive quarterly management report, Council will continue to incorporate quarterly updates from each Council Committee Chair. Each Chair will present to the Council on policy initiatives designed to further achievement of the strategic goals.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None noted.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution reaffirming Council's Strategic Operating Plan.

RESOLUTION BOOK NO. 35 - PAGE 455

E. RESOLUTION NO. 13-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS DONATED BY CITIZENS GROUPS FOR THE ASHEVILLE POLICE DEPARTMENT

ORDINANCE NO. 4230 - BUDGET AMENDMENT TO APPROPRIATE FUNDS INTO THE CITY'S SPECIAL REVENUE FUND BUDGET

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds donated by citizens groups; and (2) a budget amendment in the amount of $7,000 to appropriate these funds into the City's Special Revenue Fund budget.

The Asheville Police Department (APD) has received $7,000 in donated funds from the following sources: Brooks Howell Home for the Baker District - $1,000; NADDI Prescription Drug Diversion project - $5,000; and Target Stores for the Police Explorer Program - $1,000. In order for APD to be able to spend these funds, Council must first approve a budget amendment authorizing use of those funds in the City's Special Revenue fund. These funds are to be used by the APD as needed for specific purposes. The APD has requested that these funds be applied to the APD Private Donations project account to assist with the above listed projects. The APD wishes to acknowledge the generosity, and express gratitude for their support of the Asheville Police Department.

Appropriating these donations in the Special Revenue Fund has no fiscal impact on the City's General Fund Budget.

City staff recommends City Council approve: (1) a resolution authorizing the City Manager to accept funds donated by citizens groups; and (2) a budget amendment in the amount of $7,000 to appropriate these funds into the City's Special Revenue Fund budget.

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ORDINANCE BOOK NO. 28 - PAGE 328

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ECONOMIC DEVELOPMENT COALITION FOR ASHEVILLE-BUNCOMBE COUNTY UPDATE

Mr. Paul Szurek, Chairman of the Economic Development Coalition for Asheville-Buncombe County, along with the help of Mr. Ben Teague, Executive Director of the Economic Development Coalition, briefed Council on their activities.

On behalf of City Council, Mayor Bellamy thanked Mr. Szurek and Mr. Teague for their leadership and the entire Coalition for their dedication.

Councilman Smith noted that Council will be revisiting their economic development incentive policy and look forward to their involvement.

Councilman Hunt, liaison of the Economic Development Coalition, thanked the Coalition for their partnership.

Councilman Bothwell appreciated the sustainability piece of the Asheville 5 x 5 Plan for Job Creation.

B. ASHEVILLE SISTER CITIES UPDATE

Mr. Greg Clemons, Chair of the San Cristobal de las Casas Committee, and Ms. Karon Korp, Chair of the Valladolid Committee, updated City Council on recent programs and activities in their respective Sister Cities. Mr. Clemons presented a letter from the Mayor of San Cristobal to Mayor Bellamy.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING AGRICULTURAL USES

At City staff's request, Councilman Hunt moved to postpone this public hearing until September 24, 2013. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

A. ZONING ANALYSIS ON PROPERTIES LOCATED ON CALEDONIA ROAD AND FINALEE STREET

Mayor Bellamy said that the impacted property owner contacted her and said that he would not be able to be present at this meeting. She asked if Council wanted to postpone this discussion until a date he could be present. It was the consensus of Council to move forward with the presentation because this is more to gauge Council's desire to move forward with the rezonings and then the formal process will start. There will be other opportunities to participate.

Planning & Development Director Judy Daniel said that on September 25, 2012, at the request of the Kenilworth Residents Association, the City Council requested that the Planning staff evaluate the zoning of the properties owned by Caledonia LLC and other associated properties in the area and return to the Council with an analysis and zoning recommendation for these properties. All these properties were zoned Institutional at that time. That report was prepared but presentation to the Council was deferred until February at the request of the Kenilworth Residents Association and then deferred again at their request until this meeting.

These properties include the site of the Kenilworth Inn Apartments and adjoining properties to the east and south. Since the time of the original request there have been several changes to the properties involved including:

- A subdivision creating PIN: 9648714686; that was deeded to RiverLink
- A subdivision of a portion of PIN: 9648710317 to create 9 lots fronting on Finalee
  - Two of those lots are now owned by Isaac Grossman
  - A rezoning of those lots from Institutional to RS-8 approved by Council on August 13
- A subdivision of a portion of PIN: 9648714886 to create 6 lots fronting on Caledonia
  - A rezoning of 4 of those lots from Institutional to RS-8 approved by Council on August 27

This analysis and staff recommendations have been updated to reflect the changes to the properties involved resulting from those changes.

In considering the zoning of these properties the staff has taken into consideration the characteristics of the properties, the existing zoning, the availability of infrastructure for development, the city's 2020 Comprehensive Plan, the Council's adopted policies and goals, and prior Council actions and discussion regarding these properties.

The key concerns at the heart of the ongoing dispute between the property owner and the Kenilworth residents are conflicts regarding density potential of the Institutional zoning and land uses allowed in relationship to city transportation standards related to the carrying capacity of the access roads (Caledonia and Finalee), and city standards related to building potential on steep slopes.

The staff continues to believe that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues. The Institutional Zone is a relic of a time when the Kenilworth Inn operated as a medical facility. When comprehensive rezoning was implemented in this area in 1980 a zone was chosen to reflect the existing use on the property (a common practice at the time) rather than appropriate zoning for future potential uses taking into consideration the steepness of residual parts of the property. Later, when the structure was renovated and turned from a medical facility into apartments no rezoning was required as multi-family housing is a use allowed in the Institutional zone. Further, there does not seem to have been any thought at that time that the remaining properties (primarily steep wooded slopes) owned by Caledonia LLC might later be proposed for additional development.

In 2004 a Conditional Use Zoning was approved for a small property adjoining the apartments, from RS-8 to Institutional to accommodate garage and storage structures for use by residents in conjunction with the approvals for the Kenilworth Inn Apartments.

Recommendation: Taking those background elements into account the staff recommends the following:

- ***Rezone the Kenilworth Inn and two small adjoining properties to the north and south from Institutional to RM-16***

The change would retain the existing residential density potential, so the Kenilworth Inn would remain a conforming use, but would eliminate the potential for a range of nonresidential uses allowed in the Institutional zone that the staff believes could be problematic at this location. Any reduced density zone for the Kenilworth Inn property would render the property non-compliant for density, so that is not recommended. The change is recommended for the apartment property (owned by Kenilworth Apartments LLC) and a small (.61 acre) property between the front of the apartment and Caledonia Road (owned by Caledonia Development LLC), and the property zoned Institutional CZ (owned by Kenilworth Apartments LLC). Because the property with the garages has conditional zoning, the property owner would need to work with

the city for that change. Should the Council wish to follow the above recommendation the recommended language would be:

Proposed Language for Motions:

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648722062 and 9648714812 - from the Institutional Zone to the RM-16 Zone.

I move that the City of Asheville staff be directed to work with the owner of PIN: 9648722461 to initiate a rezoning from Institutional CZ to RM-16 CZ, with no changes to the limiting conditions.

- ***Rezone Residual Developable Properties from Institutional to RM-8 and RS-8***

Earlier this year the property south of Caledonia was deeded by Caledonia Development LLC to Riverlink, nine lots were created from a portion of the property owned by Caledonia Apartments LLC along the frontage of Finalee, and six lots were created from property owned by Caledonia Development LLC along the frontage of Caledonia. As stated earlier, since those subdivisions, all of the lots fronting Finalee and four of the lots fronting along the lower portion of Caledonia have been rezoned to RS-8. As two of the lots on Finalee had been sold to Isaac Grossman, he was also a party to the request along with Caledonia Apartments LLC, the majority property owner.

All other affected properties remain in the Institutional Zone, and all have substantially steep topography. The 3.24 acres property to the east of the Kenilworth Inn property (bifurcated by Caledonia Road) and the 3.36 acre Riverlink property take access from a steep and winding segment of Caledonia Road. The two properties further to the south (1.74 acres owned by Caledonia Apartments LLC and 3.05 acres owned by Caledonia Development LLC) are steep but have the potential for access directly from a lower segment of Caledonia Road and from Swannanoa River Road through another property owned by Caledonia Development LLC (zoned River) that fronts on that road.

For these reasons, staff recommends differing zoning for these properties.

- For the properties to the east and south (PIN: 9648726180, 9648718624, and 9648718648 owned by Caledonia Development LLC; and PIN: 9658714686 owned by Riverlink Inc) the RS-8 zone is recommended. This lower density single-family zone reflects the limited development potential and constrained access for the properties, the recently requested zoning for adjoining lots, and existing zoning in this area.

- For the properties further to the south (PIN: 9648710317 and 9648713307 owned by Caledonia Development LLC) the RM-8 zone is recommended. This would allow multi-family development at a reduced density reflecting the steep slopes of these properties, and would also eliminate the potential for problematic non-residential uses allowed in the Institutional zone. It would allow the potential for clustered lower density multi-family development for these properties that have access from Swannanoa River Road and the lower portion of Caledonia Road.

These changes would substantially impact the property owners, reducing the potential density on the three larger developable properties by approximately 50%. Although it would have a less substantial impact on the developer than a change of all properties to the RS-8 zone, and it would address some of the primary concerns of the neighborhood.

This recommendation includes the remaining 1.74 acre portion of the parcel on Finalee property (owned by Caledonia Apartments LLC) where a 50 unit building was approved, but later voided by the creation of the subdivided lots along the Finalee frontage. (No permits were ever

issued for the construction. The original approval was appealed to the courts by the Kenilworth Residents Association, but no hearing date was ever set, and although the development was voided by the subdivision, the appeal has not yet been dropped.)

No change is recommended the small parcel (PIN: 9648619049/.37 acre) owned by Caledonia Development LLC, that fronts on Swannanoa River Road and is zoned River.

The recommended language for these recommendations would be:

Proposed Language for Motion:

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648714686, 9648726180, 9648718648, and 9648718624 from the Institutional Zone to the RS-8 Zone.

I move that the City of Asheville initiate a rezoning of the following properties: PIN: 9648710317 and 9648713307 from the Institutional Zone to the RM-8 Zone.

Rezone Split Zoned Property to RS-8

One small lot located in the lower curve of Caledonia Road (PIN 9648727364) is split between Institutional and RS-8 zoning. Although it is not owned by Caledonia LLC, in the context of a general zoning evaluation, staff believes this situation should be resolved. A single family home was built on the property (owned by Arthur Trupp and Nancy Headley) within the past few years, so a rezoning to single family zoning is appropriate.

Proposed Language for Motion:

I move that the City of Asheville initiate a rezoning of a portion of the property: PIN: 9648727364 from the Institutional Zone to the RS-8 Zone, placing the entire property into the RS-8 Zone.

- ***Alternative: Take No City Action***

Should the Council determine that they do not wish to initiate any zoning actions, it will allow the property owner and the Kenilworth Residents Association to continue dialogue regarding a resolution for their conflicting concerns.

Although rezoning to a lower density residential zoning would limit development potential on these properties; realistically the steep slopes a substantial portion of these properties limit their development potential anyway. Staff believes there is room for discussion between these parties if they wish to continue dialogue. Items for discussion between them would need to include agreement on a certain ultimate level of development potential, limiting uses to those compatible in a residential area, agreements on preserving the steepest slopes in a protective easement, and improvements to traffic conditions sufficiently to address concerns of the developer and the neighborhood residents (in both instances, concerns beyond actual city standards).

Interim City Attorney McGlohon said that there are several pending appeals to the Board of Adjustment and the Court system. She believed they are in the process of working out a resolution to at least two of the cases. However, even if there was not an attempt to resolve the matters, would have an impact on Council making a recommendation for staff to initiate rezonings.

Mayor Bellamy said that public comment would be taken on all staff requested motions at one time:

The following individuals spoke in support of all staff requested motions:

Mr. Terry Meek, resident on Pickwick Road and member of the Kenilworth Residents Association
Ms. Valerie Hoh, resident on Finalee Avenue and board member of the Kenilworth Residents Association
Ms. Tracy Stubbing, resident on Finalee Avenue

In response to Councilman Davis, Interim City Attorney McGlohon said that should Council decide to rezone the properties, there is always the potential for a disgruntled property owner to seek an appeal.

Councilman Hunt moved that the City of Asheville initiate a rezoning of the following properties: PIN: 9648722062 and 9648714812 from the Institutional District to RM-16 District. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Hunt moved that the City of Asheville staff be directed to work with the owner of PIN: 9648722461 to initiate a rezoning from Institutional District/CZ to RM-16/CZ, with no changes to the limiting conditions. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Bothwell moved that the City of Asheville initiate a rezoning of the following properties: PIN: 9648714686, 9648726180, 9648718648, and 9648718624 from Institutional District to the RS-8 District. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

Councilman Bothwell moved that the City of Asheville initiate a rezoning of PIN 9648710317 from the Institutional District to RM-8 District, and a portion of PIN 9648713307 from Institutional District to the RM-8 District.

Vice-Mayor Manheimer move that the City of Asheville initiate a rezoning of a portion of the property: PIN: 9648727364 from the Institutional District to the RS-8 District, placing the entire property into the RS-8 Zone. This motion was seconded by Councilman Pelly and carried unanimously.

Ms. Daniel corrected a minor error on the map she used in the presentation. She explained that PIN 9648713307 actually touches Swannanoa River Road and wants to retain the split zoning.

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DEVELOPMENT AGREEMENT WITH MOUNTAIN HOUSING OPPORTUNITIES AND EAGLE MARKET STREETS DEVELOPMENT CORPORATION

At City staff's request, Councilman Hunt moved to postpone this item until September 24, 2013. This motion was seconded by Councilman Bothwell and carried unanimously.

VI. NEW BUSINESS:

Regarding the Recreation Board, it was the consensus of Council to re-advertise for the vacancy since no candidates applied.

Regarding the River District Design Review Committee, it was the consensus of Council to not re-advertise for the two vacant seats due to a recent merger of the Committee with the Asheville Area Riverfront Redevelopment Commission.

Regarding the Tourism Development Authority, it was the recommendation of the Tourism Development Authority's Nominating Committee, and the consensus of City Council to re-advertise for the vacancy.

RESOLUTION NO. 13-203 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Public Art & Cultural Commission.

Ms. Honor Moor resigned from the Commission, thus leaving an unexpired term until June 30, 2015.

The following individuals have applied for the vacancy: Kara Warren, Denise Drury, Anthony Johnson and Constance Richards. Because City Council had just advertised for an earlier vacancy two months ago, the Public Art & Cultural Commission requested Council not re-advertise and recommended the appointment of either Constance Richards or Denise Drury. The Boards & Commissions Committee recommended appointment of Ms. Richards.

Councilman Smith moved to appoint Constance Richards as a member of the Public Art & Cultural Commission, to serve the unexpired term of Ms. Moor, term to expire June 30, 2015, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Stewart David encouraged City Council ban horse drawn carriages in the Central Business District.

Mr. Ken Michalove asked City Council questions regarding the $2 Million Art Museum appropriation, the Buncombe County Tourism Development Authority Art Museum grant, and the City Council Planning & Economic Development Committee and the City Council Finance Committee. Mayor Bellamy said that City Manager Jackson would address his questions.

Mayor Bellamy (1) suggested City Manager Jackson develop a way to recognize firefighters who are no longer with the City of Asheville during the past year, for whatever reason; (2) noted that on September 17, 2013, will mark the 226th anniversary of the signing of the Constitution of the United States of America; and (3) she had the honor of providing Keys to the City to Ms. Minnie Jones and Dr. Ralph Sexton for their work in the community.

Lawsuit Report

The City was served with a complaint on August 27, 2013, which is generally described as follows: James E. Moody, Edtha H. Moody, Nancy C. Joyner, and the City of Asheville. The nature of the proceeding is a tax foreclosure for 1840 Old Haywood Road in the City of Asheville. This matter will be handled in-house.

Closed Session

At 6:31 p.m., Councilman Pelly moved that the Asheville City Council go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged

and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: (a) W&K Hotels, LLC d/b/a Four Points By Sheraton; Hospitality Lodging Investors, II, LP d/b/a Hotel Indigo; Nesbitt Asheville Venture, LLC d/b/a The Renaissance Hotel; City of Asheville; City Council of the City of Asheville; and McKibbon Hotel Group, Inc. (b) D & J Real Estate Investments, LLC.; and City of Asheville; (c) D & J Real Estate Investments, LLC; Wells Fargo Bank, National Association in its capacity as Trustees for the registered holders of Salamon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; Midland Loan Services, Inc., in its capacity as Master Servicer for Salomon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; CWCapital Asset Management LLC, in its capacity as Special Servicer for Salomon Brothers Mortgage Securities VII, Inc.; Commercial Mortgage Pass-Through Certificates, Series 2001-C2; (d) State of North Carolina; Metropolitan Sewerage District of Buncombe County; and City of Asheville; and (e) D & J Real Estate Investments, LLC; and Francis X. Coman, Trustee for Greenwich Capital Financial Products, Inc. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(3); (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property at the Clarion Inn located at 550 Airport Road, Fletcher, NC by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (4) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Smith and carried unanimously.

At 7:45 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 7:45 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday – September 24, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Assistant City Manager Cathy Ball; ; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Troop 77 of Trinity Presbyterian Church led City Council in the Pledge of Allegiance.

INVOCATION

Councilman Davis gave the invocation.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 5, 2013, AS "BLUE RIDGE PRIDE DAY"

Mayor Bellamy read the proclamation proclaiming October 5, 2013, as "Blue Ridge Pride Day" in the City of Asheville. She presented the proclamation to Ms. Ashley Arrington, Blue Ridge Pride Outreach & Education Committee, and Blue Ridge Pride Board President Drew Walls, who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING OCTOBER 6-12, 2013, AS "FIRE PREVENTION WEEK"

Mayor Bellamy read the proclamation proclaiming October 6-12, 2013, as "Fire Prevention Week" in the City of Asheville. She presented the proclamation to Division Chief Barry Hendren, who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING OCTOBER 6-13, 2013, AS "MENTAL ILLNESS AWARENESS WEEK"

Mayor Bellamy read the proclamation proclaiming October 6-13, 2013, as "Mental Illness Awareness Week" in the City of Asheville. She presented the proclamation to Dr. James Pitts board member and past president of NAMI, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 24, 2013

B. RESOLUTION NO. 13-204 - RESOLUTION AUTHORIZING THE CITY MANAGER SIGN A CHANGE ORDER WITH MICHAEL BAKER ENGINEERING INC. FOR THE GROVEMONT SUBDIVISION WATERLINE IMPROVEMENT PROJECT

ORDINANCE NO. 4231 - BUDGET AMENDMENT FOR THE GROVEMONT SUBDIVISION WATERLINE IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of $133,490.00 to increase the engineering design services contract for Michael Baker Engineering, Inc., from a total in the amount of $222,055.00 to $355,545.00 for the Grovemont Subdivision Waterline Improvement Project; and a budget amendment in the amount of $133,490.00 from savings in other capital projects that were completed under budget.

On October 25, 2011, City Council awarded the engineering design services contract to Michael Baker Engineering, Inc., for the Grovemont Subdivision Waterline Improvement Project. The contract originally consisted of a survey, a hydraulic analysis, engineering design, construction administration, and other related professional services for approximately 16,000 linear feet of 6-inch and 8-inch waterlines within the Grovemont area neighborhoods. During the initial design and analysis phase, it was determined that much more of the existing water system needed to be replaced in order to meet the project objectives of improved water service and fire protection. An additional 22,250 linear feet of waterline survey, hydraulic analysis, engineering design, construction administration, and other related professional services was added to the engineering design services contract.

The additional engineering services for the increased linear feet of waterline replacement creates the need for a change order to increase the contract amount by an additional $133,490.00 for a total contract amount of $355,545.00.

The Water Resources Department currently has $222,055.00 budgeted for this project. The remaining funds of $133,490.00 needed for the change order will be transferred from the General Projects capital project that accumulates remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Amount in Grovemont Engineering Budget	$222,055.00
Amount Needed for Change Order	$133,490.00
Total Amount for Project	$355,545.00

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of $133,490.00 to increase the engineering design services contract for Michael Baker Engineering, Inc., from a total in the amount of $222,055.00 to $355,545.00 for the Grovemont Subdivision Waterline Improvement Project; and a budget amendment in the amount of $133,490.00 from savings in other capital projects that were completed under budget.

RESOLUTION BOOK NO. 35 - PAGE 462
ORDINANCE BOOK NO. 28 - PAGE 330

C. RESOLUTION NO. 13-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BOLTON CONSTRUCTION & SERVICE OF WNC FOR REPLACEMENT OF THE GYM FLOOR AT THE MONTFORD CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Bolton Construction & Service of WNC, Inc. to replace the existing gym floor at Montford Recreation Center with a hardwood sport floor for an amount not to exceed $130,000.

The City of Asheville has determined the existing gym floor at the Montford Recreation Center has exceeded its life expectancy, is in poor condition, and poses safety hazard for users.

In response, the city has identified the need for a total floor replacement and has planned to complete the project in Fiscal Year 2014 under the parks and recreation deferred maintenance program.

The City issued an Advertisement for Bids for construction of the floor and received a bid from Bolton Construction & Service of WNC, Inc., 169 Elk Mountain Road, Asheville, N.C., who was selected as the lowest, responsible bidder. The base bid was $125,725.00. Staff is including $4,275 in the contract as a contingency for any unforeseen issues to complete the work.

The $130,000 to support the Bolton Construction & Service of WNC, Inc. contract for replacement of the Montford Recreation Center gym floor is budgeted in the FY 2013-2014 Parks, Recreation & Cultural Arts Department operating budget as part of the deferred maintenance budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Bolton Construction & Service of WNC, Inc. to replace the existing gym floor at Montford Recreation Center with a hardwood sport floor for an amount not to exceed $130,000.

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D. RESOLUTION NO. 13-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH T&K UTILITIES INC. FOR THE INSTALLATION OF BACK FLOW PREVENTION DEVICES AT THE US CELLULAR CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with T&K Utilities, Inc in the amount of $116,000 for installation of back flow prevention devices.

This contract provides that the contractor will furnish and install two six inch and two four inch RPZ backflow preventers on three fire lines and one domestic line. This installation will also include "Hot Box" enclosures at all 4 locations. Contractor will provide all equipment and installation. All equipment will meet the specifications and requirements set forth by the City of Asheville Water Department, Fire Department and meet all NFPA requirements. In accordance with HB 786 (S.L. 2013-418) T&K Utilities, Inc. has signed and returned their E-Verify Compliance Statement.

The required installation of fire suppression sprinklers in a nominally climate controlled storage area necessitated the addition of an anti-freeze line to the sprinkler system. This triggered the requirement for new Back Flow Prevention devices to be installed. Installation of the back flow preventers is very important to the safety of our City's water supply system and a necessary part of the U.S. Cellular Centers operational infrastructure.

The following bids were received on September 6, 2013:

1.	T&K Utilities, Inc., Asheville NC	$ 116,000
2.	Patton Construction Group, Inc., Asheville NC	$ 116,300
3.	Bolton Const. & Svc. Of WNC, Inc., Asheville NC	$ 181,960

Funding for this contract will come from the adopted FY 2013-14 U.S. Cellular Center capital improvement budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with T&K Utilities, Inc. for $ 116,000 for the installation of back flow preventers at the U.S. Cellular Center.

RESOLUTION BOOK NO. 35 - PAGE 464

E. RESOLUTION NO. 13-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A SERVICES CONTRACT WITH BUNCOMBE COUNTY FOR THE PROVISION OF PARATRANSIT SERVICES

Summary: The consideration of a resolution authorizing the City Manager to enter into a services contract with Buncombe County for the provision of paratransit services.

The American with Disabilities Act of 1990 (ADA) and Federal Transit Administration (FTA) require fixed route transit systems such as the Asheville Transit System to provide paratransit services. Paratransit services are special public transportation options for senior citizens and persons with disabilities. Buncombe County Mountain Mobility has provided these services to Asheville Transit System since the 1990's when the American with Disabilities Act was created.

Buncombe County Mountain Mobility also provides service at the county level, mainly towards the rural areas. Mountain Mobility works cooperatively with Asheville Transit to provide fixed route service in Black Mountain and Candler extending transit accessibility into the county. They also provide public transportation for a large number of non-profit and governmental agencies such as the Council on Aging, Industries for the Blind, and the Buncombe County Health Department.

Mountain Mobility contracts administrative and planning services with Land of Sky Regional Council and operation of transportation services with McDonald Transit Associates. The contract keeps the rate of $1.30 per service mile plus 10% of the gross cost for administration and adds $3.43 per shared service mile during the holidays and after regular work hours, which was not previously included since ART holiday service was not operational. The contract rate does not cover the fully allocated costs of providing services; costs are significantly subsidized by county, grant, and other local funding sources. Fares for general public transportation services will not increase at this time. Each party may cancel the contract with 30 days advance notice.

The total cost of the subject project to the City of Asheville for FY 2013-14 is about $350,000. The City will be reimbursed about $200,000 of the project cost from the Federal Transit Administration which equates to 10% of the annual Federal allocation under Section 5307. The remaining balance of $150,000 represents the local match and is provided by the City. Both the revenue and the expense are already budgeted in the current fiscal year in the Transit Services Fund.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a services contract with Buncombe County for the provision of paratransit services.

RESOLUTION BOOK NO. 35 - PAGE 465

F. RESOLUTION NO. 13-208 - RESOLUTION AUTHORIZING THE CITY MANAGER AND CHIEF OF POLICE TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE BUNCOMBE COUNTY MANAGER AND THE BUNCOMBE COUNTY SHERIFF TO EMPLOY PART-TIME TELECOMMUNICATORS

Summary: The consideration of a resolution authorizing the City Manager and Chief of Police to enter into an interlocal agreement with the Buncombe County Manager and Buncombe County Sheriff for the purpose of establishing a compensation agreement and contract between

the entities so that each law enforcement agency can employ telecommunicators from one another's agency on a part-time basis to provide coverage for vacancies in order to meet minimum staffing levels.

Occasionally, the Buncombe County Sheriff's Office and Asheville Police Department communications center is short staffed due to vacancies that are being carried. The telecommunications center serves a vital function in the in the public safety sector and is most often the first point of contact for the public with the agency. It is essential that adequate staffing levels are maintained so that the officers have ample contact and information sharing to ensure their safety. Additionally, when the public calls the communications center, it is necessary that those calls are answered promptly and dispatched appropriately.

The interlocal agreement would allow each agency to employ telecommunicators from the other agency on a part-time basis to prevent staffing shortages. Reimbursement to the sharing agency would be made within ten (10) business days of being invoiced.

There is no fiscal impact to the city due to the fact that the compensation that will be paid to Buncombe County for the part-time assistance will be offset by salary savings and previously budgeted overtime for this work unit. Additionally, as the vacancies are filled, it will generally remove the necessity to utilize and compensate Buncombe County telecommunicators.

City staff recommends City Council approve a resolution authorizing the City Manager and Chief of Police to enter into an interlocal agreement with the Buncombe County Manager and Buncombe County Sheriff for the purpose of establishing a compensation agreement and contract between the entities so that each law enforcement agency can employ telecommunicators from one another's agency on a part-time basis to provide coverage for vacancies.

RESOLUTION BOOK NO. 35 - PAGE 466

G. RESOLUTION NO. 13-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ADD ONE SWORN FULL-TIME EMPLOYEE TO THE POLICE DEPARTMENT TO SERVE SOLELY AS A SCHOOL RESOURCE OFFICER

ORDINANCE NO. 4232 - BUDGET AMENDMENT TO COVER COSTS OF SCHOOL RESOURCE OFFICER'S SALARY AND BENEFITS

Summary: The consideration of (1) a resolution authorizing the City Manager to add 1 additional sworn full-time employee to the Police Department to serve solely as a School Resource Officer; and (2) a budget amendment in the amount of $49,842 to allocate funding from Asheville City Schools to cover the cost of the school resource officer's salary and benefits.

The Asheville Police Department (APD) will be entering into contract with Asheville City Schools to provide one additional School Resource Officer (SRO) for the 2013-2014 school year. Per the contract, the assigned officer's salary will be reimbursed by the Asheville City Schools. The SRO will be assigned to the alternative program located at the Grant Center campus. The officer selected for this position will be a senior police officer. By adding another full-time employee, that officer's position would be filled by hiring a new police officer at an anticipated entry-level salary.

As noted in the summary statement above, the salary and benefits package ($49,842) will be fully reimbursed by Asheville City Schools; therefore there is no additional cost to the city of adding the officer.

City staff recommends City Council approve: (1) a resolution authorizing the City Manager to add 1 additional sworn full-time employee to the Police Department; and (2) a budget

amendment in the amount of $49,842 to allocate funding from Asheville City Schools to cover the cost of the school resource officer's salary and benefits.

RESOLUTION BOOK NO. 35 - PAGE 467
ORDINANCE BOOK NO. 28 - PAGE 332

H. RESOLUTION NO. 13-210 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE OCTOBER 8, 2013, FORMAL MEETING AND CANCEL THE OCTOBER 29, 2013, COMMUNITY MEETING

RESOLUTION BOOK NO. 35 - PAGE 468

I. RESOLUTION NO. 13-211 - RESOLUTION AUTHORIZING AND RATIFYING THE EXECUTION BY THE MAYOR OF A GRANT OFFER FROM THE FEDERAL AVIATION ADMINISTRATION

Summary: The consideration of a resolution authorizing and ratifying the execution by the Mayor of a Grant Offer from the Federal Aviation Administration (FAA) in the amount of $2,855,596.

The FAA offered a grant agreement to the Greater Asheville Regional Airport. This grant, in the amount of $2,855,596, is for the Design - Phase I Rehabilitate Runway 16/34 Project.

Because of the federal fiscal year, the FAA required the grant agreement to be accepted on or before September 17, 2013. Airport staff received the grant offer on September 11, 2013, and after contacting the FAA, could not get the deadline extended in order for the Mayor to have authorization to sign grant acceptance letter at the September 24, 2013, Council meeting. Therefore, the action has moved forward with the Mayor's signature and this resolution will ratify her action.

Pro:
- Supports service enhancements at Airport

Con:
- None noted

Staff recommends adoption of the resolution authorizing and ratifying the execution by the Mayor of a grant agreement for Project No. 3-37-0005-043-2013.

RESOLUTION BOOK NO. 35 - PAGE 469

J. RESOLUTION NO. 13-212 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DR. PAUL MARTIN D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA, FOR PHYSICIAN SERVICES

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for physician services provided through the City's Health Services Division.

In January 1995, Council authorized the City Manager to enter into an agreement for part-time physician services in the Health Services division. Dr. Paul Martin entered into a contractual agreement with the City of Asheville to provide three clinic days to City employees and their families. These clinic days have been very successful for Health Services.

This is a one year $120,000 contract, and funds have been budgeted and will be encumbered from the Health Care Fund to cover the cost of this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an agreement for physician services with Dr. Paul Martin, MD, DBA Asheville Addiction Consultants, PA to continue to provide physician services to employees, retirees and their families.

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Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING AGRICULTURAL USES

ORDINANCE NO. 4233 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING AGRICULTURAL USES

ORDINANCE NO. 4234 - ORDINANCE AMENDING CHAPTER 3 OF THE CODE OF ORDINANCES TO MAKE ANIMAL CONTROL STANDARDS CONSISTENT WITH AMENDMENTS TO CHAPTER 7 REGARDING AGRICULTURAL USES

Mayor Bellamy said that the following two items are related and staff will present one staff report. Council will then hold a combined public hearing and put forward two separate motions.

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance amending Section 7-1-3 (Jurisdiction), Section 7-2-5 (Definitions), Section 7-8-1 (Table of Uses), and Section 7-16-1 (Uses by right, subject to special requirements) of the Code of Ordinances regarding horticultural agricultural uses, reflecting a community desire for more flexibility for these uses. This public hearing was advertised on August 16 and 23, 2013. On September 10, 2013, the public hearing was continued until this date at City staff's request.

Ms. Daniel said that the City of Asheville has seen a substantial upswing in various types of food related agricultural production in the City. Growing food has always been permitted for home sites and on commercial property, and some types of animal (fowl primarily) and insects (bees) are permitted through the animal control ordinances. Now there is increased interest in forms of production beyond what the current regulations allow and the City Council indicated its support through their adoption of a Food Policy and Action Plan in January.

Asheville's regulations regarding agriculture are already substantially supportive, but some requests relate to newer forms of production and additional support for means of production that will require changes to the regulations. Staff presented proposals for changes as a discussion item at the June meeting of the Planning and Zoning Commission, inviting the interested public to attend. No substantive changes to the proposed changes were heard at that meeting and a proposal for changes to the UDO was presented to the Planning and Zoning

Commission in July. Some proposals for changes arose at that meeting. The staff adjusted the proposed changes to reflect those concerns and the proposals presented reflect those changed.

Section 7-1-3. Jurisdiction

The proposal is to delete the paragraph in Sec. 7-1-3(c), which exempts a "bona fide agricultural use" from the provisions of this chapter. Legal staff has recommended this deletion as it is essentially no longer relevant, and as written, is confusing and subject to varying interpretations.

This provision was added in October of 2001 and was meant to address issues that arose during the new extension of the City's extraterritorial jurisdiction area. The exemption was intended to only apply to properties in agricultural use which had a minimum acreage of 10 acres, as well as minimum income and productions standards as per State tax law. Since this provision's definition is tied to state tax regulations, and is subject to change by the Legislature, and since agriculture in most forms is allowed in the City through the UDO and Chapter 3 of the Code of Ordinance, this exemption provision is not necessary and could lead to confusion or of greater concern, could be extended beyond its intended scope if the State tax laws pertaining to agricultural land are changed.

Delete: ~~Sec. 7-1-3(c) Bona fide agricultural use. The provisions of this chapter shall not apply to bona fide agricultural uses recognized as such for tax purposes by the State of North Carolina except that confined animal feeding operations shall be prohibited.~~

Section 7-2-5. Definitions

A change to the definition of agriculture is proposed to indicate a differentiation between raising plants vs. animals, since these uses are governed by separate ordinances. The intent is to avoid confusion about where these differing types of agriculture are regulated.

Agriculture means the use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry and the necessary accessory uses for packing, treating, or sorting the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of normal agricultural activities.

Regulations addressing agriculture that does not include animals are governed by this Chapter. Regulations addressing agriculture involving animals (such as but not limited to bees, dairying, pasturage agriculture, animal or poultry husbandry) are in Chapter 3: All agricultural practices may be subject to further state and federal regulations.

Sec. 7-8-1(b)(2)(c). Table of Uses

The proposed change will add the use "Agriculture" to the Table of Uses to clarify that the use is allowed in all zoning districts. The use would be "P" (Permitted) in most zones, and "S" (Permitted with special standards) in residential zones.

Add under *Other Use Types*: Agriculture
"S" - USSR in all single family and multi-family residential districts, Urban Residential, and Urban Village districts.
"P" - Permitted in all other zoning districts.

Section 7-16-1. Uses by right, subject to special requirements.

- The first proposed change establishes that Agriculture will be governed as a USSR and the affected residential zones.

Sec. 7-16-1(b). Uses by right subject to special requirements listed (by zoning district):

Add: 4.1: *Agriculture*. All Residential districts including Urban Residential and Urban Village.

- The second proposed change in the section for Accessory structures, clarifies the difference between standards for agricultural structures and other allowed accessory structures. Also, the reference to "bona fide" farms is deleted, for the reasons noted previously.

Sec. 7-16-1(c). Uses by right subject to special requirement standards.

- **Modify**: (2) Accessory structures.

  a. Use districts: All residential including Urban Residential.

  b. The footprint of accessory structures located on a lot shall not exceed the following maximum footprint(s):

Lot Size	One Structure	All Structures
Less than 1 acre	770 square feet	1,000 square feet
1 to 3 acres	1,200 square feet	1,600 square feet
More than 3 acres	No limit	No limit

The footprint of the portion of accessory structures used as accessory apartments shall not be included in this calculation of footprint for accessory structures. Accessory apartments shall meet the requirements established by section 7-16-1 of this chapter.

The footprint of any accessory structures used for agricultural purposes shall not be included in this calculation of footprint for accessory structures. Such structures must meet the requirements established for agricultural uses established in section 7-16-1 of this chapter.

  c. Accessory structures shall not exceed 20 feet in height except that height may be increased one foot for every one foot of additional side and rear setback, up to a maximum of 40 feet. ~~Structures located on bona fide farms are not subject to this height limit.~~

- The third proposed change establishes the standards for the Agricultural use related to use of the property, structures, etc.

Add: 4.1: *Agriculture*:

a. Use districts: All residential including Urban Residential and Urban Village.

b. A site and operations plan must be submitted that includes a description of the proposed operation indicating:

1. Type of farming proposed with list of products that will be sold on site.
2. Location and size of structures to be built to accommodate the use.
3. Permits for any animals regulated in Chapter 3 as a part of the use.
4. Marketing plans (including on-site sales) if applicable, including proposed times and frequency of market operation or on-site sales.

5. Location of the intended public parking area (if applicable), and
6. Anticipated level of agriculturally related vehicle traffic.

c. If a market stand is proposed it must be a seasonal use, and have no weekday sales, and be limited to selling products grown on the property or created from products grown on the property. Market stands must provide off-street public parking not to exceed 5 spaces.

d. Standards for Structures

1. If the agricultural operation is on a lot that contains a dwelling unit or other primary structure, accessory structures not used for agricultural purposes are allowed meeting the standards for accessory structures in Sec. 7-16-1(c) of this chapter but may not exceed the cumulative limit for all structures established below.

2. Storage and production structures for vacant property or community gardens are allowed by right meeting the standards below for a lot without a primary structure.

3. If the agricultural operation is on a lot that does not contain a dwelling or other primary structure, small storage or production structures (no larger than 12 x 12 and 10 feet tall and not within the public right of way) are allowed by right.

Larger storage or production structures may be built when there is no primary structure (home or other allowed use) on the property meeting the standards below but the applicant must submit a notarized affidavit stating and confirming that the structure will be used only for agricultural storage or production uses.

(a) The footprint of the proposed structure located on a lot without a primary structure may not exceed the following maximum footprint:

Lot Size	One Structure	All Structures
Less than 1 acre	770 square feet	1,000 square feet
1 to 3 acres	1,200 square feet	1,600 square feet
More than 3 acres	2,500 square feet	3,000 square feet

(b) Structures may not exceed 20 feet in height except that height may be increased one foot for every one foot of additional side and rear setback, up to a maximum of 40 feet.

(c) On lots of more than three acres, structures may not be located in the required front yard. Structures located in side yards of corner lots whose rear or side yards are adjacent to a front yard of the adjacent lot, must maintain a setback equivalent to the front yard setback of the adjacent lot.

The *Asheville City Development Plan 2025* encourages growth that facilitates sustained and positive development that balances economic objective, social goals, and natural resources to the benefit of present and future generations. As such, while not directly discussed, the Plan supports efforts such as the emerging interest in food security to build a more sustainable future. The Council solidified this support when they adopted a Food Policy this year. Further, Goal II of

the Council's Strategic Operating Plan noted the need to support local and regional products and services.

After discussion, the Planning and Zoning Commission unanimously recommended approval of these changes at their August meeting, with a recommendation that the use be monitored and revisited in a year to determine if any adjustments should be made to the regulations. The caveat in the recommendation related to concerns on the part of some Commissioners that the size allowed for agricultural buildings and the potential for traffic from retail sales could cause concern in neighborhoods.

Staff believes these changes reflect the intent of the community and the Council reflected in the Food Policy and Action Plan adopted this year, and recommend approval.

Ms. Daniel also said that this is consideration of an ordinance amending Chapter 3 of the Code of Ordinances to make animal control standards consistent with amendments to Chapter 7 regarding agricultural uses.

Recent discussions regarding the City of Asheville's support of urban agricultural practices has revealed outdated language in the animal control ordinance as it relates to the keeping of livestock when part of a ***bona fide farm***. The term ***bona fide farm*** is used in tax statutes and is not enforced locally. To clarify where, and under what circumstances, livestock and non-compliant foul are permitted in the city an amendment was necessary. The term "lawfully established, non-conforming use" is used elsewhere in the Code of Ordinances and can be broadly construed to allow for not just farms, but other non-farm uses such as homesteads.

A brief synopsis of suggested changes includes:

Sec. 3-4:	Delete definition of *bona fide farm* and add a definition for a *lawfully established, non-conforming use*.
Secs. 3-10, 36, 50:	Replace the term *bona fide farm* with *lawfully established, non-conforming use.*
Sec. 3-24:	Add a new section that establishes standards for lawfully established, non-conforming uses.

This amendment simply clarifies where and when existing standards are applied.

City staff recommends City Council approve the proposed text amendments regarding changes to the Animal Control Ordinance and find that these amendments are consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the recommendation.

Mayor Bellamy opened the public hearing at 5:23 p.m.

Mr. Matt Shepley urged Council not to limit people from the freedom of selling their own produce only on the weekends.

A representative from the Asheville-Buncombe Food Policy Council said they supported having the market stands open seven days a week. They are pleased to work with the City and hoped that if any problems arise, that the City will contact them as soon as possible.

Mr. Timothy Sadler advocated that the market stands be allowed to be open seven days a week.

Mayor Bellamy closed the public hearing at 5:27 p.m.

Regarding limiting the sales to only weekends, Councilman Hunt felt that neighborhoods are quieter during the weekdays and would be able to handle more traffic. Ms. Daniel explained that it was staff's and the Planning & Zoning Commission's recommendation to limit market stands to weekends only due to the potential impact on neighborhoods from commercial uses.

Councilman Smith understood staff's and the Planning & Zoning Commission's caution about an adverse impact on the neighborhoods, but he felt the problem of hunger and food distribution in our City outweighs this particular caution. He supported keeping the stands open seven days a week, and was happy to support this issue being revisited in one year to see if there is an adverse impact on the neighborhoods.

Mayor Bellamy felt that since this amendment now allows market stands in neighborhoods, she felt this amendment should be reviewed by the Neighborhood Advisory Committee for their feedback.

In response to Mayor Bellamy, Councilman Pelly, liaison for the Neighborhood Advisory Committee, said that a review by the Neighborhood Advisory Committee is a good idea, but since it would be revisited in one year, he supported moving forward at this time. He was concerned about a potential proliferation of signs in neighborhoods resulting from these market stands.

At Mayor Bellamy's request, Council split the main motion on the amendment to Chapter 7.

Mayor Bellamy said that members of Council have been previously furnished with copies of the ordinances and they would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved to adopt the amendments to sec. 7-1-3; 7-2-5; 7-8-1 (b) (2) (c); 7-16-1 (b); 7-16-1 (c) (2) (b); 7-16-1 (c) (2) (c) and 7-16-1 (c) 4.1, with the exception of Section 7-16-1 (c) 4.1 (c) . This motion was seconded by Councilman Hunt and carried unanimously.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of the amendment to Section 7-16-1 (c) 4.1 (c) that market stands be open seven days a week and that this ordinance revision be revisited in one year. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Mayor Bellamy voting "no."

ORDINANCE BOOK NO. 28 – PAGE 334

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4234. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 338

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 13-213 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN URBAN REDEVELOPMENT AND LOAN AGREEMENT FOR THE EAGLE MARKET STREETS REDEVELOPMENT PROJECT

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Assistant City Manager Cathy Ball said that this is the consideration of a resolution approving the execution of an Urban Redevelopment and Loan Agreement between the City of Asheville as Lender and Eagle Market Place LLC, (EMP), as Borrower, and Mountain Housing Opportunities Inc. as Guarantor.

By Resolution No. 13-193, adopted on Tuesday, August 27, 2013, City Council among other funding appropriations authorized a combined City Loan of $3,867,618 to the Eagle Market Place Redevelopment and Renovations Project, upon condition that a redevelopment agreement be executed between MHO, EMSDC and the City to enforce the specified conditions placed on the loan approval.

The Project, located in an area known as the "Block," once served as the hub for African American Entrepreneurship, serving as host to thriving and successful African American Businesses until the federal urban renewal program of the 1970's had a dramatic and prolonged impact on the Block, leading to business relocations, business closures, blight, slum, vacancies and years of neglect. After several failed efforts to revitalize the Block, the current Project, being constructed through partnership between EMP and Eagle Market Street Development Corporation, and supported by 5 million dollars worth of federal low income housing tax credits, was deemed by City Council as only being able to succeed through the financial intervention of the City. The Project upon completion will contain 62 affordable housing units and 10,270 square feet of commercial space, of which 3,500 square feet is planned as community space.

It was initially contemplated that the City would enter into a "Development Agreement" with EMP to enforce the conditions placed on the loan approval. However, since the City has no current ownership interest in the Project, a "development agreement," under N. C. G. S. § 160A-458 (Economic Development statute), or under H 857 Session Law 2013-401, (public private partnerships for construction contracts), is not feasible. The provision of affordable housing and job creation in a distressed and blighted area of the City, such as the Block, serves a public purpose for which the City may enter into an Urban Redevelopment and Loan Agreement (Agreement). The Agreement serves the same purpose as the contemplated "development agreement." The Agreement incorporates all of the conditions specified in Resolution No. 13-193, approved by City Council.

The purpose in executing this Urban Redevelopment and Loan Agreement is to structure a performance based guarantee for the approximately $3.9 million City investment and to provide flexibility for the City to debt finance the Loan.

The major components of the Agreement include the public purpose recitals, use of public funds, cash flow, lien holder position on the property, and the City's involvement in the construction process.

Pros:

- Defines the terms and purpose for the City's investment in the Project.
- Provides opportunity for the City to debt finance the loan.
- Clarifies the City's role in the construction process.
- Outlines the cash flow of the City's investment into the Project.

Cons:

- Some minor adjustments and clarifications will need to be made to the Agreement prior to execution. Any substantial changes to the Agreement will come back to City Council for approval.

This Agreement defines the terms and conditions of the $3,867,618 Loan, approved by City Council on August 27, 2013. From the proceeds of this $3,867,618 Loan, $500,000 will be made available to the Project between January 2014 and June 2014; and an additional $500,000 will be made available between July 2014 and December 2014. The remaining $2,867,618 will be

available to the Project 1) once the Developer obtains a certificate of occupancy, and 2) once the Developer complies with requirements that qualify the project for full delivery of low income housing tax credits. All applicable conditions of the executed Agreement must be met to be eligible for Project funding. All change orders exceeding $25,000 must be reviewed by City staff.

Staff recommends that City Council authorize the Mayor to execute an Urban Redevelopment and Loan Agreement between the City of Asheville as Lender and Eagle Market Place LLC, (EMP), as Borrower, and Mountain Housing Opportunities Inc. as Guarantor, subject to approval as to form by the City Attorney.

Additionally, staff recommends that City Council authorize the City Manager to execute any contracts or other instruments necessary to give effect of this resolution subject to budgetary limitations and approval by the City Attorney.

Ms. Ball said that staff has worked diligently with EMP and Mountain Housing Opportunities to make sure that we were not violating any terms; and apologized for not making the document available to the public until 2:00 p.m. today.

Councilman Smith supported this critical investment in Asheville and felt we will be reaping the benefits of affordable housing, commercial space, etc. for decades to come.

In response to Mayor Bellamy, Interim City Attorney McGlohon said that unless the urban redevelopment and loan agreement needs major changes on the terms, it will not need to come back to Council.

Mayor Bellamy said that this issue has been on Council's agenda at various times since the mid-1980's and was pleased that this meaningful project is finally coming to fruition. She felt that unlike other parts of downtown, the Block has not received the level of support for significant investment. She noted that this loan, not grant, sends a message to our community that the City invests in all parts of our community. She thanked all the various partners on this project.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Manheimer moved for the adoption of Resolution No. 13-213. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 417

VI. NEW BUSINESS:

A. MOTION ALLOWING THE OFFICE OF ECONOMIC DEVELOPMENT INITIATE A REQUEST FOR INFORMATION RELATING TO THE DEVELOPMENT OF A SIGNATURE EVENT IN ASHEVILLE

Mr. Jon Fillman, Economic Development Specialist, said that this is the consideration of a motion allowing the Office of Economic Development to initiate a Request for Information (RFI) to determine interest from outside organizations in producing a signature festival, special event or similarly unique outdoor public experience in Asheville.

The City of Asheville's adopted 2013-2014 budget eliminated funding for the Bele Chere Festival. Multiple outside groups have expressed interest in securing funding through the City to seed a new signature event or to expand an existing event. The outdoor public space and the annual dates formerly held by Bele Chere are also of specific interest to event organizers.

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Staff from the Office of Economic Development has met with representatives from the Asheville Downtown Association, Convention & Visitors Bureau, and the River Arts District Project Advisory Committee to discuss recommendations and gather feedback. There is a desire for the City of Asheville to continue to provide for its citizens a signature event or festival that stimulates local commerce and creates opportunities for business development, promotes improvement of properties and advances neighborhood identities, and enhances the Asheville brand in support of tourism initiatives.

As the City of Asheville does not intend to continue in the arena of direct event production nor can it become a significant funding partner, a primary consideration in selecting and supporting a signature event would be in the event's ability to minimize municipal subsidies toward fiscal independence while achieving economic development policy goals. Staff requests City Council support in allowing the Office of Economic Development to proceed with the development of an RFI to determine interest from outside parties in producing Asheville's next signature event. The RFI is neither a guarantee nor commitment of future action. Staff will return to Council at a later date to report on the response and further recommendations.

City staff recommends City Council support the Office of Economic Development in moving forward with a Request for Information (RFI) relating to the development of a signature event in Asheville.

Mayor Bellamy could not support this action because she felt the criteria that staff will use to judge the proposals is not in place.

Vice-Mayor Manheimer said that the City Council Planning & Development Committee did talk about the criteria, but were trying to make it as broad as possible because there are interesting ideas floating around. They did acknowledge the need for demonstrated measurements in terms of stimulating economic development, being able to sustain itself long-term, etc.

Mr. Fillman said that RFI is simply staff's intent to gather interest from the community and outside organizations in producing or operating a new event in Asheville. We don't intend to make any decisions or make any recommendations based on the information received back, other than what ideas we feel will help drive the development of the resulting Request for Proposals (RFP). The RFP will include the evaluation criteria, such as the scope of work, schedule and milestones, references, costs and financing requirements and points assigned. The RFI will allow us to determine the interests in this project and will help us design the RFP, that will ultimately be brought back to Council for their approval.

In response to Mayor Bellamy, Mr. Fillman said that the RFI is a 6-8 week process (before the end of 2013). The RFP will then be developed and that will be approximately an 8-week process. Feedback will be received for the City's next fiscal cycle.

When Councilman Hunt urged staff to be clear in their expectations to those that might submit proposals, Mr. Fillman responded that the RFP will require Council approval.

Councilman Smith noted that the RFI is neither a guarantee nor commitment of future action. He wanted any persons submitting proposals to be aware that the process can take a number of forms.

Councilman Davis spoke in support of the Bele Chere festival and felt that the festival brought a lot of economic development into our downtown and the community, was a lot of fun and people enjoyed good music from local bands. He hoped that at the end of this process that we find something to replace it and hopefully they will keep the name.

Councilman Bothwell hoped that we will come up with something new and different to highlight Asheville. He did note that the Bele Chere festival was costing the taxpayers ½ cent on their property tax and during our struggling budget cycle, Council had to make a determination on whether this was a good use of our financial support.

After discussing whether Council should skip the RFI and move straight into an RFP, Vice-Mayor Manheimer moved to support the Office of Economic Development in moving forward with a Request for Information relating to the development of a signature event in Asheville. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Mayor Bellamy voting "no".

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

At Mayor Bellamy's request, Police Chief William Anderson updated City Council on the recent break-ins in the Kenilworth area and issues regarding homeless arrests in downtown Asheville.

Regarding the robberies, Police Chief Anderson said that the Police Department will be holding a crime prevention meeting with the Kenilworth community to advise them on some preventive efforts and also what the Police Department is doing to address this problem. He said that if any specific community would like a crime prevention meeting, to contact the Police Department at their non-emergency number. That service is available to help keep our neighborhoods safe.

Police Chief Anderson said that the Police Department has held a couple of community meetings to try to better inform the public of some of our challenges we are facing in our Central Business District and the adjustments that law enforcement has had to make to address those issues.

Councilman Bothwell, Chair of the Public Safety Committee, said that at their September 23 meeting, the Police Department reported to the Commission their efforts on the burglaries and the allegations of stepped up policy enforcement regarding the homeless population downtown. It was noted that even though the Police Department does have vacancies, those vacancies are covered by other means, whether by overtime or other methods, because their number one priority is to have officers on the street. Regarding the allegations regarding homeless arrests downtown, he said that the Police Department policy has not changed, but that behaviors have changed significantly over the summer. There has been a lot more violent episodes in downtown, possibly connected to some of the synthetic drugs that seem to spur aggressive behavior. Therefore, there are more arrests of repeat offenders and that that is the cause of the apparent increase in police enforcement. We are simply trying to maintain civility downtown.

Councilman Bothwell said that there are about 25-30 people who have severe mental or substance issues and are hard to house. The homeless housing advocates would like to see the City find some property for them to build a facility that would house those folks. They will get grant money to build the facility if the City provides the land. Mayor Bellamy felt that is a good issue for Council to discuss at their next retreat.

Mayor Bellamy said that at the October 21 meeting with City staff and downtown merchants who are concerned about the number of women who are walking around downtown without shirts and panhandling. She asked that after that meeting, City Council receive a report on that issue and what the City can do.

Councilman Smith noted that we need better mental health treatment for those that do not have resources.

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Mr. Matt Shepley, who runs a non-profit in Asheville for homeless and jobless veterans, felt that we cannot simply arrest our way out of the homeless problem, and suggested that we continue to work with our service providers.

Rev. Amy Cantrell, BeLoved House, said that she is one of 38 faith leaders in the community that sent Council a petition expressing concern over the recent increase of arrests of homeless people in downtown. She explained that the petition was a reaction to what they saw on September 12 which seemed to be a change of police activity and in light of Columbia, South Carolina, and things happening in Raleigh. There was not a lot of community and they did not understand what was going on. She thanked Police Chief Anderson for meeting with some of them to help them understand. She agreed that we don't want to spend our limited resources on the resolving door of jail.

A gentleman said that we need to work for safe, temporary housing for the homeless.

Mr. Timothy Sadler asked how much manpower and money went towards seizing 41,000 grams of marijuana. He felt that marijuana is clearing becoming permitted nationally and the City could have used those funds to help the homeless.

Results of the September 23, 2013, Civil Service Board Employee Elections

Summary: One copy of the results of the Civil Service Board employee election held on September 23, 2013, is to be filed with the City Manager and one with the City Clerk, who shall present such certification to the City Council at its next regular meeting. Human Resources Manager Derrick Swing and City Clerk Burleson provided the following certified certificate on September 23, 2013: We do hereby certify, having opened, canvassed, and determined the original returns of the Civil Service Board employee election, the results of the Civil Service Board Employee Election held on September 23, 2013, noting the name of each person voted for and the number of votes cast for each person as follows: Virginia Robinson –73; and Anthony Alan Coxie – 82.

Closed Session

At 6:44 p.m., Councilman Pelly moved that the Asheville City Council go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N. C. Gen. Stat. 143-318.11(a)(3); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property at the Clarion Inn located at 550 Airport Road, Fletcher, NC by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5); and (3) To consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Davis and carried unanimously.

At 7:34 p.m., Councilman Hunt moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 7:34 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday – October 22, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mr. Diego Adams led City Council in the Pledge of Allegiance. Mr. Austin Grainer, Executive Director of Mentoring Matters briefly explained the Program.

INVOCATION

Councilman Pelly gave the invocation.

I. PROCLAMATIONS:

Mayor Bellamy was pleased to recognize Boy Scout Troop 91 who are working on their Citizenship in the Community Merit Badge.

A. PROCLAMATION PROCLAIMING OCTOBER 24, 2013, AS "FOOD DAY"

Councilman Smith read the proclamation proclaiming October 24, 2013, as "Food Day" in the City of Asheville. He presented the proclamation to Ms. Karen McSwain, Farm Services Director at Carolina Farm Stewardship, on behalf of the Asheville/Buncombe Food Policy Council; and Ms. Olufemi Lewis, Hillcrest resident, part owner of the Ujaama Freedom Market, and co-founder of the Asheville/Buncombe Food Policy Council; who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING NOVEMBER 2013 AS "CRIMESTOPPERS MONTH"

Councilman Pelly read the proclamation proclaiming November, 2013, as "CrimeStoppers Month" in the City of Asheville. He presented the proclamation to CrimeStoppers Board of Directors Chairman Karl Katterjohn, and Police Chief William Anderson, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING NOVEMBER 2013 AS "RECYCLE IT!" MONTH

Councilman Hunt read the proclamation proclaiming November, 2013, as "Recycle It!" month in the City of Asheville. He presented the proclamation to Chief Sustainability Manager Maggie Ullman, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of Mayor Bellamy, Consent Agenda Item "O", a resolution amending the 2013 City Council Meeting schedule to cancel the November 26, 2013, City Council meeting, was added to the Consent Agenda.

At the request of Vice-Mayor Manheimer, Consent Agenda Items "N" was removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 23, 2013

B. RESOLUTION NO. 13-214 - RESOLUTION ACCEPTING GROVEPARK WAY, GROVE COVE DRIVE AND SPRING COVE ROAD EXTENSION, IN THE GROVE PARK COVE SUBDIVISION AS CITY MAINTAINED STREETS

Summary: The consideration of a resolution to accept Grovepoint Way, Grove Cove Drive and Spring Cove Road extension, in the Grove Park Cove Subdivision, as city-maintained streets.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail dated April 12, 2013 asking the City to accept the subject streets as city-maintained streets.

Grovepoint Way from Grove Cove Road to its dead-end (at the cul-de-sac) is a developer-constructed street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.13 mile, and a right-of-way width of 45 feet.

Grove Cove Drive from Patton Mountain Road to Spring Cove Road is a developer-constructed street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.45 mile, and a right-of-way width of 45 feet.

Spring Cove Road from the end of Spring Cove Road to its dead-end is a developer-constructed extension of an existing city-maintained street that has an average width of 18 feet with 18-inch curb and gutter, a length of 0.02 mile, and a right-of-way width of 45 feet.

Transportation Department staff and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer's engineer has furnished a signed and sealed letter verifying that the subject streets were constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Grovepoint Way, Grove Cove Drive, and Spring Cove Road extension as city-maintained streets.

RESOLUTION BOOK NO. 35 - PAGE 472

C. RESOLUTION NO. 13-215 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE HENDERSONVILLE ROAD SIDEWALK PROJECT

Summary: The consideration of a resolution authorizing the Mayor to sign a locally administered project agreement with the N.C. Dept. of Transportation (NCDOT) for a project (identified as U-5189) to construct a sidewalk along both sides of US 25 (Hendersonville Road) from NC 146 (Long Shoals Road) to I-40.

Project U-5189 is listed in the current North Carolina Department of Transportation's State Transportation Improvement Program (STIP) as a project to construct sidewalks and make crossing improvements from NC 146 (Long Shoals Road) to I-40 within the city limits of Asheville in Buncombe

County. Specifically, the work includes constructing sidewalk along both sides of US 25 (Hendersonville Road) as well as including multi-modal amenities such as pedestrian crosswalks, ADA upgrades, bus shelters, trash receptacles, and bicycle racks.

The subject agreement is needed because the project will be funded with Federal Funds and a local match. According to the terms of the agreement, the NCDOT has agreed to administer the disbursement of the funds on behalf of the Federal Highway Administration (FHWA) and they have programmed funding in the current State Transportation Improvement Program (STIP). The City has agreed to be responsible for administering all work performed and for certifying to the NCDOT that all terms of the agreement are met and adhered to by the city and/or its contractors. In addition, the City shall complete all pre-construction activities including environmental documentation, right-of-way certification, and final PS&E package (design plans and construction documents) by September 1, 2014. The project will be completed (project completion is defined as completion of all construction activities, acceptance of the project, and submission of a final disbursement package) by December 31, 2015

The Federal Funds are coming from a program known as the Surface Transportation Program - Directly Attributable (STP-DA), commonly referred to as DA Funds. The French Broad River Metropolitan Planning Organization (FBRMPO) has the option to select projects to be constructed with these funds through the Technical Coordinating Committee (TCC) and the Technical Advisory Committee (TAC). Previously, these funds were used on the NC 146 (Long Shoals Road) widening project. Funds for the Hendersonville Road sidewalk project were approved in 2009.

The total estimated cost of the subject project is $4,125,000 with Federal STP-DA funds providing $3,300,000 (80%) and the City providing $825,000 (20%). The City's local match is included in the approved Capital Improvement Program for FY 2013-14.

Staff recommends that City Council approve a resolution authorizing the Mayor to sign a locally administered project agreement with the North Carolina Department of Transportation (NCDOT) for a project (identified as U-5189) to construct a sidewalk along both sides of US 25 (Hendersonville Road) from NC 146 (Long Shoals Road) to I-40.

RESOLUTION BOOK NO. 35 - PAGE 474

D. RESOLUTION NO. 13-216 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO THE 2012 MUNICIPAL RECORDS RETENTION & DISPOSITION SCHEDULE

Summary: The consideration of a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

On October 9, 2012, City Council adopted Resolution No. 12-228 approving the 2012 Municipal Records Retention and Disposition Schedule issued September 10, 2012, by the N.C. Dept. of Cultural Resources, Division of Archives and History.

The N.C. Dept. of Cultural Resources has now amended said Schedule as follows:

- Adds Accreditation Records to the schedule
- Clarifies language for retention period of employee eligibility records to match U.S. Code
- Consolidates 3 different types of leave records

Staff recommends City Council adopt a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

RESOLUTION BOOK NO. 35 - PAGE 475

E. RESOLUTION NO. 13-217 - RESOLUTION AUTHORIZING THE CONVEYANCE OF THE FOLLOWING TWO PARCELS OF CITY-OWNED PROPERTY KNOWN AS (1) DEAVER STREET TO JUDD LEFEBER AND JENNIFER KIECKER; AND (2) MILLBROOK ROAD TO JUDD LEFEBER; AND WITHDRAWING THE CURVE STREET LOT FROM THE SEALED BID SALE

Summary: The consideration of a resolution authorizing the conveyance of two parcels of City owned property, known as the Deaver Street lot, and the Millbrook Road Lot, and withdrawing the Curve Street lot from the sealed bid sale.

The City of Asheville owns three properties that are currently designated as surplus, residential, vacant lots – the Curve Street lot (0.25 acres, PIN 9648-68-0689-00000), Deaver Street lot (0.19 acre, PIN 9638-76-4002-00000) and Millbrook Road lot (0.25 acres, PIN 9638-66-3884-00000). On August 27, Council authorized staff to proceed in marketing the properties for sale under the sealed bid process. In the period that followed, the properties were posted for sale, listed on the local Multiple Listing Service (MLS), and advertised in print and online. Staff received inquiries for each parcel.

On October 10, 2013, the bid opening was held and the results are as follows:

1. Deaver Street – Of the two bids received, the highest bidder was Judd Lefeber and Jennifer Kiecker at $35,025.
2. Millbrook Road – Of the two bids received, the highest bidder was Judd Lefeber at $22,500.
3. Curve Street – Of the two bids received, the highest bidder was Buncombe Land Holdings at $10,000.

For the Deaver Street and Millbrook Road properties, the highest bids are consistent with the estimated fair market values for each property. The Curve Street parcel, however, did not generate a price point that reflects the value of the property. Based on the size of the parcel and the proximity to downtown, staff expected bids within the $40,000 range. At this time, staff recommends that Council authorize the sale of the Deaver Street and Millbrook Road properties to the highest bidders as listed above. Staff recommends that Council withdraw the Curve Street parcel from this sale and refund the bid deposit to Buncombe Land Holdings.

The sale of both the Deaver Street and Millbrook Road parcels will benefit the General Fund and will be designated for future economic and community development projects.

City staff recommends adoption of the resolution authorizing the conveyance of two parcels of City owned property, known as the Deaver Street lot, and Millbrook Road lot, and withdrawing the Curve Street property from the sales process until further notice.

RESOLUTION BOOK NO. 35 - PAGE 476

F. RESOLUTION NO. 13-218 - RESOLUTION AUTHORIZING CITY STAFF TO APPLY FOR A FEDERAL TRANSIT ADMINISTRATION JOB ACCESS AND REVERSE COMMUTE PROGRAM GRANT TO FUND THE BLACK MOUNTAIN ROUTE AND AUTHORIZING THE MAYOR TO EXECUTE THE APPROPRIATE DOCUMENTS TO ACCEPT THE GRANT, IF AWARDED

Summary: The consideration of a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

Since inception in 2002 the Black Mountain route has been funded with different funding sources. During the first 7 years, Intercity grant provided 45% Federal, 45% State and 10% match from the Town of Black Mountain, Buncombe County, and from the route's farebox revenue. The Intercity grant was

discontinued in November 2009; the North Carolina Department of Transportation funded the route with a Demonstration grant until December 2010. After that date the route was merged with route 29 and funded with City and Warren Wilson funds, for the segment from Downtown to the City limits, and Job Access and Reverse Commute program of the Federal Transit Administration for the segment between City limits and the Town of Black Mountain.

The Job Access and Reverse Commute (JARC) program was established to address the unique transportation challenges faced by welfare recipients and low-income persons seeking to obtain and maintain employment. Eligible activities are capital, planning and operating expenses for projects that transport low income individuals to and from jobs and activities related to employment, and for reverse commute projects. Funding for this route expires in December 31, 2013 and the City is pursuing JARC funding made available by the French Broad River Metropolitan Planning Organization to continue funding this route.

This route is part of a partnership between Warren Wilson College and the City of Asheville. As proposed in the Transit Master Plan, this route was merged with route 29 that served the college and operates as a regular route with frequent stops. The route operates four times a day, Monday through Saturday, along US 70 (Tunnel Road) between downtown Asheville and Black Mountain. Mountain Mobility already has funding in place through JARC to operate the Black Mountain portion of the route. The service will continue connecting with the local Mountain Mobility deviated route service.

This route's ridership has been variable during the last three years, showing the impact of the route changes in FY2013. Staff has observed an increase in overall ridership for FY2014.

Year	Ridership	Change
FY2013	57797	-17%
FY2012	69641	25%
FY2011	51598	

The City is planning to apply for a two-year period. The total cost of providing this service is approximately $240,000 per year; 50% or $240,000 will be paid by the grant and the other 50% by the combined contribution of Warren Wilson College (approximately 14% or $67,200) and the City of Asheville to the route (36% or $172,800).

The application deadline is October 31, 2013.

The total cost of the subject project is approximately $480,000. The City is required to fund 50% ($240,000) of the subject project cost with the remaining 50% funded by the JARC grant. The City's required funding will be allocated from the Warren Wilson College and the City of Asheville's contribution to the current route 170. Warren Wilson contribution will total $33,600 per year; therefore the City's cost is $86,400 per year. The City's cost is included in the Transit Fund budget for FY 2013-14.

City staff recommends City Council adopt a resolution authorizing City staff to apply for a Federal Transit Administration (FTA) Job Access and Reverse Commute Program grant to fund the Black Mountain route and authorizing the Mayor to execute the appropriate documents to accept the grant, if it is awarded to the City of Asheville.

RESOLUTION BOOK NO. 35 - PAGE 477

G. RESOLUTION NO. 13-219 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS FROM THE N.C. DEPT. OF JUSTICE FOR THE BALLISTIC VEST PARTNERSHIP GRANT 2013

ORDNANCE NO. 4325 - BUDGET AMENDMENT FOR THE BALLISTIC VEST PARTNERSHIP GRANT 2013

Summary: The consideration (1) a resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of $15,378; and 2) a budget amendment in the amount of $30,756 from US Department of Justice Ballistic Vest Partnership Program (BVP) funds.

The City of Asheville Police Department currently participates in the US Department of Justice BVP program. The funds allocated through this program are designed to offset departmental cost associated with purchasing ballistic vests. The City of Asheville has been awarded $15,378 through this program, which requires the City to match this amount dollar-for-dollar. Expenditures for this program will be recorded in this City's Special Revenue Fund. The budget amendment is necessary to authorize the full project budget amount of $30,756 in this fund. The City's match of $15,378 will come from the Police Department's adopted FY 2013-14 operating budget. The funding will enable the purchase of 68 bulletproof vests over the next 2 years.

As noted above, this grant requires a match of $15,378, which will come from the Police Department's existing General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept this grant award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of $15,378; and (2) a budget amendment in the amount of $30,756 from US Department of Justice BVP funds and previously approved City General Fund money to establish a project budget in the Special Revenue Fund for the 2013 BVP Program.

RESOLUTION BOOK NO. 35 - PAGE 478
ORDINANCE BOOK NO. 28 - PAGE 340

H. RESOLUTION NO. 13-220 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR THE TRAFFIC SAFETY UNIT

ORDINANCE NO. 4236 - BUDGET AMENDMENT FOR THE TRAFFIC SAFETY UNIT

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for highway safety grant funds to purchase equipment for the Traffic Safety Unit and costs related to the Regional liaison duties (2) a budget amendment in the amount of $20,000.00 from the North Carolina Governor's Highway Safety Program.

The Asheville Police Department currently participates in the North Carolina Governor's Highway Safety Program Highway Safety campaigns. In order to facilitate better participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance communication and effectiveness. The Asheville Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for GHSP Region 10 covering Buncombe, Henderson, Madison, McDowell, Polk, Rutherford, and Yancey Counties.

Funding would also cover the costs for training and travel associated with the Regional Liaison position duties. The expenses created by the purchase of the equipment and the duty related travel are reimbursed by the Governor's Highway Safety Program through the National Highway Traffic Safety Administration. There is no local match of funds required for this grant.

This budget amendment is fully funded with grant revenue and there is no impact to the General Fund budget.

City staff requests City Council to adopt (1) resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program (2) and the associated budget amendment in the amount of $20,000.

RESOLUTION BOOK NO. 35 - PAGE 479
ORDINANCE BOOK NO. 28 - PAGE 342

I. ORDINANCE NO. 4237 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of $74,973.00 for a grant from the N.C. Dept. of Commerce for the WNC Nature Center.

Each year the State of North Carolina in the Department of Commerce allocates funds to 25 to 30 member museums, science centers and nature centers in North Carolina. The WNC Nature Center is a member of the collaborative. Funds will be used to make capital improvements to the facility and animal exhibits at the WNC Nature Center.

The grant is intended to support the first phase of the 20/20 vision master plan for the WNC Nature Center. The funding from this grant will go toward construction of a restroom located at the new Arachnid Adventure Playground which is identified as a high priority in the plan.

The project budget for one-time facility improvements at the WNC Nature Center will increase by $74,973.00. This increase is funded by a grant from the State of North Carolina Department of Commerce. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to accept funds from the North Carolina Department of Commerce and establish a budget of $74,973.00 for capital improvements at the WNC Nature Center.

ORDINANCE BOOK NO. 28 - PAGE 344

J. RESOLUTION NO. 13-221 - RESOLUTION WAIVING THE FEE FOR BLOCKING FOUR ON-STREET PARKING SPACES DURING THE CONSTRUCTION OF EAGLE MARKET PLACE

Summary: The consideration of a resolution waving the fee for blocking four on-street parking spaces during the construction of Eagle Market Place.

Mountain Housing Opportunities (MHO) has requested that four parking spaces on South Market Street be bagged during the construction of Eagle Market Place.

City of Asheville policy is to charge $15 per day per space to block an on-street parking meter, excluding holidays and Sundays. MHO has requested the use of the spaces for one year starting November 1, 2013. The total fee for the use of the spaces during this period is $21,600.

Pros:

- The City is partnering in this project and providing a financial contribution. Any savings in the cost of the project will direct in a savings to the City.

Cons:

- Reduction in revenue to the City of Asheville Parking Enterprise Fund.

Per the City's Fees and Charges Manual, the fee for blocking a parking space is $15 per day. If the parking spaces were utilized during regulated hours 100% of the time, the daily revenue would be approximately $12.50. The fee for blocking a parking space is $15 per day in order to discourage

blocking parking spaces. The fee for blocking the spaces for one year, excluding holidays and weekends is $21,600.

City staff recommends approving a resolution waving the fee for blocking four on-street parking spaces during the construction of Eagle Market Place in the amount of $21,600.

RESOLUTION BOOK NO. 35 - PAGE 480

K. RESOLUTION NO. 13-222 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE FIRE FIGHTERS FUND RAISE ON NOVEMBER 7, 2013

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Fire Fighters Fund Raiser on November 7, 2013.

- Green Opportunities has requested through the City of Asheville Development Services Department that City Council permit them to serve beer and/or unfortified wine at the Fire Fighters Fund Raiser and allow for consumption at this event.

  The Fire Fighters Fund Raiser will be held on Thursday, November 7, 2013, from 3:00 p.m. – 11:00 p.m. within the boundaries of Walnut Street between the intersections of Lexington Avenue and Carolina Lane, as referenced on the accompanying site map.

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Fire Fighters Fund Raiser.

RESOLUTION BOOK NO. 35 - PAGE 481

L. RESOLUTION NO. 13-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE AGREEMENT WITH BUNCOMBE COUNTY FOR THE JOB ACCESS AND REVERSE COMMUTE GRANT

ORDINANCE NO. 4238 - BUDGET AMENDMENT FOR THE JOB ACCESS AND REVERSE COMMUTE FEDERAL GRANT

Summary: The consideration of (1) a resolution authorizing the City Manager to amend the existing agreement with Buncombe County, the sub-recipient of the Job Access and Reverse Commute grant to incorporate additional budget; and (2) a budget ordinance amendment, in the amount of $19,468, to increase the project budgets for the Job Access and Reverse Commute projects.

The City of Asheville is the designated recipient of the Job Access and Reverse Commute (JARC) grant funds, which is a program of the Federal Transit Administration (FTA). JARC is a formula grant program oriented to provide job access in the urbanized and suburbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas.

The job access refers to projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment.

The reverse commute refers to a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities.

To be eligible, the programs require an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on

community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization, Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. The plan was approved on March 29, 2012 by the French Broad River MPO's governing body (the Transportation Advisory Committee), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the rules to apply for projects and the projects were selected in a competitive process that was approved by the TAC.

In September 2012, Buncombe County's Mountain Mobility was selected as sub-recipient of the JARC grant. The original amount was increased by the MPO, due to additional funding availability; funding has been allocated to the JARC project as shown in the table below. The city will pass through the funds and will seek reimbursement directly from the FTA. The sub-recipient will be responsible for the match.

Sub-Recipient	Project	Program	Amount funded	Sub-Recipient's match
Buncombe County	Black Mountain Trailblazer	JARC	$118,065	$118,065
City of Asheville	Program Administration	JARC	$26,290	N/A

The projects to be funded include: Black Mountain Trailblazer, bus service in the Town of Black Mountain, Buncombe County's project; and the City of Asheville's administrative costs. The budget amendment will increase the budget in the Transit Operating Fund by $3,584 and increase the budget in the Transit Capital Fund by $15,884.

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use $26,290 JARC funds, for administration purposes, which will cover the program management expenses for a period of two years.

This program is fully funded with federal grant funds; there is no impact to the City's General Fund budget.

Staff recommends that City Council: 1) authorize the City Manager to amend the agreement with the sub-recipient (Buncombe County) of the Job Access and Reverse Commute grant; and 2) adopt a budget ordinance amendment in the amount of $19,468 from federal grant funds and sub-recipient matches to increase the project budgets for the Job Access and Reverse Commute Federal grant.

RESOLUTION BOOK NO. 35 - PAGE 484
ORDINANCE BOOK NO. 28 - PAGE 346

M. ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED

This item was removed from the Consent Agenda for discussion and/or individual vote.

N. RESOLUTION NO. 13-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH YOUNG & MCQUEEN GRADING COMPANY INC. FOR THE CONSTRUCTIONS SERVICES NECESSARY TO COMPLETE PHASE I OF THE LAKE CRAIG/AZALEA ROAD IMPROVEMENT PROJECT

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ORDINANCE NO. 4239- BUDGET AMENDMENT TO COMPLETE PHASE I OF THE LAKE CRAIG/AZALEA ROAD IMPROVEMENT PROJECT

Summary: The consideration of a (1) resolution authorizing the City Manager to enter a contract with Young & McQueen Grading Company, Inc. for the construction services necessary to complete Phase I of the Lake Craig/Azalea Road Improvements Project; and (2) a budget amendment in the amount of $1,471,608 from the Water Resources Fund FY 2013-14 capital budget, Stormwater Fund reserves, and the General Fund Community and Economic Development CIP to fund the contract and a 10% contingency.

The City of Asheville has the opportunity to provide improved access to the Azalea Park along Azalea Road, provide a much needed water connection to the John B. Lewis Soccer Complex and to provide additional flood protection to Biltmore Village.
Azalea Park is a regional attraction that hosts major soccer events at the John B. Lewis Soccer Complex. This complex draws a wide range of public participants which increases the traffic along Azalea Road. The City is proposing to widen and improve the roadway in this section which will include bike lanes and a pedestrian facility which will incorporate a new sidewalk connection from the soccer complex over to the WNC Nature Center.
The City also plans to provide a much needed water supply connection to the Park. Currently, the pavilion does not provide a potable water source. The project will include connection to the City's water system.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The flood control features include stream relocation and restoration, removal of floodplain fill, re-establishment of the floodplain bench and improvement to the drainage structures within the project.
Following a pre-qualification process for contractors, the bids were opened on September 5, 2013. The City of Asheville determined Young & McQueen Grading Company, Inc. to be the low responsive and responsible bidder. Following a value engineering process, the total cost of construction is $3,749,191.75.

Within the scope of the project, Young & McQueen will perform the construction services necessary to provide improved transportation connections (including pedestrian, bike and vehicular) to the John B. Lewis Soccer Complex, provide a much needed connection to the City of Asheville water system, and remove flood plain fill and provide a stream restoration below the former Lake Craig Dam.

The flood mitigation/stream restoration portion of this project is expected to be fully funded through the State of North Carolina in compliance with the Hurricane Recovery Act of 2005 (Senate Bill 7); however staff is requesting Council approve an appropriation from Stormwater Fund reserves in the amount of $62,893 to cover a portion of the contingency. The water line installation will be funded within the existing FY 2013-14 Water Resources Fund capital budget for neighborhood water line replacement. The transportation improvements were intended to be funded entirely by Sullivan Act proceeds; however the bids for the project came back higher than originally anticipated when the project was first budgeted three years ago. Since the City no longer has the ability to appropriate additional Sullivan Act funds for this project, funding to cover the higher costs will be taken from the City's Community and Economic Development CIP (EDCIP). The total amount of the budget amendment is $1,471,608 with the components shown below:

Water Resources FY 2013-14 Budget:	$371,127
General Fund FY 2013-14 EDCIP:	$1,037,588
Stormwater Fund Reserves:	$62,893

City staff recommends City Council (1) approve a resolution authorizing the City Manager to complete negotiations and sign a contract with Young & McQueen Grading Company, Inc. for the construction services necessary for completion the Lake Craig/Azalea Road Improvement Project for

$3,749,191.75; (2) authorize the City Manager to enter into change orders to this contract not to exceed 10% of the original contract or $374,919; and (3) approve a budget amendment in the amount of $1,471,608 from the Water Resources Fund FY 2013-14 capital budget, Stormwater Fund reserves, and the General Fund Community and Economic Development CIP to fund the contract and the 10% contingency.

Mr. Kevin Mahoney, Board Member of the Asheville-Buncombe Youth Soccer Association, spoke in support of the resolution.

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ORDINANCE BOOK NO 28 - PAGE 348

O. RESOLUTION NO. 13-230 - RESOLUTION AMENDING THE 2013 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE NOVEMBER 26, 2013, CITY COUNCIL REGULAR MEETING

RESOLUTION BOOK NO. 35 - PAGE 493

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Hunt and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

M. ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED

At the request of Vice-Mayor Manheimer, it was the consensus of Council to refer this matter back to the Public Safety Committee for further clarification. Councilman Smith asked that staff seek any clarification necessary from the School of Government or the Attorney General's Office.

III. PRESENTATIONS & REPORTS:

A. RESOLUTION NO. 13-225 - RESOLUTION UPDATING UNC-ASHEVILLE'S MEMORANDUM OF UNDERSTANDING

Mayor Bellamy said that this is the consideration of a resolution authorizing the Mayor to sign a renewal of a Memorandum of Understanding (MOU) with UNC-Asheville, She said that UNC-Asheville and the City signed the original MOU in 2009 setting forth a framework for collaborations in areas of mutual interest. The renewal of the MOU continues a long standing partnership between the City of Asheville and UNC-Asheville and sets forth a plan for future collaborations.

Through its annual strategic planning process, the City Council identified Economic Growth and Financial Sustainability as one of its 3 key focus areas for the 2013-14 fiscal year. One action item specific to growth and sustainability highlights continued partnerships with local institutions of higher learning. The MOU establishes a framework by which UNC-Asheville and the City of Asheville will work to exchange information, conduct cooperative research, and jointly explore projects for the sustainability for the Asheville community. Staffs from both organizations met this past September to identify areas of opportunity for collaboration and partnership. From those initial meeting, the following areas were identified. Environmental Sustainability; Public Safety, Diversity; Co-branding; Master Plan/Land Use; Crime and Technology; Health and Wellness; Economic Development; and Culture and Recreation.

City staff recommends City Council authorize the Mayor to sign the 2013-2015 Memorandum of Understanding with UNC-Asheville to further collaborative efforts in the focus areas identified above.

Chancellor Anne Ponder of UNC-Asheville said that over the last several years the partnership between the City of Asheville and UNC-Asheville has seen some amazing successes. She then highlighted a few of them, recognizing City and UNC-Asheville staff: (1) economic development and the Southern Conference Basketball Tournament; (2) infrastructure improvements; (3) public safety; and (4) internships and community service.

Mayor Bellamy was pleased that the UNC-Asheville and the City of Asheville partnership is a model for other universities to become more integrated in their communities. She thanked Chancellor Ponder and her staff for their commitment in working with her as Mayor and the City of Asheville staff.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 13-225. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 486

B. ASHEVILLE CITY BOARD OF EDUCATION UPDATE

Ms. Jacquelyn Hallum, Chair of the Asheville City Board of Education, and Dr. Bobbie Short, Interim Superintendent, briefed Council on their activities of the past year and goals for the upcoming year.

On behalf of City Council, Mayor Bellamy thanked Ms. Hallum for her leadership and the entire Board for their dedication and welcomed Dr. Short.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF CAREFREE ASHEVILLE LOCATED AT 1903 HENDERSONVILLE ROAD TO INCLUDE A CHANGE IN HOUSING TYPE AND BUILDING FOOTPRINTS; A CHANGE IN THE INTERNAL ROAD NETWORK, AND AN INCREASE IN THE NUMBER OF RESIDENTIAL UNITS, INCLUDING MODIFICATIONS FOR SETBACK AND HEIGHT

ORDINANCE NO. 4240 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF CAREFREE ASHEVILLE LOCATED AT 1903 HENDERSONVILLE ROAD TO INCLUDE A CHANGE IN HOUSING TYPE AND BUILDING FOOTPRINTS; A CHANGE IN THE INTERNAL ROAD NETWORK, AND AN INCREASE IN THE NUMBER OF RESIDENTIAL UNITS, INCLUDING MODIFICATIONS FOR SETBACK AND HEIGHT

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the conditional zoning of Carefree Asheville located at 1903 Hendersonville Road to include a change in housing type and building footprints, a change in the internal road network, and an increase in the number of residential units, including modifications for setback and height. This public hearing was advertised on October 11 and 18, 2013.

Ms. Fields said that the subject property, 12.21 acres, is located within the city limits, off of Hendersonville Road, just south of Walden Ridge Road. The property currently contains a vacant single-family home and the infrastructure for what was designed to be an office/residential subdivision.

Properties to the north contain office buildings and those to the east (along Hendersonville Road) contain commercial operations. To the west and south are single family homes although the zoning to the south is largely Office Business.

The property in question was approved for a residential and office subdivision in 2006. Significant grading and infrastructure development took place based on that approval. Most utilities were installed and curbing and roadway construction was largely completed. The project was abandoned in 2007 and the property placed on the market.

In 2008, another developer submitted to the City a proposal for a 144 unit residential community and received conditional zoning approval for the site (to RM16CZ). This development also was never pursued post-approval. This proposal was for a mix of single-family, duplex, quadruplex, townhouse, and multi-family dwellings with a proposed residential density of 11.8 units per acre. Modifications for height and setbacks were granted along with a variance for grading (steep slope regulations).

A new developer, Evolve, LLC proposes to develop the property with five additional units (149 – 12.2 units/acre) and with revisions to the type and location of the dwelling units. This concept uses only multi-family units, which will reduce overall imperviousness on the site. The request is for an amendment to the previous conditional zoning approval to adopt the new concept.

The proposal for the community is a mix of one, two, and three bedroom apartments in six buildings with a clubhouse/pool amenity. Access will still be via the main drive off of Hendersonville Road. The previously approved secondary exit road will be removed as the buildings will have sprinkler systems. While much of the rest of the existing road system will be retained, the developer is planning to remove the cul-de-sacs at the western end of the property to better work with the slopes found in that area in the siting of one apartment building and parking. They plan to restore these areas that will be demolished to a natural state or design them to be utilized as open space amenities by the residents of the community. There is an existing home on the property that will be removed once construction begins.

The property is in an area protected under the City's steep slope regulations. The easternmost 6.36 acres is in Zone A of the regulations; the western 5.85 acres are in Zone B. Under the regulations, the allowable number of units in the Zone A portion is 85. In the Zone B portion, the allowable number of units is 24. The developer is proposing 24 units in Zone B in one building. The developer is proposing 125 units in Zone A (five buildings) for a total of 149 units.

They are requesting retention of the previously allowed development standard bonus to allow the additional 40 units (total is 137% of the base density allowed). Although this bonus provision is no longer in our ordinance, this can be extended to the amended development if the proposal meets the intent for such a bonus. Development bonus standards allow multi-family projects with less than 20% of the housing being affordable (per City standards) to have a maximum density of 150% of the allowed base density. The developer is proposing that 10% (14 units) be affordable. They have also provided a plan in their submittal which outlines other features that support the development bonus. These include:

- The preservation of mature natural woodlands (23% of site).
- The promotion of a socially interactive community through development of such amenities as a clubhouse/pool, walking path, dog park, and tot lot.
- The establishment of community raised gardens for the residents.
- Open space exceeding City standards (over 40,000 square feet additional).

The applicant is also committed to green/sustainable building practices including:

- Using high-efficiency fixtures and fittings above code required minimums.
- Use of Energy Star rated appliances.
- Use of HVAC units with SEER ratings higher than code required minimums.
- Using insulation values greater than required minimums.

- Using low VOC floor finishes and paints.

The applicant is seeking modifications to the height of building #300. The allowable height is 40 feet. The proposed elevation is 41'2 ¼". The needed modification is 1'2 ¼ ". They are also requesting modifications to the side setbacks as follows:

- North – a 17 foot modification from the required 40 foot setback. 23 feet provided.
- South – a 25 foot modification from the required 40 foot setback. 15 feet provided.

Staff is supportive of the height modification because the property abuts Office Business zoning at the location of the tallest building. Office Business zoning allows for buildings to be 60 feet in height. Staff is also supportive of setback modifications because of the adjacent Office Business Zoning which allows side setbacks of 10 feet, because of the limitations to development based on the existing infrastructure, and due to the topography of the site and surrounding area.

At a meeting on August 19, 2013, the City of Asheville Technical Review Committee (TRC) reviewed the conditional zoning request and made a positive recommendation (with conditions) that the project be forwarded to the Asheville Planning and Zoning Commission. The developer has modified the submittal since that time, addressing the bulk of the conditions in the report.

As previously noted, at a meeting on August 26, 2013, the City of Asheville Board of Adjustment reviewed the request for a variance to the steep slope regulations with respect to grading and voted unanimously to approve the requested variance. One adjoining property owner was present at that meeting and expressed concerns about lighting and traffic. He has a single-family home on the property although the property is zoned Office Business.

This conditional zoning request received a negative recommendation (1-3 with three commissioners absent) from the Planning & Zoning Commission at a meeting on September 4, 2013. Two adjoining property owners spoke at the hearing noting concern about the height of Building 600 (westernmost structure) and the desire to see more single family homes (as opposed to multi-family) on that part of the property. The Commissioners voted not to recommend this project to the Asheville City Council but encouraged the developer to meet with neighboring property owners and discuss ways to address their concerns.

Subsequent to the meeting, the developer met with the property owners and the site plan has been revised to address their concerns. The proposed walking path has been pulled in away from their properties and the plan now shows a wooden fence between Building 600 and the adjacent properties on the western end of the development. The developer indicates that letters of support from those concerned have been received. An adjoining property owner asked that she relay that he is concerned about traffic on Hendersonville Road but that he much prefers the new design that pulls the development away from his property.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The project, if approved, must meet all the technical standards set forth in the City's Unified Development Ordinance and Standards and specifications manual. The developer has been working closely with City staff to ensure compliance.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of**

the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.
In designing this project the developer has moved the majority of the development away from the steeper sloped areas where they propose to restore much of that section of the property to pervious land with reforestation. Restricted by the amount and design of the grading and development already done on the site, they are working to comply as much as possible with the City's steep slope regulations while still achieving higher density development in an area appropriate for such development. They sought, and obtained, a variance for the grading of the site.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The building location and site amenities shown on the development plan depict a project that should not injure the value of adjoining properties which are mostly zoned for office or commercial development. The proposal pulls most of the development away from the single-family zoned properties.

4. **That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
The design of the project is compatible with the commercial and office properties adjacent which are heavily developed. The project sits below the single-family homes that adjoin it and there should be substantial topographic and vegetative protection for these properties.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
The proposed use supports the 2025 goals and Council vision as follows:
   a. Supports the goal of pursuing compatible infill development.
   b. Supports the goal of permitting and encouraging transit supportive density along and adjacent to major corridors and logical transit nodes.
   c. Supports the goal of promoting the use of green building techniques.
   d. Supports the goal of permitting more intense development in areas with appropriate infrastructure.
   e. Supports the goal of providing affordable housing.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
The proposed use is located off of a major (five lane) thoroughfare in the City. Transit is available along this corridor. Much infrastructure is already in place for this project.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
The developer has submitted an update to the previously submitted traffic study for the development that has been analyzed and accepted by the City's Traffic Engineer.

Pros:
- The project supports the goal of pursuing compatible infill development.
- The project takes a property with significant infrastructure in place and proposes a sensitive residential development.
- The project proposes an affordable housing component.

Con:
- The project will add additional vehicular traffic to Hendersonville Road although the traffic study does not warrant any improvements.

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Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modifications to height and setbacks and with the conditions set forth in the TRC report and the standard conditions listed below.

Although the Planning and Zoning Commission did not recommend this project (1-3 vote) due to adjoining property owner concerns, the developer has met with these property owners and addressed these issues.

Mayor Bellamy opened the public hearing at 6:13 p.m.

Mr. Derek Allen, attorney representing Evolve Development, LLC, reiterated the background of the project. He provided Council with information (and reviewed with Council) an area photo, currently approved sketch plan, proposed sketch plan, exceptional site development standards and goals, and neighbor support letters. He said there is only one entrance into the project because all the buildings will be sprinkled. He explained how they worked with the neighbors to make this a better project, which they now support. Modifications on the buildings are really geared towards not doing any more grading. They tried to cluster the development closest to the commercial development on Hendersonville Road. He said they have added in a workforce housing component. At the Planning & Zoning Commission they proposed that 5% of the units be affordable; however, they are now proposing 10% (14 units) be affordable. He urged Council to approve this infill development.

Mayor Bellamy closed the public hearing at 6:21 p.m.

Councilman Smith personally wanted to work with builders to make sure that everything we do in the City has an affordable housing component to it. He hoped that Council will have a more substantive policy discussion around how we can get to a much better place to meet our affordable housing needs.

Councilman Pelly noted that Council recently approved a contract with the N.C. Dept. of Transportation to bring sidewalks down Hendersonville Road, showing that we are trying to do our part to contribute to the quality of life of all our residents. Because there are 149 units in this project, he felt a true 10% affordable housing would be 15 units and he hoped the developer would consider adding at least 15 affordable units.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4240, to amend the conditional zoning of Carefree Asheville located at 1903 Hendersonville Road to include a change in housing type and building footprints, a change in the internal road network, and an increase in the number of residential units, including modifications for setback and height, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) All site lighting must comply with the City's Lighting Ordinance and be equipped with 90 degree cut-off fixtures and directed away from adjoining properties and streets; (3) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (4) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; (5) This project will undergo final review by the TRC prior to issuance of any required permits; and (6) That 10% of the project (14 units) be affordable. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT THE INTERSECTION OF CLINGMAN AVENUE EXTENSION AND

ROBERTS STREET FROM COMMERCIAL INDUSTRIAL DISTRICT AND RIVER DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO FACILITATE A MIXED USE DEVELOPMENT KNOWN AS RAD LOFTS, INCLUDING A MODIFICATION REQUEST ON THE BUILDING SIZE

ORDINANCE NO. 4241 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT THE INTERSECTION OF CLINGMAN AVENUE EXTENSION AND ROBERTS STREET FROM COMMERCIAL INDUSTRIAL DISTRICT AND RIVER DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO FACILITATE A MIXED USE DEVELOPMENT KNOWN AS RAD LOFTS, INCLUDING A MODIFICATION REQUEST ON THE BUILDING SIZE

Interim City Attorney McGlohon explained the conditional zoning process which is limited to site specific. The conditional zoning requires no specific findings. The decision should be based on sound land use guidance principles. The individual conditions and site specific standards that can be imposed are limited to those needed to bring a project into compliance with the City's ordinance, adopted plans, and those addressing the impacts reasonably expected to be generated from the development or use of the site. She said that this project is also being considered for a land use incentive grant; however, that process is different from what Council is considering at this time.

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at the intersection of Clingman Avenue Extension and Roberts Street from Commercial Industrial District and River District to Urban Place District/Conditional Zoning to facilitate a mixed use development known as RAD Lofts, including a modification request on the building size. This public hearing was advertised on October 11 and 18, 2013.

Ms. Bernstein said that the applicant is requesting a Conditional Zoning for two parcels located at 146 Roberts Street from CI (Commercial Industrial) and River to UP (Urban Place District) – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development.

The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and is zoned Commercial Industrial (CI). The second parcel (0.379 acres) is located across Roberts Street to the south and is currently zoned River District. Adjacent parcels are similarly zoned.

The project area is currently vacant but was most recently the site of Dave Steel. The main building from that use was removed and all remaining structures (railroad tracks, walls and a small building) are to be removed.

The applicant is proposing the construction of a mixed-use development including residential, retail and office spaces and parking, both structured within the development as well as a small separate surface lot. A total of 209 residential units are proposed with 141 1-bedroom and 68 2-bedroom units. There are 26 retail spaces designated (42,776 square feet gross area) and 11,656 square feet of office space (13,116 square feet gross area) shown on submitted plans.

The design incorporates seven buildings with a shared base of structured parking. The buildings range from two to seven stories (no height exceeds 75 feet). Building A fronts on Roberts Street (5-levels); buildings B and C are more interior to the site with rear frontage on Park Avenue (up to 7-levels); Building D is almost fully interior to the site (6-levels); and buildings E, F and G front on Clingman Avenue (4, 2 and 3-levels).

There are to be two access points into the site, one two-way driveway into Building A from Roberts Street and another two-way driveway into the parking structure between buildings D and E on Clingman Avenue. The separate parking lot will have two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street as well as the project frontage on Clingman

Avenue and range from 6 to 12 feet in width. There is an existing 5 foot sidewalk along the Park Avenue frontage. Additionally, the project has been designed to incorporate ample areas of pedestrian amenities both at the corner of Clingman and Roberts as well as the public pedestrian promenade through the site.

This project incorporates parking in several locations. The largest is a 338-space parking structure within the development; the standalone parking lot on a separate parcel across Roberts Street to the south indicates 24 spaces (2 HC accessible) and approximately 15 other on-street spaces will be delineated through streetscape enhancements. Bike parking is also included throughout the site.

Landscaping is required on the site and includes street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area – almost 15% has been provided, mainly through the urban-style amenities in the pedestrian promenade.

Modifications:

1. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000 (unless a variance is requested). Technically according to the building code, because of the shared base of parking, A-F are all considered as one building, even though they are smaller separate and distinct above the shared base. "Building 1" has a gross floor area of approximately 223,882 square feet, however, the independent buildings above ground do not individually exceed the maximum. *This modification must be granted by City Council and is supported by staff.*

2. **Sidewalks** – There are three locations where the sidewalks do not meet the required 10 foot width: existing sidewalks along Park Avenue are only 5 feet; sidewalk proposed along the surface parking lot on Roberts Street is only 6 feet and there is a stretch along Clingman Avenue that is only 8 feet. Per the UDO, approval by the City Traffic Engineer is needed for the insufficient width and has been granted based on topography and site restrictions.

The Urban Place zoning district was created to foster "higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities...[and] intended in areas where the appearance of the built environment is important to the vitality of the area." Additionally, the zoning district was created with areas along the French Broad River in mind. Staff believes that this location in the River Arts District is ideal for Urban Place zoning. Although the uses proposed would have been acceptable in the underlying zoning, Urban Place offers a greater residential density (64 units per acre verses 16 – or 209 units for the project rather than 38 units) appropriate for this location.

This project was approved with conditions by the Technical Review Committee on September 16, 2013. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit. An informational review by the River District Design Subcommittee was held on September 25, 2013, and the Asheville Area Riverfront Redevelopment Commission (AARRC) on October 10, 2013. Both groups were supportive of the project. The Planning & Zoning Commission reviewed this proposal at their meeting on October 2, 2013, and recommended unanimous approval.

Staff has received comments from the public relating to the elimination of on-street parking along Clingman Avenue, the increased traffic flow through existing traffic patterns and maintaining affordability of spaces for both living and working. At the Planning & Zoning Commission meeting, there was comment encouraging the applicant to use local artists as much as possible with site amenities (bike racks, planters, benches, signage, etc.) to fit in with the look and feel of the River Arts District.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in

Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   This site was previously developed and has a +/- 35 foot grade change from Park Avenue down to the Robert Street / Clingman Avenue intersection with a steep bank along the northern end. The proposal focuses development activity (retail spaces, pedestrian plaza and walkways, parking garage entrances) down towards the previously graded areas and leaves the rear bank intact, more or less, functioning as the "back" of the site. Working with the grade changes on the parcel, the structured parking is only "exposed" along the rear of the site where there is no public interaction, integrating the design into the natural and topographic features on the parcel.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The development is expected to complement the adjacent shops, studios and uses and add to the fabric of the River Arts District in a valuable way. Streetscape improvements will greatly improve the pedestrian experience along Roberts Street and Clingman Avenue and the addition of parking in several locations will be a benefit to the area. The design standards in Urban Place zoning are crafted to promote activity along the ground level and placing residential units on floors above is a positive addition to the area as a neighborhood. The mix of uses should fit well with the immediate area and is not expected to injure the value of abutting properties.

   Concern has been expressed from several members of the public that the units (both residential and commercial) should be kept at affordable rates so that spaces for emerging artists in the district will not be priced out of reach.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   This type of mixed-use, high density development is ideal (and intended) for areas such as the River Arts District and while the buildings are taller than most in the immediate area, the scale of the structures is mitigated through façade planes, step-backs, balconies and material differentiations as well as ample pedestrian areas between and around the buildings. Many of the existing buildings along Roberts Street are two stories from the street (taller behind due to grade changes) but in the style of these old industrial buildings, they are much taller overall than typical two-story buildings constructed today, resulting in a feeling of a larger scale. Also, new development continuing south on Depot Street (Glen Rock) has set a precedent for taller construction in the area. The design incorporates a more "industrial" look which should complement the existing built environment and there are creative amenities incorporated into the site which are in harmony with the character of the area (community garden spaces for example).

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   Elements of the overall project are directly aligned with the City's goals and objectives including mixed-use infill development, economic investment in an area of notable cultural activity, multi-

modal transportation elements that enhance walkability (new sidewalks and ample pedestrian areas, bike racks) and supporting residential uses in neighborhoods close to downtown.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.** This site in the River Arts District places the project in an easily accessible location by car, foot, bicycle and is proximate to two Asheville transit routes (WI and W2). The project has been reviewed by the Technical Review Committee and has been found to have adequate access to infrastructure.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.** Based on a review of the Traffic Impact Study, prepared by JMT Engineering, the proposed use should not cause undue traffic congestion or create a traffic hazard if the recommendations of the TIS are complied with.

Pros:

- City goals support mixed-use development, especially providing residential uses in a walkable location proximate to transit and the Central Business District
- Streetscape improvements will greatly enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- Structured parking is integrated into the site design so that it is masked from the street by habitable and active uses.
- Urban Place zoning sets forth specific design and operational standards to ensure a development that will integrate into the area and enhance the activity at the street level.

Cons:

- A modification is needed to allow a building footprint size larger than the district allows (*staff is supportive of this request since other design characteristics mitigate the building size).*
- No designated affordable retail or residential units (*affordability is not a requirement).*

Staff recommends supporting the requested conditional zoning to Urban Place to support this development proposal, especially for the increased residential density. The streetscape enhancements, structured parking, thoughtful design and mix of uses should complement the activities already in the River Arts District.

Staff recommends the zoning map amendment from River and Commercial Industrial to Urban Place (Conditional Zoning) – including the request to increase the maximum building footprint - subject to the conditions recommended by staff and find that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 6:34 p.m.

Mr. Matt Sprouse, representing Sitework Studios, provided Council with several views of the property, along with detailing the conceptual drawings of the proposed site improvements, plan for the parking decks, street elevations, and views from the property. He said that there will be a total of 209 residential units that will fall within the workforce housing definition of Asheville. There is 223,882 square feet of total space, and of that 54,000 is commercial and office space. All of that together has a total of 377 new parking spaces, most of which are in the deck.

Ms. Robin Raines, representing Rowhouse Architects, briefly walked through the different levels of the buildings.

Mr. Tim Schaller, representing the River Arts District Business Association, expressed concern about parking, construction disruption of business, and need for crosswalks. He said the City had promised parking on Depot Street that hasn't happened yet, so he hopes this will spur that along. They would also like to see some affordable live/work studio space.

Mayor Bellamy closed the public hearing at 6:46 p.m.

Councilman Hunt felt this is a great transformational project for the River District and felt that the proposed land use incentive grant might alleviate some lingering concerns. He could support some reasonable investment by the City. He agreed that affordable units is a key goal of Council. Another concern is getting away from utility poles in the middle of sidewalks.

Mr. Harry Pilos, developer, understood that Duke Energy Progress has a program that will help contribute to putting utilities underground. If the loads are enough, Duke Energy Progress will pay for that work.

Mr. Jason Walls, Duke Energy Progress District Manager, explained that it's their practice that developments that use underground utilities should have the responsibility to pay for those underground utilities. However, if the load is sufficient (from various factors in a cost matrix) it might be that Duke Energy Progress would pick up that cost, because it would be an on-going stream revenue for the company.

Councilman Smith noted that Mr. Pilos would be making a $43 Million investment in the River Arts District. He appreciated Mr. Pilos' willingness to be sensitive to the District and was pleased that he was continuing to work with staff to address affordability and environmental issues.

In response to Councilman Smith, Mr. Pilos said that there is a big gap between affordable housing for a 1-bedroom ($650 including utilities) and the product they are producing with the parking structure. He simply cannot make the math work. But, what he would do is calculate what subsidy is required for 10 years to make the math work and then pass it onto staff and Council for consideration.

Councilman Bothwell suggested Mr. Pilos look at installing solar on the vast roof. Mr. Pilos said that he is already in the process of studying that, along with other options.

Vice-Mayor Manheimer said it's important for the City to meet its partners in the community in the transformation of the River District, noting that the City has a major redevelopment plan in that immediate area.

City Manager Jackson noted that the City has made significant commitments in the River District, some being, but are not limited to: restoration of the smoke stack and we deep into the River Arts District Transportation Improvement Plan planning process. In terms of Depot Street parking, Council has funded that in this year's paving budget and we are waiting for approval by the railroad for those 34 parking spaces on Depot. We hope to install those parking spaces later this spring. He also noted that Mr. Pilos will be making an application for a land use incentive grant.

Mayor Bellamy thanked the several organizations, artists, business owners, and individuals who have made investments in the River District.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Davis found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4241 to conditionally zone property located at the intersection of Clingman Avenue Extension and Roberts Street from Commercial Industrial District and River District to Urban Place District/Conditional Zoning to facilitate a mixed use development known as RAD Lofts, including a modification request on the building size, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development

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Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (6) Existing granite curbs must be reused on site or turned over to the Public Works Department for use in the local historic districts. This motion was seconded by Councilman Bothwell and carried unanimously.

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Closed Session

At 7:06 p.m., Councilman Pelly moved to go into closed session to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Smith and carried unanimously.

At 7:23 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Vice-Mayor Manheimer and carried unanimously.

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 329 ROCKWOOD ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING, FOR A HOLIDAY INN EXPRESS AND SUITES, INCLUDING A MODIFICATION REQUEST TO THE BUILDING HEIGHT STANDARDS

ORDINANCE NO. 4242 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 329 ROCKWOOD ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING, FOR A HOLIDAY INN EXPRESS AND SUITES, INCLUDING A MODIFICATION REQUEST TO THE BUILDING HEIGHT STANDARDS

Councilman Davis moved to recuse Vice-Mayor Manheimer from voting on this matter due to a conflict of interest. This motion as seconded by Councilman Hunt and carried unanimously.

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone property located on 329 Rockwood Road, from Highway Business District to Highway Business District/Conditional Zoning, for a Holiday Inn Express and Suites, including a modification request to the building height standards. This public hearing was advertised on October 11 and 18, 2013.

Ms. Fields said that the project site of approximately 2 acres is located at 329 Rockwood Road (PIN 9643.75-1885) and is zoned Highway Business (HB) District. It is located adjacent to a major shopping area which has its main entrance off of Airport Road.

A seven-story, 100 room hotel (Holiday Inn and Suites) is proposed for the site. The proposed structure has a gross floor area of 60,474 square feet. The building, as designed is 82'8" in height necessitating a modification from the HB standards (60 feet height maximum; 22'8" modification). The reason for the conditional zoning is to request this modification. A request for a Determination of No Hazard to Air Navigation from the Federal Aviation Administration is pending. This must be granted regardless of zoning action by the City.

Access to the hotel will be via an access drive (30 to 24 feet in width) shared with the restaurant located on the adjoining property off of Rockwood Road. There is a traffic signal from Airport Road onto Rockwood Road. A sidewalk will be provided along Rockwood Road.

A total of ninety-seven vehicle parking spaces (4 handicapped) are provided. All spaces are surface parking. Parking for five bicycles is also planned.

Proposed landscaping meets the relevant standards for street trees, parking lot landscaping and building impact landscaping. The open space requirement of 15% (13,068 square feet) is exceeded. Plans are to provide 15,043 square feet in open space.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The proposal has been reviewed by the City of Asheville Technical Review Committee and meets, or can meet, all applicable regulations concerning health and safety. A required Determination of No Hazard to Air Navigation (FAA) is pending.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   There are no significant natural or topographic features on the site or in the vicinity needing mitigation.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The proposed use should not injure the value of adjoining or abutting property. The site is in an area heavily developed with large commercial and industrial uses. Another hotel is being constructed across Rockwood Road.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   While the proposed structure is taller than other existing structures in the area, the size and bulk are compatible with other development in the regional node found at the intersection of Airport Road and I-26. It is adjacent to Buncombe County zoning that allows a height of 90 feet and perhaps the City should reconsider the zoning of areas close to I-26 in the future.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   The comprehensive plan depicts the Airport Road/I-26 area as a regional node. This project is supportive of that concept and of the objective of placing large commercial uses in appropriate areas adequately served by public utilities and transportation resources with easy access to the interstate highway system.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
   The proposed use is located off of a high traffic corridor (Airport Road) with quick access to Interstate 26. The project has received approval from the City's Technical Review Committee concerning issues of water, fire, and police protection.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**

A traffic impact analysis was not warranted for this development. No concern was raised at the Technical Review Committee Meeting concerning traffic.

The City of Asheville Technical Review Committee reviewed this project on September 16, 2013, and recommended it with conditions. Many of these conditions have been met in the revised plans submitted for review by the Planning and Zoning Commission and Asheville City Council.

This conditional zoning request was recommended for approval by a 5-0 vote of the Asheville Planning and Zoning Commission at a meeting on October 2, 2013. This approval included a recommendation that the height modification be granted. The only speakers at the hearing on this matter were City staff and the applicant. The Planning and Zoning Commission placed the following conditions on their approval:

1. The project shall comply with all conditions outlined in the TRC staff report.
2. The project shall comply with all standard conditions.
3. That an FAA Determination of No Hazard to Air Navigation be received before building permits are issued.
4. That staff and the developer explore constructing a sidewalk along the entrance drive connecting to the proposed sidewalk along Rockwood Road if such a walkway would be feasible and legally permissible.

Staff has looked into the feasibility of constructing such a sidewalk. Staff finds such a sidewalk to be problematic. The slope and existing retaining wall on the site would make compliance with ADA standards very challenging and costly. While this is not the safe egress from the building (which requires a fully accessible route), such a "convenience sidewalk" still must meet ADA standards. While in these situations this can include such things as stairs, the site does not lend itself to providing such a walkway and there still could be discrimination claims filed against the owner.

Pros:

- The proposal places a major service operation in an appropriate regional development node.
- The proposal supports the comprehensive planning goal of placing large commercial uses in areas adequately served for such uses.

Con:

- None noted.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modification to height and with the conditions set forth in the TRC report and the standard conditions listed below.

The Planning and Zoning Commission voted to recommend approval (5-0) on October 2 2013, with the conditions as listed above, the modification, and the condition to explore a walkway along the entrance drive to the property.

City staff recommends approval of the zoning map amendment from HB (Highway Business) to Highway Business CZ (Conditional Zoning) with a height modification of 22'8", pending FAA approval, and subject to the conditions recommended by staff and all standard conditions.

Mayor Bellamy opened the public hearing at 7:30 p.m.

Mr. Justin Church, civil engineer for the project, said that staff did a good job in explaining the project and was available to answer questions.

Mayor Bellamy closed the public hearing at 7:31 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4242 to conditionally zone property located on 329 Rockwood Road, from Highway Business District to Highway Business District/Conditional Zoning, for a Holiday Inn Express and Suites, including a height modification of 22-8", pending FAA approval, and subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried unanimously (Vice-Mayor Manheimer recused).

ORDINANCE BOOK NO. 28 - PAGE 357

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 919 HAYWOOD ROAD FOR THE CONSTRUCTION OF HAYWOOD VILLAGE

ORDINANCE NO. 4243 - ORDINANCE TO AMEND THE CONDITIONALLY ZONING OF PROPERTY LOCATED AT 919 HAYWOOD ROAD FOR THE CONSTRUCTION OF HAYWOOD VILLAGE

Urban Planner Alan Glines said that this is the consideration of an ordinance to amend the conditionally zone property located at 919 Haywood Road for the construction of Haywood Village. This public hearing was advertised on October 11 and 18, 2013.

Mr. Glines said that the project that is currently on file was approved by City Council on August 14, 2007. That project was approved for 56 residential units and 10,000 square feet of commercial space. Work began and the first structure was constructed and addressed as 915 Haywood Road. The first phase of surface parking was also completed, but economic conditions held up further progress. In early 2011 the developer, F. Roger Page, died and family members have had the property for sale since then. After the construction stopped, staff began to receive many inquiries from west Asheville residents concerning the unfinished site and from potential developers evaluating the approved requirements for taking the project to completion. The current proposal is the first to begin the process for an amendment to allow completion of the project. Its modifications reflect the changed market conditions of 2013.

Approved Site Plans 2006 and 2007 - As noted previously, the overall concept and layout for the site were developed during a design charette held at the site over a four or five day period in early 2006. During the charette over 100 west Asheville residents, including many from the surrounding neighborhood, participated in the process. A proposal was developed and approved in May of 2006 (see the *Special Zoning Considerations* section above). The 2006 plan was not ultimately built due to complications with the offer to purchase with the Diocese of Charlotte (property owners at the time) and later that year, the high cost estimates that came in for the structured parking areas under the proposed commercial buildings.

The project was revamped and scaled back and returned in 2007 proposing 56 residential units and 10,000 square feet of commercial space. The project was similar to the earlier plan in that the mixed-use commercial structures faced Haywood Road and featured three, three-story buildings with commercial space on the ground floors and residential units on upper floors. Behind these large buildings, residential buildings were proposed ranging in size from three-story buildings (6 of this type) and smaller-scaled residential scale buildings surrounding the perimeter of the property. The placement

of the smaller residential buildings was an important component of the plan because it allows the development to transition back to the scale of the surrounding residential area. The approval for this plan by City Council was unanimous.

Current Proposal 2013 - The current proposal increases the number of residential units and reduces the amount of commercial space over the 2007 approval. It proposes 75 residential units and up to 4,800 square feet of commercial space. The residential component (about 26 units/ acre) is up from 56 units approved (19 units per acre). The commercial space is reduced from the 10,000 square feet approved in 2007 to now include 2,800 s.f. in the existing building and 2,000 s.f. proposed in the new building along Haywood Road. The commercial space will be at the ground-floor corner of the new building proposed at Mitchell Avenue and Haywood Road and within five ground floor live/work units in that structure. Fifteen residential units are proposed on the upper two floors of the new mixed-use building and seven residential units are already built on the upper floors of the existing building.

Behind Haywood Road, the plan will follow the same general layout for circulation using the two existing driveways along Mitchell and Blue Ridge Avenues. On-site parking will be provided along a one-way private drive that circles the interior of the property. The parking plan proposes 107 spaces on the interior to augment the 10 existing spaces located on Haywood Road. This proposal is well within the approved range of required parking for a project of this size in the Urban Place District. There are three larger footprint three-story buildings in the center of the site that will include a total of 36 residential units (12 in each building). Twelve smaller residential units (4 duplexes and 4 single-family) will line the edge of the property and are designed to face the two streets that lead into the neighborhood beyond. The integration of the smaller scale residential units into the neighborhood fabric has been a consistent element of all of the plans for this site. The building elevations provided with the current submittal are similar in style and scale to the buildings approved in 2006 and 2007. The scale of the structures and building heights are all within the allowances for the Urban Place district.

At the Technical Review Committee meeting on September 16, 2013, the Transportation Department asked that the project engineer formally request a reduction in the sidewalk width along Haywood Road if it will not meet the 10' district standard for Urban Place. The project engineer noted the width of the sidewalk at the existing building (slightly less than 10 feet) and the existing on-street parking along the length of Haywood street. Since the on-street spaces and the front half of the sidewalk is constructed, the back portion in front of the new building could comply with the standard width. The project architect noted that the new building will provide variations in the façade to break up the scale of the building and that in places it will comply. He also noted that they would prefer the new building be aligned with the existing building on the block. Staff from Public Works and Transportation noted that the existing raised-curb planters could be re-worked to remove the curbing and that those areas would better comply with the sidewalk requirement. Transportation will consider the request when it is received from the project engineer.

Variances Previously Approved To Carry Forward:

- Property line buffer reduction- approved at 15 feet wide without a fence but planted with trees and shrubs maintaining the majority of the existing white pine trees, requested by neighborhood.
- Sidewalk width along Mitchell and Blue Ridge will be constructed at 6 feet wide due to existing trees and right of way constraints.
- Residential setbacks expanded in places to protect existing vegetation and to reflect the topographic changes from the residential side streets.
- Building Orientation- Approval for structures along the periphery of the site to be oriented to their public street frontage and structures internal to the site to be oriented towards their internal driveway access.
- Reductions in the percent of window openings for the residential buildings located within the interior of the site because the standard is intended to apply to mixed-use buildings.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in

Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The project will meet City and State building code requirements and will not endanger public health and safety.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**

   The largest structures are focused along Haywood Road. The other large residential buildings will be internal to the site. Single-family scaled houses will be located along Mitchell Avenue and Blue Ridge Avenue. Some of the existing trees will be protected and retained on the property such as several white oaks, a large sycamore, white pines and maples.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The completion of this project even with the addition of more residential units is expected to be a benefit to the area and act as a positive catalyst for this portion of Haywood Road.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   The largest structures will front along Haywood Road. Other residential buildings will be placed behind Haywood and internal to the property. Smaller scale single-family style residential buildings will face the neighborhood streets, larger multi-family structures will be on the interior of the site. This layout is similar to the original proposal which was created after an inclusive community design charette for the site. This proposal is substantially similar to the original plan.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   The plan meets City Council adopted goals of higher density mixed-use development located on multi-modal transit corridors in areas of the city that are compatible with that growth and where there is infrastructure to support it. This is an in-fill site that has remained unfinished throughout this economic downturn and it will be a positive catalyst to have it completed.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
   One transit line passes directly by this section of Haywood Road and two other connectors run nearby. Based on the approval in 2007, the project will provide a transit shelter along Haywood Road. Fire and police stations are located within a few hundred feet of the property. There is sufficient infrastructure to provide adequate facilities for the proposed development. A neighborhood park is located behind the Fire station.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
   The proposal has been reviewed by the City traffic Engineer and no concerns were raised about the amount of traffic generated. The project will not create undo congestion or create a hazard. Residents of and visitors to this site will have several transportation options available to them including transit, biking and walking so that should mitigate some of the traffic concerns.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

This amendment to the conditional zoning project was recommended for approval by a 5-0 vote by the Planning and Zoning Commission. No concerns were noted. Three people spoke at the Planning & Zoning Commission meeting, not opposed to the development but concerned about cut-through traffic and on-street parking along neighborhood streets.

Pros:

- A key distressed project will be completed with an amended development plan
- Higher density residential infill development will be added to a corridor designated for density bonus projects
- Neighbors and the community were involved in the creation of the plan in 2006

Con:

- Some concern has been expressed about additional traffic on neighborhood streets for each iteration of this proposal

Staff recommends approval of the project because it meets the goals of the Comprehensive Plan and other adopted plans and because the request is reasonable.

Mayor Bellamy opened the public hearing at 7:40 p.m.

Mr. Robert Todd, designer for the project, was excited to be a part of resuscitating the project and felt this was a good collaborative process. He asked for Council's support.

An area property owner hoped that this development (installing sidewalks) would not make it harder to put in bike lanes in the future. He also questioned the amount of commercial space being decreased fronting Haywood Street.

Ms. Jenn Swearington, owner of a business in the current building, spoke in support of seeing the development re-start.

Mayor Bellamy closed the public hearing at 7:47 p.m.

Mr. Todd explained that they will take a remaining of the prior approved commercial space and turn it into a live/work space in the transition period, so someone might have a home office on the commercial corridor where they can actually live upstairs or within that unit.

When Councilman Smith asked if the owner would be willing to include an affordable housing component in the development, Mr. Todd explained that the owner would have to make that decision and he is not present at the meeting.

When Councilman Smith asked if Council would be willing to postpone action to have a conversation with the owner about affordability, all of Council agreed that affordable housing is very important, however, it was the consensus of Council to move forward since there is no policy for developers to include affordable housing in their projects and to hold up a project at the very end of the process would not be fair.

Councilman Pelly supported Councilman Smith's earlier suggestion that Council have a more substantive policy discussion around how we can get to a much better place to meet our affordable housing needs.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4243 to amend the conditionally zone property located at 919 Haywood Road for the construction of Haywood Village, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape, utility and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Smith voting "no".

ORDINANCE BOOK NO. 28 - PAGE 361

E. PUBLIC HEARING TO AMEND SECTION 7-11-4 (C) OF THE CODE OF ORDINANCES TO REVIEW OPEN SPACE REQUIREMENTS FOR INDUSTRIAL PROJECTS IN THE INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 4244 - ORDINANCE TO AMEND SECTION 7-11-4 (C) OF THE CODE OF ORDINANCES TO REVIEW OPEN SPACE REQUIREMENTS FOR INDUSTRIAL PROJECTS IN THE INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT

Director of Planning and Development Judy Daniel said that this is the consideration of an ordinance to amend Section 7-11-4 (c) of the Unified Development Ordinance to review open space requirements for industrial projects in the Industrial District and the Commercial Industrial District. This public hearing was advertised on October 11 and 18, 2013.

She said that currently all nonresidential projects must reserve 15% of a lot area for open space. While that standard is not unusual for an office park, a school or church, a multi-family development, or a shopping center; after recent consideration staff believes that this is an unusually high standard for industrial uses in zoning districts designated to promote this type of economic activity. Like the CBD zone, where this requirement is also exempted, the purpose of industrial zones is more specialized in intent and the primary economic development purpose may be compromised by standards primarily intended for suburban style commercial and residential development.

Further, this change will resolve a conflict between the development standards in the Industrial District and the Open Space Standards in Article 11. The Industrial District (Sec. 7-8-22(f)(12)) indicates that there are no "recreational or open space" development requirements; whereas the Open Space standards only exempt the CBD from the requirements and differentiate requirements between "urban" and "suburban" style development.

The impetus for the proposed change, and other recent changes related to the processes for approval of industrial projects, came from recent questions regarding potential industrial sites. Staff came to believe that the process review for site plans for industrial uses were confusing and the open space requirements were too restrictive for industrial uses in the industrially related zones and they should be differentiated from the open space requirements for suburban style office and commercial development.

The proposed amendment pertains only to industrial development and would eliminate the open space requirement in the Industrial zone and reduce it from 15% of the lot area to 5% of lot area in the Commercial Industrial District. This change would impact only the approximately 648 acres zoned Industrial (comprised of 54 properties), which is less than 1% of land in the city; and on 1,850 acres

zoned Commercial Industrial (comprised of 755 properties), which is around 6% of land in the city. (Asheville contains approximately 29, 270 acres.)

A significant portion of those properties already have existing businesses, and this relatively small fraction of land (and some properties have been lost in recent years to general commercial rezoning) offers good potential locations for industrial development that provides higher paying jobs. The open space requirement adds to the financial burden of those companies considering Asheville for their businesses. That reality is a primary reason staff proposes reducing open space requirements in the industrially zoned areas.

This amendment should not raise a concern that open space is not sufficiently valued or recognized for its benefits. Open space requirements are an important requirement in most places, but the economic development benefits in the limited amount of land allowed for industrial development should be considered in weighing where and how much of it is needed. In addition , an offset or "in-lieu" for elements such as green roofs, permeable pavement, or extra parking lot landscaping was considered; but these concepts retain the factor of added expense for this sought after type of business development. Also, it is useful to remember the other UDO requirements for all types of development, which also pertain to industrial projects, satisfy many of the same goals as the open space requirement, and have a better defined impact or benefit, including:

- Parking lot landscaping (cooling and shading parking areas)
- Street tree requirements (establishing a streetscape at the street-side of the property)
- Landscaped property line buffers (screening residential areas from commercial use areas)
- Building impact landscaping (additional plantings required based on the scale of the building)
- Stream buffers (where applicable – providing protection from siltation, runoff, and flooding)
- Stormwater runoff requirements (water quality improvement and protection)

Staff has also observed that areas allotted for open space in industrial development are often on the least buildable portion of residual space on the property. Further, staff believes that the public (and on-site workers) do not generally look to industrial development to realistically fulfill open space needs, so these areas are largely unused (unlike open space in residential developments). Because of these other requirements and because of the intent of the industrial zones is to primarily be job generators (thus meeting other important community goals), staff recommends approval of the modifications to this section.

The staff introduced both the industrial process and open space proposals to the Planning and Zoning Commission at the June 5, 2013, meeting and the Commission recommended approval for the process changes. Subsequently, the City Council approved the process change recommendations at the June 25, 2013, meeting.

The Commission was generally supportive of the intent for the changes to the open space requirements, but requested that staff first present the amendment to the Sustainability Advisory Committee for Energy and the Environment (SACEE) and get their thoughts regarding whether the reductions proposed for the industrial uses should be related to environmental offsets such as green roofs or environmentally sustainable parking lot standards. The Commissioners who requested this process were concerned about issues such as heat island impacts of industrial uses due to their large flat roofs and large surface parking lots.

Staff attended the SACEE Committee on June 19 for a discussion of these environmental concerns balanced against the economic development concerns. Like the Commission, members of SACEE were somewhat divided in their thoughts on this issue and provided a range of comments; but no specific recommendations. Although they did not comment specifically on the thoughts expressed by the Commission, staff who attended the meeting indicated that their thoughts included:

- They reinforced the clear benefit for the landscaping and planting requirements that projects must meet, but shared a concern that open space requirements could have the unintended consequence of expanding or encouraging sprawl due to the additional land area it requires.

- Noting that while open space can have a clear purpose for residential projects or may be beneficial as passive green space for offices or retail area; open space has a less defined purpose for large scale industrial uses.

- Noting that denser infill development patterns and job creation are identified as Council goals.

- Noting that open space can sometimes become a security issue when placed on the rear of a parcel (a not unusual situation), hidden from view; and could thus create unintended problems.

- Noting that the open space requirement for industrial businesses, which are especially valued as job creators, adds to the cost of doing business in Asheville.

- General support (but not a vote) for reducing the requirement to 5%, and retaining the use of a fee-in-lieu option for developments that cannot reach that standard on their site.

- They seemed to feel that because of these concerns, the requirements for other types of commercial development should also be reconsidered and asked for additional information at a later meeting.

The staff returned to the Planning and Zoning Commission at their September 4, 2013, meeting and presented the thoughts from SACEE. After discussion, the Commissioners present voted 2-2 (with 3 absent) on a motion of support for the proposal, and because of the tie vote, did not support the amendment. Concerns cited by the two Commissioners voting against the proposal related to the overall need for open space, regardless of use. One Commissioner was concerned that SACEE had not voted on the proposal; and one Commissioner requested additional information on the amount of property zoned Industrial in the city to be presented to City Council, which is included in this report. Staff also volunteered to return to SACEE to see if they would want to finalize a position on the proposal.

Staff returned to the SACEE Committee at their September 18 meeting for a subsequent discussion on the issue. While again expressing general support for the idea, they again deferred a vote on the issue until their October meeting due to having several members absent. The SACEE reconsidered the open space UDO change at their meeting on October 16. They unanimously supported the UDO change but asked that the Council consider asking staff to continue to research the options for further modifications that would address concerns such as loss of tree cover and impervious coverage without undue financial burden to potential industrial employers.

City staff recommends City Council approve the UDO amendment for changes to the regulations related to open space requirements for industrial uses as outlined in the staff report and find that the amendment is reasonable and are consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

Mayor Bellamy opened the public hearing at 8:06 p.m. and when no one spoke, she closed the public hearing at 8:06 p.m.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Manheimer found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4244. This motion was seconded by Councilman Davis and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONFIRMATION OF MARVIN ROSEN AS CHAIR OF THE CIVIL SERVICE BOARD

Councilman Marc Hunt said that this is the consideration of a motion to confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first

On June 25, 2013, City Council adopted Resolution No. 13-146, appointing Marvin Rosen as Chair to serve a full year, or until his successor was duly and annually appointed by the City Council.

On July 12, 2013, Civil Service Board members expressed concern that City Council appointed Mr. Rosen (an appointed member) to serve as Chair beyond his current term of office. On August 27, 2013, City Council adopted Resolution No. 13-179 which appointed Mr. Rosen to serve as Chair for one year or until his successor was duly appointed by Council, whichever occurred first.

Councilman Marc Hunt worked with Civil Service Board members to develop a process for future appointments to the chair role of the Civil Service Board.

On October 4, 2013, the Civil Service Board re-appointed Mr. Rosen as a member to the Civil Service Board.

Because Mr. Rosen has expressed continued interest in serving as Chair of the Civil Service Board, and because no other member of the Civil Service Board expressed interest in the Chair role, it is the recommendation that City Council confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first.

When Mayor Bellamy asked for comments, no one spoke.

Vice-Mayor Manheimer moved to confirm the appointment of Marvin Rosen as Chair of the Civil Service Board to serve until June 25, 2014, or until his successor is appointed, whichever occurs first. This motion was seconded by Councilman Hunt and carried unanimously.

VI. NEW BUSINESS:

A. ORDINANCE NO. 4245 - ORDINANCE REPEALING SECTION 16-39 OF THE CODE OF ORDINANCES WHICH EXCLUDES CERTAIN ACTIVITIES PERFORMED IN THE PUBLIC RIGHT-OF-WAY FROM OBTAINING A STREET CUT PERMIT

Deputy Director of Public Works David Foster said that this is the consideration of an ordinance repealing Section 16-39, of Chapter 16 of the Code of Ordinances, which excludes certain activities performed in the public right-of-way from obtaining a street cut permit.

N. C. Gen. Stat. sec. 160A-296(6) allows municipalities to regulate digging in City streets. Previous ordinance revisions instituted certain permit exclusions that would allow for a reduction in construction costs and a more expedient restoration of services by excluding certain activities from having to obtain a street cut permit. While well intended, these exclusion have resulted in some unintended consequences, such as ADA compliance issues in City sidewalks, abuse of the intended aspect of the exclusion, and occasional misinterpretation of the ordinance caused some to skip the permitting process entirely. In case of emergencies, Utilities will be allowed to call for and be issued an emergency permit while proceeding with emergency repairs.

Mr. Foster said that the ordinance is to be effective in 90 days, which will allow them time to notify utilities of this change.

Since no permits are currently issued, the number of new permits this change will create is unknown; however, a conservative estimate of 200 instances at the minimum cut size would net an additional $20,000 in permit revenues in the Street Cut Fund.

City staff recommends City Council adoption of the ordinance repealing Section 16-39 of Chapter 16 of the Code of Ordinance, to eliminate exclusions to the street cut permit requirements for cutting into the City's rights of way.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Manheimer moved for the adoption of Ordinance No. 4245. This motion was seconded by Councilman Hunt and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 367

B. RESOLUTION NO. 13-226 - RESOLUTION GRANTING A WAIVER OF THE SIDEWALK REQUIREMENT INCLUDING THE "FEE-IN-LIEU-OF" CONSTRUCTION OPTION FOR THE GAIA CONDOMINIUM PROJECT LOCATED AT 141 SHELBURNE ROAD

Director of Transportation Ken Putnam said that this is the consideration of a resolution granting a waiver of the sidewalk requirement including the "fee-in-lieu-of" construction option for the Gaia Condominium project that is located at 141 Shelburne Road.

Sidewalk requirements are included in the City's Unified Development Ordinance under Section 7-11-8 and sidewalks are required for all new construction that falls into one or more listed categories including all new multi-family residential development projects with 10 or more units. If the frontage street is not identified as a needed pedestrian linkage, a "fee-in-lieu-of" construction can be considered.

Staff is not authorized to grant a waiver of the sidewalk requirement and/or the payment of the "fee-in-lieu-of" construction option.

The project which began moving through the city's review process in 2006 consists of a total of 15 residential units (duplexes and cottages) and 32 on-site parking spaces. The approved site plan shows a 6-foot back of curb sidewalk and 24-inch curb and gutter along the Shelburne Road street frontage. During the construction phase, the developer contacted city staff to inquire about paying a "fee-in-lieu-of" construction and that approval was granted during July 2009. The total fee was $10,772.40 and it was based on 188 linear feet of street frontage at a cost of $57.30 per linear foot ($40.00 per linear foot for the sidewalk and $17.30 per linear foot for the curb and gutter).

Unfortunately, the developer filed for bankruptcy during the construction phase and now the homeowner's association is responsible for the outstanding infra-structure improvements. Staff has been working closely with the homeowner's association to accomplish the outstanding issues and in January 2013, they asked about a payment plan for the "fee-in-lieu-of" construction option. Although, we typically do not offer payment plans, staff suggested a 5-year payment plan with semi-annual payments that would begin in November 2013.

The homeowner's association is now asking that the sidewalk requirement be completely waived because it creates a financial burden on the individual homeowners especially since the actual cost of the sidewalk was probably included in the purchase price of their homes. All units are currently occupied.

The subject issue was first discussed at the PED Committee meeting on August 20, 2013 and the committee members asked for additional information from the City Attorney's Office.

These questions were discussed at the PED Committee meeting on September 17, 2013 and the committee members agreed to move the request to City Council for discussion and consideration without a recommendation. The PED Committee asked staff to identify other projects (including cost implications) that might have similar issues. Transportation Department staff and Development Services Department staff are only aware of one active project with similar issues. At this time, this project (Calvary Chapel) is willing to actually construct the sidewalk but they want to delay the construction for a period up to three years.

If the waiver is granted, the fiscal impact would be a loss of additional revenue to the city for new sidewalk construction in the amount of $10,772.40.

Staff recommends Council consider the additional information provided in rendering a decision on whether to grant the waiver request of the condominium association. Council may also wish to obtain the advice and counsel of the City Attorney before making a final decision.

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 13-226, granting the waiver of the sidewalk requirement including the "fee-in-lieu-of" option. This motion was seconded by Vice-Mayor Manheimer and carried on a 5-2 vote, with Mayor Bellamy and Councilman Pelly voting "no".

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C. RESOLUTION NO. 13-227 - RESOLUTION ENDORSING THE PROTECTION OF CIVIL LIBERTIES OF ALL CITIZENS

Councilman Bothwell said that this is the consideration of a resolution endorsing the protection of civil liberties of all citizens.

Since 2010, Councilman Bothwell has worked with various organizations to develop a resolution endorsing the protection of civil liberties of all citizens. The resolution seeks to ensure that all citizens are treated equal, regardless of their race, skin color, national or ethnic origin, gender, sexual orientation, mental or physical disability, immigration status, religious or political opinion or activity, or homed or homeless status.

City staff reviewed the resolution to ensure consistency with City and Asheville Police Department policies.

Mayor Bellamy read the resolution.
Four individuals spoke in support of adoption of the resolution and one resident supported the resolution in theory only.

Interim City Attorney McGlohon said that this resolution is consistent with Asheville Police Department policy and in no way does it violate any state law. In fact, it is consistent with the operation of the Asheville Police Department as it currently exists.

Councilman Bothwell moved for the adoption of Resolution No. 13-227. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 488

D. RESOLUTION NO. 13-228 - RESOLUTION SUPPORTING CLEAN ENERGY ECONOMY

Chief Sustainability Officer Maggie Ullman said that since the inception of the Sustainability Advisory Committee on Energy and the Environment (SACEE), this Committee has been committed to providing policy guidance to City Council on a variety of sustainability topics with a consistent focus on energy. The current committee recommendation to establish a clean energy partnership with Duke Energy Progress is an outgrowth of this committee's long standing commitment to energy focused policy. Below is background information on the clean energy resolution currently being proposed:

- July 2013: The Sierra Club Beyond Coal Campaign and the Western North Carolina Alliance proposed the concept of a clean energy resolution between the City and Duke Energy Progress to SACEE leadership.

- August 13th, 2013: Asheville City Council reviewed and approved a resolution encouraging the NC Department of Environment and Natural Resources Duke Energy Progress to take expedient and appropriate action to deal with the impact of coal ash leachate at the Duke Energy Progress power plant.

- August 21st 2013: The Sierra Club Beyond Coal Campaign gave a presentation to the full SACEE committee about coal ash leachate pollution concerns, air pollution resulting from coal fired power plants, global climate change, and expanded opportunities for local government leadership in addressing these concerns. A draft clean energy resolution was presented to the committee. The resolution proposed creating a strategic partnership with Duke Energy Progress to work towards a clean energy future. The committee voted 7-1 to support the resolution with Lawrence Pittman voting against and Tim Ballard recusing himself due to conflict of interest. There were no Duke Energy Progress representatives directly engaged in the conversation as of this point in time.

- September 2013: A SACEE subcommittee hosted a meeting to discuss the language of the clean energy resolution with Duke Energy Progress, Sierra Club, the Western North Carolina Alliance, and staff. This full group shared thoughts and concerns about certain language in the resolution and worked together to create language the group agreed upon and finalized a resolution to recommend for Council approval.

- October 16th, 2013: The full SACEE committee reviewed the updated resolution and voted 8-0 in support of recommending City Council adopt the resolution.

Mr. Duncan McPherson, Chair of SACEE, said there are two primary goals of the resolution (1) establish a long-term plan and vision for our community that addresses climate change and clean air and clean water; and (2) to create a partnership with our electricity provider and work together to begin to transition from coal to clean energy. This is only the beginning of a long and complicated process; however, this resolution can serve as a catalyst to help move the economy and our environment to a clean energy future. We are tied to our coal burning power plant and there are significant technical realities of how they're going to make the transition from coal to clean energy. In order to achieve the goal we need to align our common interests of clean air and clean water and work in a true collaborative partnership with all stakeholders involved. We need to bring our electricity providers to the table and along in this process to reach our ultimate goal. Duke Energy will be a part of the solution. This resolution will help build the partnership with our utility provider and help align the goals and values of our community.

Mr. Jason Walls, Duke Energy Progress District Manager, viewed the resolution as a positive step in creating a partnership with the City around energy-related issues to reduce the City's carbon footprint. However, if Council sees this resolution as a "game changer ... to start planning a transition off

of the Asheville Coal Plant," then they don't' support the resolution. It is Duke Energy's obligation alone to keep lights on 24 hours a day, 7 days a week and they have a state-maintained responsibility to provide reliable electricity at the lowest reasonable cost and from proven technology. By the end of this year, his company will have retired 7 of the 14 coal plants in the state, and while they are reducing coal in the Carolinas, they can't close a plant without a practical way to replace the electricity residents and businesses depend on. Duke Energy supports solar energy and recognizes the vital role it plays in our energy future. They are committed to work with partners, like the City of Asheville, to provide these options. They see this resolution as an important next step in the long-term two-way partnership between Duke Energy and the City on ways to reduce the region's carbon footprint and advance clean energy and energy efficiency within the City. Success will only happen by working together. They view efforts like expanding LED lighting across the City, providing technical assistance to efforts like Solarize, looking at ways to increase energy-smart education for customers, and expanding recycling efforts as likely opportunities for partnership. They are excited to be a part of this journey with the City and look forward to finding and executing "wins" throughout Asheville and the region.

Ms. Kelly Martin, representing Asheville Beyond Coal Campaign, said that this resolution takes a further step towards addressing climate change. Asheville is home to the biggest source of carbon pollution in western North Carolina - Duke Energy's Asheville Coal Plant. Having a coal plant that is the largest source of greenhouse gas emissions in the region is not unique to Asheville. Burning coal for electricity is the number one source - the single largest source of climate pollution in this county and around the world. Cities all across America are moving off of coal and towards a clean energy future. The cost of coal is rising and the cost of clean energy is decreasing. By burning less coal we open up market space for clean energy solutions. This resolution won't retire the Asheville Coal Plant but it will recommit the City on it's carbon footprint reductions. It also acknowledges that without Duke Energy's partnership and without a transition away from burning fossil fuels for electricity, we won't be able to meet our carbon reduction goals. She urged Council to vote in favor of the resolution and do all that you can to take bold action on climate change to protect our air, our water and our future.

The following individuals spoke in support of the resolution:

Ms. Ashley Brown, Asheville resident
Ms. Julie Mayfield, Co-Director of WNC Alliance
Ms. Kathy Scott, member of Transition Asheville
A man who spoke on behalf of the Sierra Club members

Ms. Patty Beaver, representing the Council of Business Owners, urged City Council to remember that the business community must have reliable and affordable electricity. They believe that it is the responsibility of the City Council to make policy that ensures that reliable and affordable electricity is available in order that businesses can exist, thrive and grow in the City of Asheville.

Councilman Hunt moved for the adoption of Resolution No. 13-228. This motion was seconded by Councilman Bothwell.

Councilman Bothwell spoke in support of the resolution, noting that citizens can play a part in reducing our need for coal power, simply by cutting lights off in rooms that no one is in or by shutting off your television set when no one is watching it.

Mayor Bellamy read the following directives in the resolution: (1) The City of Asheville supports a local clean energy future for the city and the region; (2) The City of Asheville calls on Duke Energy Progress to partner with the City to help meet its carbon reduction goals by decreasing its reliance on fossil fuels, including transitioning from coal to electricity provided by clean renewable energy sources; while continuing to meet the company's obligation to provide affordable and reliable electricity to all customers 24-hour/day 7-days/week; (3) The City of Asheville further calls on Duke Energy Progress to continue and expand its investments in and programs supporting renewable energy, energy efficiency, and energy conservation; (4) The City of Asheville further calls on Duke Energy Progress to stop the spread of new coal ash pollution, and remediate existing coal ash pollution; and (5) The City of Asheville

develops a Clean Energy Partnership Progress Report to be delivered in one year to City Council that documents the achievements of this new partnership with Duke Energy Progress. She asked for an amendment to the resolution to add an additional directive since the directives mainly speak to Duke Energy Progress and the City. We have a strong environmental group who has worked on this issue and she felt that group is missing from the table. She asked that a committee be formed, or SACEE, to make sure that we have a collaboration of community members at the table.

Councilman Hunt and Councilman Bothwell were agreeable to amend the motion by asking for SACEE's leadership to seek input from a variety of stakeholders when identifying collaboration opportunities for this partnership.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

The amended Resolution No. 13-228 carried unanimously.

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E. BOARDS & COMMISSIONS

Regarding the Citizens-Police Advisory Committee, it was the consensus of Council to re-advertise for the vacancy since no candidates from the central area applied.

Regarding the Recreation Board, the following individuals applied for the vacancy: Kimberly Reed and Mary Michael. At the request of the Recreation Board, it was the consensus of the Boards & Commissions Committee and City Council to re-advertise.

Regarding the Historic Resources Commission the following individuals applied for the vacancies: William S. Eakins, Stephens Smith Farrell, Richard Fast, Tom Hartwell and Keaton Edwards. It was the consensus of Council to interview Stephens Smith Farrell and Richard Fast, since they both had architecture or design experience requested by the Historic Resources Commission.

RESOLUTION NO. 13-229 - RESOLUTION APPOINTING MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund.

The term of Leesa Gibbs, as a member on the Firemen's Relief Fund, expired on January 1, 2013. Due to a clerical error in not , the reappointment of Ms. Gibbs was not considered during that vacancy timeframe.

No one is on the current resource list.

On October, 22, 2013, the Boards & Commission Committee recommended reappointing Ms. Gibbs to serve until January 1, 2015.

Councilman Bothwell moved to reappoint Ms. Leesa Gibbs, to serve an additional two-year term, term to expire January 1, 2015, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 492

RESOLUTION NO. 13-231 - RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Homeless Initiative Advisory Committee.

The terms of Scott Rogers, David Nash and Hilliard Carlisle, as members on the Homeless Initiative Advisory Committee, expire on November 1, 2013.

The following individuals have applied for this vacancy: Sabrah n'haRaven and Matthew Shepley.

On October 22, 2013, the Boards & Commission Committee recommended reappointing Mr. Rogers, Mr. Nash and Mr. Carlisle.

Councilman Hunt moved to reappoint Mr. Scott Rogers, Mr. David Nash and Mr. Hilliard Carlisle to each serve an additional three-year term respectively, terms to expire November 1, 2016, or until their successors have been appointed. The motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 494

RESOLUTION NO. 13-232 - RESOLUTION APPOINTING MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville Area Riverfront Redevelopment Commission.

The term of Pattiy Torno, as a member on the Asheville Area Riverfront Redevelopment Commission, expired on January 1, 2013. Due to a clerical error, the reappointment of Ms. Torno was not considered during that vacancy timeframe.

No one is on the current resource list.

On October, 22, 2013, the Boards & Commission Committee recommended reappointing Ms. Torno to serve until January 1, 2016.

Councilman Davis moved to reappoint Ms. Pattiy Torno, to serve an additional three-year term, term to expire January 1, 2016, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 495

RESOLUTION NO. 13-233 - RESOLUTION APPOINTING MEMBERS TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Soil Erosion/Stormwater Review Committee.

The terms of Pete Hildebrand and Ter McSpinner, as members on the Soil Erosion/Stormwater Review Committee, expire on November 1, 2013.

No one is on the current resource list.

On October 22. 2013, the Boards & Commission Committee recommended reappointing Mr. Hildebrand and Ms. McSpinner.

Councilman Bothwell moved to reappoint Mr. Pete Hildebrand and Ms. Ter McSpinner to each serve an additional three-year term respectively, terms to expire November 1, 2016, or until their

successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 496

RESOLUTION NO. 13-234 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Buncombe County Tourism Development Authority.

The term of Ron Storto (must be an owner or operator of a hotel, motel or other taxable tourist accommodation with less than 100 rental units) expired on August 30, 2013.

The following individuals have applied for this vacancy: John McKibbon, Pratik Bhakta, John Winkenwerder, Satis D. Patel and James Muth.

Councilman Hunt moved to appoint James Muth as a member of the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel or other taxable tourist accommodation with less than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2016, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Lisa Landis commented on the need to help the homeless.

VIII. ADJOURNMENT:

Mayor Bellamy adjourned the meeting at 9:17 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

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Tuesday – November 12, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Terry M. Bellamy, Presiding; Vice-Mayor Esther E. Manheimer; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Marc W. Hunt; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and Deputy City Clerk Jaime Matthews

Absent: None

PLEDGE OF ALLEGIANCE

Several Boy Scouts led City Council in the Pledge of Allegiance.

INVOCATION

Mayor Bellamy said that this was her last Council meeting after 14 years of serving the citizens of Asheville. She was extremely grateful to have the honor of serving as Mayor and thanked the citizens of Asheville for making her a stronger person.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 22, 2013

B. RESOLUTION NO. 13-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON-MATCHING GRANT ADJUSTMENT NOTICE FROM THE N.C. DEPT. OF CRIME CONTROL & PUBLIC SAFETY FOR THE PROCUREMENT OF EQUIPMENT AND TRAINING FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE

ORDINANCE NO. 4246 - BUDGET AMENDMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a non-matching Grant Adjustment Notice from the N.C. Dept. of Crime Control and Public Safety, Division of Emergency Management, for the procurement of equipment and training funds to be used by Hazardous materials Regional Response Team 6 – Asheville; and (2) the associated budget amendment, in the amount of $17,500.

The U.S. Department of Homeland Security and the Office of Domestic Preparedness has made funds available through State Homeland Security Grant Number: FY2011-SS-00119-S01-1056 to implement the State Homeland Security Strategy. The strategy identifies the NC Hazardous Materials Regional Response Teams (RRT) as an integral component of North Carolina's preparation and response to manmade and natural emergencies and disasters. The purpose of the grant is to purchase specialized equipment to be used on-scene and to prepare for threatened or actual weapons of mass destruction or domestic terrorists' attacks or major disasters and to train for such events.

There are seven Regional Response Teams (RRT) strategically located throughout the state. Asheville Fire and Rescue hosts one of the seven state funded teams - RRT 6. The team responds to hazardous materials incidents in the twenty westernmost counties of North Carolina.

The grant is non-matching and all equipment provided through this grant will become the property of the Asheville City Government. It has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

There is no fiscal impact associated with this grant, as it is non-matching.

City staff recommends that City Council (1) authorize the City Manager to accept the non-matching grant from the NC Department of Crime Control and Public Safety, Division of Emergency Management, to enhance AFD's capabilities to protect Asheville and Western North Carolina; and (2) adopt the associated budget amendment.

RESOLUTION BOOK NO. 36 - PAGE 1
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C. RESOLUTION NO. 13-236 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO PARTICIPATE IN DUKE ENERGY PROGRESS' NEW ENERGY EFFICIENCY PROGRAM AND TO ENTER INTO SOLE SOURCE PROVIDER CONTRACT FOR THE PURCHASE AND INSTALLATION OF ENERGY EFFICIENT LIGHTING IN CITY PARKING DECKS

Summary: The consideration of a resolution authorizing the City of Asheville to participate in Duke Energy Progress' new energy efficiency program and to enter into sole source provider contract for the purchase and installation of energy efficient lighting in City parking decks.

The electric utility Duke Energy Progress has recently launched a new energy efficiency program called the Small Business Energy Saver (SBES) Program. The model of this program differs from previous rebate programs in that Duke Energy Progress pays for efficiency upgrades up front, and covers up to 80% of the total project cost.

The City's Wall Street and Rankin Avenue Parking Decks are prime candidates for participation in the program, in particular because the current high pressure sodium lights are inefficient, run 24 hours a day and provide poor light quality. By replacing 225 of these lights with LED fixtures, the City is projected to save $20,000 and 150 tons of carbon dioxide equivalent annually, which is 16% of the annual carbon footprint reduction goal for municipal operations.

Staff has analyzed the potential and costs for the project and determined that at this time, the SBES Program is the only cost effective way to move forward with parking deck lighting replacement in the current budget. The SBES Program is a unique opportunity to leverage a significant amount of up front capital funding from Duke Energy Progress. The total cost to the City for the Wall Street and Rankin decks would be $47,510. Duke Energy Progress would cover the remaining $89,158, which is 65% of the total project costs. These costs include parts, labor and project management.

The SBES Program is run through a single authorized contractor, Lime Energy. In order to participate in the SBES Program, the City needs to pursue a single source provider contract with Duke Energy Progress / Lime Energy. This is allowable as per N.C.G.S. 143-129(e)(6) which states that "the governing body of a political subdivision of the state shall approve the purchase of apparatus, supplies, material or equipment without formal bidding when (i) performance or price competition for a product are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration."

The total cost to the City for the Wall Street and Rankin decks would be $47,510. Duke Energy Progress would cover the remaining $89,158, which is 65% of the total project costs.

These costs include parts, labor and project management. The City's share of the improvements will be paid out of the Parking Services Fund's FY 2013-14 Capital Improvement Budget. The cost to the City would not exceed $50,000.

City staff recommends City Council adopt a resolution authorizing the City of Asheville to enter into a sole source contract to purchase and install energy efficient lighting as part of Duke Energy Progress' Small Business Energy Saver Program, and to authorize the City Manager to execute this contract.

RESOLUTION BOOK NO. 36 - PAGE 2

D. RESOLUTION NO. 13-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW A CONTRACT WITH SITEMED FOR THE 2013-14 FIREFIGHTER PHYSICALS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with SiteMed for annual physicals for firefighters in February 2014.

This agreement allows firefighters to receive an annual physical compliant with best practices as recommended by National Fire Protection Association (NFPA) 1582. This contract with SiteMed is a renewal from the previous years and due to the amount council approval is required. This has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

The amount of the two-year agreement is $122,200 and the monies have been budgeted in the Fire Department's 2013-14 Fiscal Year Budget.

Funds have been already been budgeted for the physicals, so no additional impacts.

City staff recommends City Council adopt a resolution authorizing the City Manager to approve the renewal of the contract with SiteMed for 2013-14 physicals.

RESOLUTION BOOK NO. 36 - PAGE 3

E. RESOLUTION NO. 13-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICES AGREEMENT WITH BIO-NOMIC SERVICES INC. FOR THE NORTH FORK WATER TREATMENT PLANT WASTE LAGOON 3 DREDGING AND SLUDGE REMOVAL AND DISPOSAL PROJECT

ORDINANCE NO. 4247 - BUDGET AMENDMENT FOR THE NORTH FORK WATER TREATMENT PLANT WASTE LAGOON 3 DREDGING AND SLUDGE REMOVAL AND DISPOSAL PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a general services agreement with Bio-Nomic Services, Inc. for the North Fork Water Treatment Plant Waste Lagoon #3 Dredging, Sludge Removal and Disposal project in the not-to-exceed amount of $366,400; and a budget amendment in the amount of $201,970 from savings in other capital projects that were completed under budget.

On September 17, 2013, the Water Resources Department issued a Request for Proposals (RFP) for the dredging, removal, and disposal of water treatment residuals (sludge) from the North Fork Water Treatment Plant Waste Lagoon #3. The sludge has been accumulating for approximately 30 years and needs to be removed. The total volume of sludge to be removed is unknown at this time; however, 500 tons was used to calculate the total cost for all proposers.

On October 23, 2013, the Water Resources Department received five (5) proposals in response to the RFP. Companies responding were:

1. Bio-Nomic Services, Inc. – Charlotte, NC; $366,400 estimated total cost
2. Wecare Organics – Easthampton, MA; $744,500 estimated total cost
3. Synagro – Baltimore, MD; $376,419 estimated total cost
4. Gullett Sanitation – Bethel, OH; $362,913 estimated total cost
5. Merrell Bros., Inc. – Kokomo, IN; $492,735 estimated total cost

A review team, comprised of Water Resources staff, reviewed these proposals and selected Bio-Nomic Services, Inc. for the project. Although Bio-Nomic's proposal is not the lowest bid, they were selected for the project based other factors, including: the thoroughness of their proposal; experience of the proposed staff; a long history of environmental work; responsiveness to new regulations; and solutions that complete a project with no adverse environmental impact.

The Water Resources Department currently has $164,430 budgeted for this project. The project funding was allocated based on an estimate in 2008 and budgeted in 2009. The only point of reference at that time was the cost of sludge removal from the other two lagoons. Lagoon #3 is larger and removal will be more complex. The remaining funds of $201,970 needed for the contract will be transferred from the General Projects capital project that accumulates remaining funds from all of Water Resources completed, inactive capital projects. In order to use the funds in General Projects, a budget amendment is necessary.

Amount in NF WTP Lagoon #3 Dredging Project	$164,430
Amount Needed for General Services Contract	$201,970
Total Amount for Project	$366,400

The amount remaining in General Projects will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a general services agreement with Bio-Nomic Services, Inc. for the North Fork Water Treatment Plant Waste Lagoon # 3 Dredging and Sludge Removal and Disposal project in the not-to-exceed amount of $366,400; and a budget amendment in the amount of $201,970 from savings in other capital projects that were completed under budget.

RESOLUTION BOOK NO. 36 - PAGE 4
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F. RESOLUTION NO. 13-239 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE MILLS RIVER PARTNERSHIP INC. TO PARTIALLY FUND PROJECTS DIRECTLY RELATED TO WATER QUALITY PROTECTION AND/OR IMPROVEMENT

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services contract for the entire contract with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of $180,000.00 over three (3) fiscal years contingent upon funding each year.

The City of Asheville Water Resources Department and the Mills River Partnership (MRP) have reached an agreement for financial support of projects intended to protect and/or improve water quality in the Mills River. Based on a scope of work prepared by the MRP, the Water Resources Department has prepared a contract to partially fund activities in the Mills River Watershed. This staff report seeks Council approval for the contract.

The Water Resources Department is willing to provide cost-share funding for projects that are directly related to water quality protection and/or improvement. These activities include selection and installation of Best Management Practices to control contamination of the river from storm runoff, and educational materials and activities. The suggested level of participation is an amount up to $60,000 per fiscal year for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

Recently, the Partnership was awarded a grant (Section 319 Grant) that requires matching funds. The City of Asheville has an ongoing interest in watershed management. Water quality in the upper watershed continues to be excellent and overall water quality indices have improved during the past 10 years. The strategy now is to focus on efforts to protect and improve water quality. Funding initiatives are to be considered with an understanding of their long-term impact on water quality.

Any expenditure in the Mills River watershed is subject to review by Water Resources staff. The funding needed for this agreement is currently allocated within the Water Resources Operating Fund. The total not-to-exceed contract amount of $180,000.00 will be encumbered upon City Council approval, even though the MRP will only be allowed to request a not-to-exceed amount of $60,000.00 per fiscal year for the next three years.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a multi-year general services contract for the entire contract with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of $180,000.00 over three (3) fiscal years contingent upon funding each year. The level of participation recommended is an amount up to $60,000.00 per fiscal year for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

RESOLUTION BOOK NO. 36 - PAGE 5

G. RESOLUTION NO. 13-240 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CH SECURITY SERVICES LLC FOR SECURITY SERVICES IN THE CITY'S PARKING GARAGES

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with CH Security Services, LLC for security services in the City's parking garages for July 1, 2013 through June 30, 2014.

The City of Asheville, through the Parking Services Division, currently operates four parking garages; Civic Center, Rankin Avenue, Wall Street, and Biltmore Avenue Parking Garage. The Parking Services Division uses a combination of City employees and contract security officers to provide security and customer assistance in the garages. Generally, City employees work during the business day and early evenings while contract security is on duty during late nights, weekends, and holidays.

During September 2011, the Parking Services Division requested quotes for service from interested vendors resulting in 20 vendors responding. Copeland Holdings, LLC, now called CH Security Services, LLC, provided the lowest price for the service.

During November 2011, City Council directed staff to review the merits of bringing all security functions in house. Parking Services negotiated a short-term contract with Copeland Holdings to provide security services during the review period. Staff subsequently determined that due to operational efficiency and flexibility it was more advantageous to the City to contract for these security services.

On a normal week, a total of 215 hours of security services will be needed. In addition, the Parking Services Division will request additional security support during periods of high demand; for example, Christmas Jam, Southern Conference Tournament, Moogfest, employee vacations, or large events at the US Cellular Center. The total cost of the one year security contract will not exceed $170,000.00.

The necessary funds are budgeted in the Parking Services Fund's Adopted Operating Budget for FY 2013-14.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a one-year contract with CH Security Services, LLC to provide security services in the City's parking garages at a total cost not to exceed $170,000.00 per fiscal year.

RESOLUTION BOOK NO. 36 - PAGE 6

H. RESOLUTION NO. 13-241 - RESOLUTION AUTHORIZING PRIMARY AND SECONDARY AGENTS FOR THE CITY OF ASHEVILLE TO APPLY FOR FINANCIAL ASSISTANCE FOR THE SEVERE STORMS THAT TOOK PLACE DURING THE PERIOD OF JULY 3 - 13, 2013, DESIGNATED AS A DISASTER AND IDENTIFIED AS FEMA-4146-DR-NC

Summary: The consideration of a resolution authorizing primary and secondary agents for the City of Asheville to apply for financial assistance for the severe storms that took place during the period of July 3, 2013 through July 13, 2013, designated as a disaster and identified as FEMA–4146-DR-NC.

During the period of July 3-13, 2013, Western North Carolina including Buncombe County and the City of Asheville experienced severe storms leading to flooding, landslides, and mudslides.

On September 25, 2013, the U.S. Dept. of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal disaster aid has been made available to the State of North Carolina and ordered federal aid to supplement state and local efforts in the areas affected by severe storms, flooding, landslides, and mudslides during the period of July 3-13, 2013.

On October 11, 2013, staff met with the N.C. Division of Emergency Management (NCDEM) and FEMA, and concluded that the City of Asheville would be eligible for financial assistance.

North Carolina's Division of Emergency Management requires primary and secondary agents representing the City of Asheville be authorized by resolution to execute and file applications for federal and/or state assistance under the Robert T. Stafford Disaster Relief & Emergency Assistance Act (Public Law 93-228 as amended) or as otherwise available.

Funds received will be reimbursement for General Fund and Stormwater Fund expenditures. Preliminary estimates total approximately $2.5 million.

City staff recommends City Council adopt a resolution authorizing Jakob Klodt, Public Works Business Manager; and David Foster, Public Works Deputy Director as primary and secondary agents to apply for and obtain financial assistance for the severe storms that took place in July 2013.

RESOLUTION BOOK NO. 36 - PAGE 7

I. RESOLUTION NO. 13-242 - RESOLUTION AMENDING RESOLUTION NO. 12-

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256 WHICH ADOPTED THE 2013 CITY COUNCIL MEETING SCHEDULE TO CHANGE THE CITY COUNCIL ORGANIZATIONAL MEETING FROM TUESDAY, DECEMBER 3, 2013, TO TUESDAY, DECEMBER 10, 2013, AT 4:00 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL

RESOLUTION BOOK NO. 36 - PAGE 10

J. RESOLUTION NO. 13-243 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE CONTRACT WITH BRANTLEY CONSTRUCTION COMPANY TO CONCLUDE RENOVATIONS OF THE MEZZANINE LEVEL MEETING ROOM SPACES AT THE U.S. CELLULAR CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the existing construction contract with Brantley Construction Co., LLC to include renovations of the Mezzanine level meeting room spaces in the exploreasheville.com arena per the grant agreement with the Tourism Development Authority.

On February 15, 2013 Council approved the exiting contract for $1,876,000.00. The following change orders have increased the contract amount.

- Change order #1 dated 4/10/13 for $453,000 added alternates outlined in the original bid documents
- Change order #2 dated 6/12/13 for $24,438.30 for added scope and unforeseen conditions
- Change order #3 dated 8/14/13 for $52,548.12 for added scope and unforeseen conditions
- Change order #4 dated 9/30/13 for $18,333.38 for added scope and unforeseen conditions

The construction contract currently is $2,424,320.50 and the amendment will increase the contract by $485,794.45 to the amount not to exceed $2,910,114.95.

On July 1, 2013, the U.S. Cellular Center received money from our corporate sponsors, allowing us to fund the work outlined in the contract amendment in the amount of $485,794.45. This action will increase the total contract to an amount not to exceed $2,910,114.95. Staff is seeking Council approval of the amendment to this contract that will allow Brantley Construction to complete work that was required by the agreement with TDA for renovating the Mezzanine level meeting room spaces into a hospitality suite and updating the other meeting spaces for expanded usage of the facility.

A standard procedure in construction contracts is to provide a contingency to cover potential routine project change order requests for unforeseen construction components related to the overall renovation. Staff is seeking approval to add an additional 10% contingency and to authorize the City Manager to execute change orders for the contract up to the amended contract amount above, not to exceed $48,579.45. While staff does not expect change orders to rise to that amount, there are some unknown factors that could increase the original contract scope.

Funding for this contract is already included in the FY 2013-14 Civic Center Capital Improvement Budget.

Staff recommends approval of a resolution authorizing the City Manager to execute an amendment to the existing construction contract with Brantley Construction Co., LLC to include renovations of the Mezzanine level meeting room spaces in the exploreasheville.com arena per the grant agreement with the Tourism Development Authority.

RESOLUTION BOOK NO. 36 - PAGE 11

K. RESOLUTION NO. 13-244 - RESOLUTION AUTHORIZING ADOPTION OF UPDATES TO THE GREENWAY MASTER PLAN

Summary: The consideration of a resolution to update the Greenway Master Plan.

The vision for the City of Asheville greenway system is a network of off-road trails utilizing natural corridors to connect people and places within the city. Asheville greenways will provide multimodal transportation, environmental, health, recreation, economic, educational, cultural, water quality, air quality and habitat preservation benefits. These natural corridors will be supplemented and connected when the need arises with transitional bicycle and pedestrian improvements along roadways, thereby addressing the Complete Streets model in strategic corridors.

The Greenway Master Plan is a long-range planning document that sets goals, strategies and action steps to create a vision and guideline for coordinated efforts to deliver parks, greenways, recreation and cultural arts services over the next 10 to 15 years. The master plan does not commit City Council to a funding timeline for implementation. The recommendations in the plan will be implemented as funding opportunities become available.

Amendments to the current Asheville Greenway Master Plan now are being considered:

- Buncombe County revised the "Buncombe County, NC Greenways and Open Space Plan" in July 2008 (developed by Land-of-Sky), and developed the "Connect Buncombe Greenway and Trails Master Plan," adopted in August 2012. These two plans will provide an opportunity to further dovetail the City and County master planning efforts.

- The N.C. Dept. of Transportation is furthering its planning and design for the proposed I-26 Connector improvements which is currently under the "development" stage.

- The former Greenway Commission, which is now part of the Multimodal Transportation Commission, along with City staff recognizes the need to consider other possible greenways that would enhance connectivity especially within the I-26 corridor.

- The "City of Asheville Parks, Recreation, Cultural Arts and Greenway Master Plan" was adopted in February 2009, five years ago. City staff feels it is an appropriate time to update the plan.

- In 2012, the Greenway Commission held a public work session open house to gain community feedback on the current plan and gather ideas for future corridors and connections. The community feedback was incorporated into the updated plan and map.

This item was reviewed on October 22, 2013 by the Multimodal Transportation Commission. The Greenway Committee and the Multimodal Transportation Commission voted unanimously to recommend the adoption of the master plan updates to City Council.

Staff recommends City Council to adopt a resolution to update the Greenway Master Plan.

Councilman Hunt was pleased with this update since it has been four years since adoption of the Master Plan.

RESOLUTION BOOK NO. 36 – PAGE 12

L. RESOLUTION NO. 13-245 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE CONCRETE REPAIR - MAINTENANCE AND AMERICANS WITH DISABILITIES ACT IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $204,430 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, City of Asheville Project # ENG-13-14-001.

Due to a change in the City's concrete repair services from previous years, the Public Works Department contracted out for the project Concrete Repair - Maintenance and ADA Improvements. The project was advertised on October 11, 2013. Bids were opened with Patton Construction Group, Inc. of Arden, NC, being the lowest responsible bidder with a bid of $204,430. The work produced from this contract would resolve some known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

Funding for this contract is already included in the Fiscal Year 2013-14 adopted General Fund budget.

City staff recommends City Council adopt the resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $204,430 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, City of Asheville Project # ENG-13-14-001.

RESOLUTION BOOK NO. 36 - PAGE 13

M. RESOLUTION NO. 13-246 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE CONCRETE REPAIR - UTILITY CUTS PROJECT

ORDINANCE NO. 4248 - BUDGET AMENDMENT FOR THE CONCRETE REPAIR - UTILITY CUTS PROJECT

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $360,280 plus a contingency of 15% ($54,042) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP 13-14-001; and 2) a budget amendment in the amount of $172,115 from utility cut fees to cover the cost of the contract and the 15% contingency.

As part of the Street Cut Utility Program, utilities that damage public concrete infrastructure during the installation of maintenance of their underground infrastructure do not perform repairs to the concrete. This contract will assure those concrete repairs are completed. This contract marks the first time the Public Works Department has contracted this work out. The project was advertised on September 23, 2013. Bids were opened with Appalachian Paving and Concrete, Inc. of Asheville, NC, being the lowest responsible bidder with a bid of $360,280. A 15% contingency ($54,042) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from this contract would resolve a number of a group of known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

As noted above, this is the first time that the City has contracted out this repair work. Because the contract bids came in higher than anticipated, a budget amendment in the amount of $172,115 is needed to provide sufficient budget authorization for this contract. The Street Cut

Utility Program is an enterprise fund that is fully funded through fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery for this contract repair work.

City staff recommends City Council adopt: 1) the resolution awarding the contract to Appalachian Paving and Concrete, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $360,280 plus a contingency of 15% ($54,042) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP-13-14-001; and 2) a budget amendment in the amount of $172,115 from utility cut fees to cover the cost of the contract and the 15% contingency.

RESOLUTION BOOK NO. 36 - PAGE 14
ORDINANCE BOOK NO. 28 - PAGE 372

N. ORDINANCE NO. 4249 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT TO ACCEPT THE AMERICAN DREAM DOWNPAYMENT INITIATIVE PROGRAM INCOME

Summary: The consideration of a budget amendment to accept ADDI program income in the amount of $27,178 and to distribute that income to Mountain Housing Opportunities for homeownership lending, and to the City of Asheville for administration.

In the period 2004-2007, HUD provided funding to the City of Asheville, as Participating Jurisdiction for the Asheville Regional Housing Consortium for the American Dream Downpayment Initiative (ADDI) Program. This program was specifically for the purpose of assisting first-time homebuyers purchase a home. The Consortium initially awarded these funds to the Asheville Neighborhood Housing Services (ANHS); and upon the dissolution of that organization, to Mountain Housing Opportunities (MHO). MHO also agreed to take over the loans made by ANHS. A total of $162,787 in ADDI funds were received and distributed during the lifetime of the program.

The ADDI regulations required that Program Income generated through the program needed to be treated differently than HOME Program Income. HUD required (and requires) that ADDI Program Income be returned to the Treasury Account of the Participating Jurisdiction. Once returned to the City, the funds can then be classified as HOME program income, and be used for HOME-eligible activities.

The Consortium discussed this, and recommends that 95% of the ADDI Program Income, after being returned to the City, be available for Mountain Housing Opportunities to lend to first-time homebuyers in the four-county Consortium region, and that 5% of the funds be retained by the City of Asheville for HOME program administration.

Program funding is entirely from funds generated by funding from the US Department of Housing and Urban Development. The use of a portion of these funds for administration helps support the necessary staffing for Consortium operations.

Staff recommends that City Council approve a budget amendment to accept ADDI program income in the amount of $27,178 and to distribute that income to Mountain Housing Opportunities for homeownership lending, and to the City of Asheville for administration.

ORDINANCE BOOK NO. 28 - PAGE 374

Mayor Bellamy asked for public comments on any item on the Consent Agenda, but received none.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. DIVERGING DIAMOND INTERCHANGE AT I-26 AND AIRPORT ROAD

Mr. James H. Dunlop, Congestion Management Engineer for the N.C. Dept. of Transportation, explained what a Diverging Diamond Interchange (DDI) is; how motorists drive through the DDI; how pedestrians and cyclists use a DDI; and the benefits of a DDI. In summary, (1) DDI has shown great potential for improving conditions for many interchanges; (2) the DDI can reduce overall construction time and save money; (3) operation of adjacent signals intersection may affect DDI effectiveness; (4) the DDI as an "unconventional design" may become as commonplace for interchanges as the roundabout for intersections; and (5) the DDI is not a silver bullet solution but is has many applications worth exploring for certain interchange.

At Mayor Bellamy's request, it was the consensus of Council to incorporate information provided by the N. C. Dept. of Transportation regarding DDI to our communications, webpage, social media, etc.

B. MISSION HEALTH PROGRAM UPDATE

Dr. Ronald A. Paulus, President and CEO of Mission Health, and Ms. Jill Hoggard Green, President and COO of Mission Health, said that Mission Health is in the process of a long-term, ongoing program to build better processes, better facilities and better care. The program is a proactive planning approach to address developing changes in community needs, healthcare quality and delivery, regional demographics and internal Mission Health resource requirements. This program includes a comprehensive look at Mission Health's existing internal operations and modifications needed to continue to provide an exceptional patient experience, supported by optimal efficiency, better technology and ever-improving quality of care. We will also evaluate external factors, such as our aging patient population, government mandates on healthcare delivery, new care technologies and other factors in order to prepare and implement future action.

We are looking at all aspects of how we care for people and what we need to accomplish that care – all for the purpose of ensuring safety, effectiveness and cost-efficiency. We know that families from all over western North Carolina depend upon Mission Health for their care. Our commitment is to always be there when they need us.

On behalf of City Council, Mayor Bellamy thanked Mission Health for being such a good corporate citizen.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A HEALTH & WORKFORCE DEVELOPMENT FACILITY AT ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

ORDINANCE NO. 4250 - ORDINANCE AMENDING THE CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A HEALTH & WORKFORCE DEVELOPMENT FACILITY AT ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE

Deputy City Clerk Matthews administered the oath to anyone who anticipated speaking on this matter.

Interim City Attorney McGlohon reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

All Council members disclosed that they have visited the site and would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

Interim City Attorney McGlohon said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Interim City Attorney McGlohon said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Bellamy opened the public hearing at 5:36 p.m.

Urban Planner Julia Fields submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Fields said that this is the consideration of an amendment to the conditional use permit for the construction of a Health & Workforce Development Facility at Asheville-Buncombe Technical Community College.

Ms. Fields said that the applicant, Buncombe County, is requesting review of revised site plans for the proposed Allied Health and Workforce Development Facility on the campus of Asheville Buncombe Technical Community College (AB Tech) (169,543 square feet).

The project site (PIN 9648.33-4217) is 12.87 acres in size and had a previous address of 240 Victoria Road (now Genevieve Circle). It is the former site of the Saint Genevieve of the Pines School and has been owned and utilized as part of the AB Tech campus for a number of years. The property is zoned Institutional.

On December 11, 2012, the Asheville City Council voted to approve a conditional use permit for a new 184,208 square foot Allied Health and Workforce Facility for Asheville Buncombe Technical Community College to be constructed at the Victoria Road site. The building (with a footprint of 47,000 square feet) was designed to be a mixed use facility housing classrooms, laboratories, offices, the campus day care center, and an 864 seat auditorium (City Exhibit 4 - previous plan front elevation). This new building was to be located on the western side of the property and it was proposed that the only existing structure to remain would be the Ivy Building (chapel) which would be used for offices/events.

Subsequent to the 2012 approval of the conditional use permit, Buncombe County became the project manager for this structure and they have redesigned the project making it smaller and moving it farther east on the property. The revised proposal will demolish all but two

(chapel and child care center) of the existing structures located on the site to construct the A-B Technical College Allied Health and Workforce Facility, reduced in size to 169,542 square feet. This building would be located on the eastern (Victoria Road) side of the property with a footprint of 36,120 square feet. The new location of the building is approximately 400 feet farther away from the adjoining residential neighborhoods than in the previous design, addressing concerns that were expressed by neighbors regarding the original design. In addition to being a smaller building, the impervious area for the completed site is substantially (4.35 acres) reduced from the earlier proposal. The new building, 78 feet in height (five stories) would house classrooms, offices, and laboratories (City Exhibit 5 - Previous Masterplan). Thirty-one thousand and eighty-eight square feet of space on the fourth and fifth floors will be constructed as shell space at this time. The redesigned site plan also provides for the retention of the existing small soccer field to the southwest which was proposed to become a parking lot under the previous plan.

Access to the site is (and will remain) via Victoria Road. The two existing access points are to be improved with right turning lanes and improved site lines for safer ingress/egress. A new sidewalk will be constructed along Victoria Road. The applicant is working with the City Transportation Department on the provision of a bus shelter on the opposite side of Victoria Road.

Three hundred and forty-four parking spaces are required (minimum) and provided. This is a major reduction from the original proposal which showed 558 spaces. As the shell space is developed, remote parking will be provided at other campus locations. Nine handicapped spaces are provided along with accommodations for parking 18 bicycles.

Buffer yards, street trees, vehicular use area plantings, and building impact landscaping are provided. The plans show a total of 212,612 square feet of open space (only 83,519 square feet are required).

This amendment was reviewed and approved with conditions by the Technical Review Committee on October 21, 2013. Many of the comments made in the TRC report have been or are being addressed by the development team working closely with City staff.

A meeting for interested persons was held on October 15, 2013, at the Wesley Grant Southside Center. Very few people were in attendance at this meeting but those in attendance seemed supportive of the redesign. Since few were in attendance at the first meeting, the applicant held an additional meeting with neighborhood representatives on October 24, 2013.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The project will meet all requirements of the North Carolina Building Code and the City of Asheville and will be reviewed in detail by the North Carolina Department of Insurance and the City of Asheville's Technical Review Committee to ensure compliance with safety requirements

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   As most of the site was previously developed with buildings and parking facilities and the site is in an area heavily developed with institutional uses, there are few significant natural features on the site or in the area to be protected. The site is in a very prominent

setting elevation-wise which has been taken into consideration in the design. The pine trees that line Victoria Road will be lost due to the development; however, the planting plans propose that a number of pines will be newly planted in respect for the history of the site.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
The parcels in the area surrounding the site are largely occupied by other institutional uses and the site itself has been used for years for educational purposes. Where the project site abuts multi-family or single –family properties, landscape buffering will be provided. The redesign of the building places it 400 feet further from adjoining residential properties than previously designed.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
The Allied Health and Workforce Development Facility is proposed to be five stories in height. While this is larger than the educational buildings currently located on the site it is in keeping with other institutional buildings in the vicinity. Significant vegetation will be provided on the site and open space exceeds that required by the City. The development is compatible with the scale, bulk, coverage and character of the other institutional uses in the area.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
This project supports the comprehensive plan stated goal of "the City working with Asheville-Buncombe Technical Community College to address the needs of the college as it expands". Additionally, the project is proposed to be LEED certified which aligns with greenbuilding and smart growth focuses found in the comprehensive plan.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
The proposed project is located on a roadway that serves major institutional uses at present and is served by the S4 transit route. The project has been reviewed by the Technical Review Committee who found that existing infrastructure appears to be adequate and the preliminary review has not revealed any problems for future service to the development.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
The development plans for this project along with the accompanying traffic impact analysis have been reviewed by the City's Traffic Engineer. Several suggested revisions to the originally submitted plans have been made to improve both vehicular and pedestrian traffic. A new sidewalk will be provided along Victoria Road.

Pros:

- The proposal satisfies an important City goal found in the comprehensive plan of advancing and maintaining the City's role as Western North Carolina's regional education center.
- The applicant will be seeking LEED certification, meeting key "green building" goals of the City.
- The project will provide a much needed state of the art facility for the Asheville-Buncombe Technical Community College on property currently underutilized by the college.

- The historic chapel/auditorium located on the site will be preserved along with the child care center.

Con:

- The building is significantly larger than the existing buildings on the site which may be seen as a negative by some adjoining residents.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable. Staff recommends approval of the amendment to the Level III development proposal for the Allied Health and Workforce Development Facility for AB Tech and issuance of a conditional use permit for this facility.

Mr. Jon Creighton, Assistant Buncombe County Manager, said they went through a re-design process for a better building. It does not impact the surrounding community like the prior one. The most important part is pulling the building up front.

After rebuttal, Mayor Bellamy closed the public hearing at 5:43 p.m.

Councilman Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4250, granting an amendment to the conditional use permit for the construction of a Health & Workforce Development Facility at Asheville-Buncombe Technical Community College, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10 of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with this ordinance, will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee' (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 - PAGE 376

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4251 - ORDINANCE AMENDING CHAPTER 12 OF THE CODE OF ORDINANCE TO REVISE THE DEFINITION OF RECREATIONAL FACILITIES WHERE THE CARRYING OF CONCEALED HANDGUNS IS PROHIBITED

Ms. Jannice Ashley, Assistant City Attorney, reiterated the following information from the October 22 meeting. She said that this is the consideration of an ordinance amending Chapter 12 of the Code of Ordinances to revise the definition of recreational facilities where the carrying of concealed handguns is prohibited.

In this year's legislative session, the General Assembly passed a new law, which further changes how municipalities may regulate concealed handguns in "recreational facilities". Session Law 2013-369, Section 6, revising N.C. G.S. 14-4.415.23, effective October 1, 2013, modifies the definition of "recreational facility" by eliminating "playgrounds" completely from the definition and, as it pertains to "athletic facilities", revising it to apply only to "an athletic field, including any appurtenant facilities such as restrooms, during an organized athletic event if the field had been scheduled with the municipality...responsible for operation of the park or recreational area".

In 2011, the Legislature passed a law which prohibited municipalities from prohibiting concealed handguns in "parks". However, that law provided an option for municipalities to adopt an ordinance prohibiting the possession of concealed handguns in "recreational facilities" which were defined as "a playground, an athletic field, a swimming pool, and an athletic facility". At that time, the City exercised this option and revised its ordinance regarding concealed handguns in "parks" (City Code Sec. 12-42) to prohibit them in defined "recreational facilities" as allowed by the new law. Appendix G of the City Code defined the recreational facilities to which this prohibition applied. In this 2013, Legislative Session, the definition of "recreational facility" has further been revised to eliminate "playgrounds" completely from the definition and as it pertains to "athletic fields", to only apply "during an organized athletic event if the field had been scheduled with the municipality...responsible for operation of the park or recreational area". "Swimming pools, including any appurtenant facilities, used for dressing, storage of personal items, or other uses relating to the swimming pool" and "Athletic Facilities" defined as "a facility used for athletic events, including but not limited to, a gymnasium", are still included in the definition of "recreational facility" as per the original definition adopted by the legislature in 2011. The 2013 law also specifically states that the term "recreational facility" does not include any greenway, or designated biking or walking path.

In order to bring the City's ordinance into compliance with the new law, several revisions are necessary:

(a) The definition of a "recreational facility" found in Sec. 12-27 of the City Code would need to be revised to match the revised definition provided in SL 2013-369.

Appendix G, which lists the city's recreational facilities, would need to be revised to delete references to any playgrounds or non-programmed athletic fields.

The new law is effective October 1, 2013. If Council desires to maintain a prohibition on concealed handguns in City recreational facilities that is in compliance with the new State law, action is needed.

This matter was presented to the Public Safety Committee on September 23rd, which directed that the proposed revisions be sent to Council for action. City Council considered the matter at its October 22nd meeting and directed it be sent back to the Public Safety Committee for further discussion and with additional information to be provided by staff. The Public Safety Committee considered the matter again on October 28, 2013, and staff provided information on the new law that has been presented by the NC Institute of Government and the NC League of Municipalities. This information was consistent with the information previously provided to the City Council. The Public Safety Committee directed that the proposed revisions be sent to Council for action.

Pro:

- The ability to continue, to the fullest extent of the law, the prohibition of concealed handguns in areas defined as "recreational facilities"

Con:

- Potential difficulty in enforcement

There may be minor costs associated with revising or removing signs in areas where the concealed handgun prohibition is no longer allowed.

City staff recommends that City Council approve adoption of the ordinance amending Chapter 12 of the Code of ordinances to revise the definition of recreational facilities where the carrying of concealed handguns is prohibited.

In response to Councilman Smith, Ms. Ashley said that if we don't update our law, then our entire ordinance could be at risk of being considered invalid.

Mr. Dean Worley, proponent of Concealed Carry, said that there are very tight rules and training that a person must go through to obtain a concealed carry.

Mr. Erin Field felt that police officers should also not be allowed to carry guns at schools.

Mayor Bellamy said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Davis moved for the adoption of Ordinance No. 4251. This motion was seconded by Councilman Hunt and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 381

B. RESOLUTION NO. 13-247 - RESOLUTION OPPOSING SESSION LAWS 2011-268 AND 2013-369 RELATING TO THE STATE LEGISLATURE'S BAN ON NORTH CAROLINA CITIES' ABILITY TO RESTRICT POSSESSION OF CONCEALED HANDGUNS IN MUNICIPAL PARKS AND RECREATIONAL FACILITIES

Vice-Mayor Manheimer said that this is the consideration of a resolution opposing Session Laws 2011-268 and 2013-369 relating to the state legislature's ban on North Carolina cities' ability to restrict possession of concealed handguns in municipal parks and recreational facilities.

The 2013 General Assembly revisited the restrictions on local municipalities to regulate concealed carry by removing playgrounds from recreational facilities, effectively preventing municipalities from prohibiting concealed carry on playgrounds. Additionally, the 2013 General Assembly redefined athletic fields to prohibit municipalities from regulating concealed carry during non-organized athletic events not scheduled with the municipality.

This matter, in the form of an ordinance amendment, was presented to the Public Safety Committee on October 28, 2013, which directed that a resolution of opposition be prepared, condemning the actions of the General Assembly in restricting a municipality's ability to regulate concealed carry in and on municipal parks and playgrounds.

She said the reason for this resolution is in hopes to make it clear to our citizens that the prior ordinance amendment that was just adopted is required under state law and that the state law specifically preempts cities from regulating concealed carry in any way that is inconsistent with state requirements. The adopted ordinance brings us into compliance with the state law, but personally she has concerns with the state law because we now have a situation of what we think of as a park is carved up in different sections (playgrounds, greenways, etc.) and there are different rules for the different sections in the parks. The legislation is also vague and difficult to interpret. These decisions should be made on a local level.

Vice-Mayor Manheimer asked for an edit on the 3rd Whereas as follows" WHEREAS, the recently enacted Session Law 2013-369 ("S.L. 2013-369"), further prohibits cities from banning concealed handguns in playgrounds, greenways, biking and walking paths, and athletic fields when they are not being used for an organized athletic event scheduled with the municipality."

When Mayor Bellamy asked for public comments, none were received.

Mayor Bellamy said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Manheimer moved for the adoption of Resolution No. 13-247, with the edit noted above. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 15

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-248 - RESOLUTION APPOINTING A MEMBER TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Alcoholic Beverage Control (ABC) Board.

The term of Wilfred Lake as a member of the ABC Board, expired on November 13, 2013.

The following individual has applied for the vacancy: Charles Larrick.

It was the consensus of the Boards & Commissions Committee to reappoint Wilfred Lack.

Councilman Hunt moved to reappoint Wilfred Lack to the ABC Board, to serve an additional three-year term, term to expire November 13, 2016, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 17

B. RESOLUTION NO. 13-249 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Citizens-Police Advisory Committee.

Ms. Marie-Line Germain is no longer a member, this leaving an unexpired term for the central representative until June 30, 2014.

The following individuals have applied for the vacancy: Scott Steele, Buck Bragg and Larry Holt.

It was the consensus of the Boards & Commissions Committee, at the recommendation of the Citizens-Police Advisory Committee to appoint Buck Bragg.

Vice-Mayor Manheimer moved to appoint Larry Holt to the Citizens-Police Advisory Committee, to serve the unexpired term of Ms. Germain, term to expire June 30, 2014, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 18

RESOLUTION NO. 13-251 - RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Recreation Board.

Mr. John Parrish has resigned from the Recreation Board, thus leaving an unexpired term until June 30, 2015.

The following individuals have applied for this vacancy: Kimberly Reed, Mary Michael, Patrick Dennehy and Robert Pierce.

It was the recommendation of the Boards & Commission Committee to appoint Robert Pierce.

Councilman Smith moved to appoint Robert Pierce as a member of the Recreation Board to fill the unexpired term of Mr. Parrish, term to expire June 30, 2015, or until his successor is appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 20

RESOLUTION NO. 13-252 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Manheimer, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission (HRC).

Ms. Sue Russell has resigned from the Commission, thus leaving an unexpired term until July 1, 2014.

The following individuals have applied for the vacancies: William S. Eakins, Stephens Smith Farrell, Richard Fast, Tom Hartwell and Keaton Edwards. The HRC recommended either Stephens Smith Farrell or Richard Fast, since they both have architecture or design experience.

On October 22, City Council instructed the City Clerk to arrange interviews for Stephens Smith Farrell and Richard Fast. Mr. Farrell withdrew from consideration at this time.

Councilman Pelly moved to appoint Richard Fast as a member of the Asheville-Buncombe Historic Resources Commission, to serve the unexpired term of Ms. Russell, term to expire July 1, 2014, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 21

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler felt that the City could partner with local agencies to provide labor for different projects, thus reducing expense to the City.

Mayor Bellamy invited the public to her portrait hanging at 5:00 p.m. on Monday, December 2, 2013, in the Council Chamber, and the following reception at the YMI Cultural Center.

Vice-Mayor Manheimer invited the public to the swearing-in ceremony for the new Asheville City Council at 4:00 p.m. on Tuesday, December 10, 2013, in the Council Chamber.

Closed Session

At 6:07 p.m., Councilman Pelly moved that the Asheville City Council go into closed session for the following reasons: (1) T o prevent disclosure of information that is privileged and

confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.. G. S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: D&J Real Estate Investments, LLC. vs. City of Asheville; and D&J Real Estate Investments, LLC vs. Wells Fargo Bank, et al. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of contracts for the acquisition of real property. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilman Smith and carried unanimously.

At 7:02 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Manheimer adjourned the meeting at 7:02 p.m.

Magdalen Burleson
CITY CLERK

Esther Manheimer
MAYOR

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Tuesday - December 10, 2013 – 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor-Elect Manheimer welcomed everyone to the organizational session.

The Marine Corp JROTC led City Council in the Pledge of Allegiance.

Mr. Ric Ledford sang the National Anthem.

Mayor- Elect Manheimer then introduced Rabbi Batsheva Meiri who gave an invocation.

The Honorable Alan Z. Thornburg, Buncombe County Senior Resident Superior Court Judge, administered the Oath of Office to the following:

Mayor Esther E. Manheimer
Council Member Cecil Bothwell
Council Member Gordon D. Smith
Council Member Gwen C. Wisler

RESOLUTION NO. 13-250 - RESOLUTION OF APPRECIATION FOR TERRY M. BELLAMY

Mayor Manheimer read the resolution.

Resolution No. 13-250 was adopted by acclamation.

Mayor Manheimer thanked former Mayor Bellamy for her service to Asheville and presented her with an appreciation resolution, a plaque, her name plates, a City pen, copies of the December 2, 2013, Mayor's portrait hanging, and a large framed picture of the current City Council.

Ms. Bellamy thanked the public and her family for allowing her to serve. She also thanked City staff and City Council for their professionalism and dedication to the citizens of Asheville.

RESOLUTION BOOK NO. 35 - PAGE 19

ELECTION OF VICE-MAYOR

Councilman Davis nominated Councilman Hunt as Vice-Mayor of the City of Asheville. Councilman Smith seconded the nomination.

After hearing no more nominations, Mayor Manheimer closed the floor for nominations.

Mayor Manheimer called for a vote, resulting in Councilman Hunt being appointed as Vice-Mayor unanimously.

SWEARING-IN ADDRESS

Mayor Manheimer gave a brief address speaking about the common goal of quality of life and livability of Asheville. She looked forward to working together to build our community.

REMARKS - MEMBERS OF COUNCIL

Councilman Bothwell, Councilman Smith and Councilwoman Wisler each expressed their honor to be allowed to serve the citizens, appreciated the support of their family and friends, and looked forward to working for and with City residents.

ADJOURNMENT:

Mayor Manheimer adjourned the organizational meeting at 4:45 p.m.

Tuesday – December 10, 2013- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; Assistant City Manager Cathy Ball; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 13, 2013

B. RESOLUTION NO. 13-253 - RESOLUTION ADOPTING THE 2014 CITY COUNCIL MEETING SCHEDULE AND SETTING A LEGISLATIVE UPDATE WORKSESSION ON JANUARY 14, 2014, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM OF CITY HALL

It was the consensus of Council to schedule the north Asheville community meeting on September 30, 2014, and the south Asheville community meeting on April 29, 2014.

RESOLUTION BOOK NO. 36 - PAGE 22

C. RESOLUTION NO. 13-254 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CAVANAUGH & ASSOCIATES PA FOR ENGINEERING SERVICES FOR THE VAULT RENEWALS AND DISTRICT METERING AREA ZONE METERING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Cavanaugh and Associates, PA, for engineering services for the estimated amount of $165,336 plus a contingency amount of $24,800 for a total project budget of $190,136 for the Vault Renewals and District Metering Area (DMA) Zone Metering Project.

The City of Asheville Water Resources Department (WRD) is seeking the services of a qualified engineering firm to design and provide project management assistance with the Vault Renewals and DMA Zone Metering Project. This project will replace existing substandard and failing large sized water meters and vaults with new metering infrastructure designed and constructed in accordance with the City of Asheville standards. This will improve safety and metering accuracy at these existing meter locations which provide service to some of our larger water consumers. This project will also provide new metering infrastructure for zones within the supply system. This will better enable Water Resources staff to track where Non- Revenue Water Loss is occurring and correct those issues.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the Vault Renewals and DMA Zone Metering Project. In response to that RFQ, the WRD received five (5) proposals. Companies responding were:

1. Cavanaugh and Associates, PA - Asheville, NC
2. Mattern & Craig, Inc. - Asheville, NC
3. McGill Associates. - Asheville, NC
4. Michael Baker Engineering, Inc. – Raleigh, NC
5. Wade Trim, Inc. - Asheville, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these proposals and selected the firm Cavanaugh and Associates, PA. Subsequent to this selection, Water Resources staff met with Cavanaugh and Associates, PA and negotiated an Engineering Services Contract for the estimated amount of $165,336.00 plus a contingency amount of $24,800.00 for a total project budget in the amount of $190,136.00.

The funding needed for this agreement is currently allocated within the Meter / Vault Repair Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with Cavanaugh and Associates, PA, for engineering services for the estimated amount of $165,336 plus a contingency amount of $24,800 for a total project budget of $190,136 for the Vault Renewals and DMA Zone Metering Project.

RESOLUTION BOOK NO. 36 - PAGE 23

D. RESOLUTION NO. 13-255 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE PORTIONS OF EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES AND SETTING A PUBLIC HEARING ON JANUARY 14, 2014

Summary: The consideration of a resolution of intent to permanently close portions of excessive Summit Avenue right-of-way and an unopened right-of-way between Summit and Allen Avenues and setting a public hearing on January 14, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville to permanently close a portion of the excess right-of-way adjacent to Summit Avenue and an unopened right-of-way between Summit and Allen Avenues.

City staff has reviewed the request and concur that the right-of-way closings will not have a negative impact on City services or active City transportations systems.

The Multimodal Transportation Commission met on December 4, 2013. They voted to unanimously support the right-of-way closures on condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

City staff recommends City Council adopt the resolution of intent to permanently close portions of excessive Summit Avenue right-of-way and an unopened right-of-way between Summit and Allen Avenues and set the public hearing for January 14, 2014.

RESOLUTION BOOK NO. 36 - PAGE 24

E. RESOLUTION NO. 13-256- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH MCGILL ASSOCIATES FOR ENGINEERING SERVICES ASSOCIATED WITH THE NORTH FORK WATER TREATMENT PLANT GENERATOR TRANSFER SWITCH PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with McGill Associates for engineering services for the estimated amount of $74,100 plus a contingency amount of $8,400 for a total project budget of $82,500 for the North Fork Water Treatment Plant (NFWTP) Generator Transfer Switch Project.

The City of Asheville Water Resources Department (WRD) is seeking the services of a qualified engineering firm to design and provide project management assistance with the North Fork Water Treatment Plant Generator Transfer Switch Project. This project will replace an aging (1993) automated emergency power generator transfer switch with new automated electrical switchgear designed and constructed in accordance with current electrical infrastructure standards. This will improve the reliability of the emergency power equipment at the NFWTP and provide effective transitions from supplied electrical power to emergency power. This will better enable Water Resources staff to maintain water plant operations when supplied power is disrupted for any reason.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the design and contract administration of the North Fork Water Treatment Plant Generator Transfer Switch Project. In response to that RFQ, the WRD received two (2) qualification statements. Companies responding were:

6. McGill Associates – Asheville, NC
7. Brown and Caldwell – Charlotte, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these submittals and selected the firm McGill Associates. Subsequent to this selection, Water Resources staff met with McGill Associates and negotiated an Engineering Services Contract for the estimated amount of $74,100 plus a contingency amount of $8,400 for a total project budget in the amount of $82,500.

The funding needed for this agreement is currently allocated within the North Fork Water Treatment Plant Generator Transfer Switch Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with McGill Associates, for engineering services for the estimated amount of $74,100 plus a contingency amount of $8,400 for a total project budget of $82,500 for the North Fork Water Treatment Plant (NFWTP) Generator Transfer Switch Project.

RESOLUTION BOOK NO. 36 - PAGE 25

F. ORDINANCE NO. 4252 - ORDINANCE ENACTING AND/OR CHANGING A 20 MPH SPEED LIMIT ON PORTIONS OF MOUNT VERNON PLACE, PROSPECT STREET, SALEM AVENUE, AND WESTHAVEN DRIVE; AND ENACTING AND/OR CHANGING A 25 MPH SPEED LIMIT ON PORTIONS OF ALLEN AVENUE, ATKINS STREET, BEAVERBROOK ROAD, BELL ROAD, CHAPEL PARK PLACE, COUNTRY MEADOWS DRIVE, FAIRVIEW ROAD, GIBSON ROAD, HIGH MEADOW ROAD, MIDLAND DRIVE, OTEEN PARK PLACE, PINEDALE ROAD, SUCCESS AVENUE, VANCE GAP ROAD, WATERS ROAD, AND WESTWOOD PLACE

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of roads in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit would be reasonable and safe on Mount Vernon Place from Mount Vernon Circle to Lakeshore Drive, Prospect Street from Salem Avenue to Lee Avenue, Salem Avenue from Chatham Road to Prospect Street, and Westhaven Drive from NC 694 Town Mountain Road to Crowningway Drive.

Additional traffic engineering investigations were conducted by City staff that indicated that a 25 mph speed limit would be reasonable and safe on Allen Avenue from US 25 Hendersonville Road to the end of City maintenance, Atkins Street from US 25 Hendersonville Road to the end of City maintenance, Beaverbrook Road from Windsor Road to the end of City maintenance, Bell Road from SR 2236 New Haw Creek Road to Munn Drive, Chapel Park Place from West Chapel Road to Bostic Place, Country Meadows Drive from NC 112 Sardis Road to end of City maintenance, Fairview Road from US 25A Sweeten Creek Road to Bleachery BLVD, Gibson Road from Wild Cherry Road to end of City maintenance, High Meadow Road from Brooklyn Road to end of City maintenance, Midland Drive from US 25 Merrimon Avenue to US 25 Merrimon Avenue, Oteen Park Place from US 70 Tunnel Road to end of City maintenance, Pinedale Road from Bull Mountain Road to end of City maintenance, Success Avenue from Wamboldt Avenue to Euclid BLVD, Vance Gap Road from NC 694 Town Mountain Road to end of City maintenance, Waters Road from Old Haw Creek Road to Rocking Porch Road, and Westwood Place from Waynesville Avenue to Millbrook Road.

The initial cost to install the appropriate speed limit signs is about $2,000 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting and/or changing a 20 mph speed limit on Mount Vernon Place from Mount Vernon Circle to Lakeshore Drive, Prospect Street from Salem Avenue to Lee Avenue, Salem Avenue from Chatham Road to Prospect Street, and Westhaven Drive from NC 694 Town Mountain Road to Crowningway Drive.

City staff recommends that City Council approve an ordinance enacting and/or changing a 25 mph speed limit on Allen Avenue from US 25 Hendersonville Road to the end of City maintenance, Atkins Street from US 25 Hendersonville Road to the end of City maintenance,

Beaverbrook Road from Windsor Road to the end of City maintenance, Bell Road from SR 2236 New Haw Creek Road to Munn Drive, Chapel Park Place from West Chapel Road to Bostic Place, Country Meadows Drive from NC 112 Sardis Road to end of City maintenance, Fairview Road from US 25A Sweeten Creek Road to Bleachery BLVD, Gibson Road from Wild Cherry Road to end of City maintenance, High Meadow Road from Brooklyn Road to end of City maintenance, Midland Drive from US 25 Merrimon Avenue to US 25 Merrimon Avenue, Oteen Park Place from US 70 Tunnel Road to end of City maintenance, Pinedale Road from Bull Mountain Road to end of City maintenance, Success Avenue from Wamboldt Avenue to Euclid BLVD, Vance Gap Road from NC 694 Town Mountain Road to end of City maintenance, Waters Road from Old Haw Creek Road to Rocking Porch Road, and Westwood Place from Waynesville Avenue to Millbrook Road.

ORDINANCE BOOK NO. 28 - PAGE 384

G. RESOLUTION NO. 13-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND, IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR CONSTRUCTION OF THE BEAUCATCHER GREENWAY

Summary: The consideration of a resolution authorizing the City Manager to apply for and, if awarded, enter into a grant agreement with the N.C. Dept. of Environment and Natural Resources for construction of the Beaucatcher Greenway.

Funds are available through the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in the Recreation Trails Program to assist with the development of parks, recreational facilities, and greenways. The city wishes to submit a grant application not to exceed $100,000. If awarded, grant funds will be used to reimburse the city for future expenses related to construction of the Beaucatcher Greenway.

The grant application requires 25% cash, in-kind, or force labor match. The $25,000 cash match is available in the existing capital improvement budget for Beaucatcher Greenway.

In 2008, the City received a grant from the N.C. Parks and Recreation Trust Fund to assist with the land acquisition for Beaucatcher Greenway. In November 2012, the City entered into a contract with Stewart Engineering to develop the greenway design and construction documents which will be complete in February 2014, followed by construction beginning spring 2014.

The Recreation Advisory Board endorsed Beaucatcher Greenway as a priority greenway linking downtown Asheville to the French Broad River at its meeting on April 9, 2012.

If awarded, the grant is for one-time construction cost for the Beaucatcher Greenway that will increase the budget not to exceed $100,000. This increase is funded by a grant from the North Carolina in the Department of Environment and Natural Resources Recreation Trails Program. The grant application requires cash, in-kind, or force labor match of 25 percent of the amount requested valued at $25,000, which is available in the existing capital improvement budget for Beaucatcher Greenway construction. There is no impact to the city's General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to apply for and enter into an agreement for a grant through the North Carolina in the Department of Environment and Natural Resources Recreation Trails Program not to exceed $100,000 for reimbursement of future construction costs for the Beaucatcher Greenway.

RESOLUTION BOOK NO. 36 - PAGE 26

H. RESOLUTION NO. 13-258 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR, AND IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR CONSTRUCTION AT THE DR. WESLEY GRANT SR. SOUTHSIDE CENTER

Summary: The consideration of a resolution authorizing the Mayor to apply for and, if awarded, enter into a grant agreement with the N.C. Dept. of Environment and Natural Resources for a North Carolina Parks and Recreation Trust Fund (PARTF) grant for construction at the Dr. Wesley Grant, Sr. Southside Center.

Funds are available through the N.C. Dept. of Environment and Natural Resources, Division of Parks and Recreation in PARTF to assist with the development of parks, recreational facilities, and greenways. The City of Asheville wishes to submit a grant application not to exceed $500,000. If awarded, grant funds will be used to reimburse the city for future expenses related to construction at the Dr. Wesley Grant, Sr. Southside Center.

The grant application requires a dollar for dollar cash match not to exceed $500,000. The cash match is available in the existing capital improvement budget for the Dr. Wesley Grant, Sr. Southside Center.

The next area of construction at the Dr. Wesley Grant, Sr. Southside Center includes the spray ground, playground and a section of the Town Branch Greenway. Earlier this year, the city was awarded a $35,000 grant from the Community Development Block Grant to support construction cost. The PARTF grant, if awarded, will provide a significant portion of the funding needed to construct the project.

The development of the Dr. Wesley Grant, Sr. Southside Center is one of the top capital project priorities for the city in the Parks and Recreation Department. The first part of the Cultural Phase was completed in October 2011 consisting of an auditorium, three classrooms, office, storage, spray ground mechanical room, restrooms and parking.

The construction concept plan for the Dr. Wesley Grant, Sr. Southside was endorsed by the Recreation Advisory Board at its meeting on August 13, 2012. A public input session regarding the project was held on November 1, 2012.

If awarded, the grant is for one-time facility construction cost at the Dr. Wesley Grant, Sr. Southside Center that will increase the budget not to exceed $500,000. This increase is funded by a grant from the State of North Carolina in the Department of Department of Environment and Natural Resources. The grant application requires a dollar for dollar cash match not to exceed $500,000, which is available in the existing capital improvement budget for the Dr. Wesley Grant, Sr. Southside Center. There is no impact to the city's General Fund budget.

City staff recommends City Council to adopt a resolution authorizing the Mayor to apply for and enter into an agreement for a grant through the N.C. Dept. of Environment and Natural Resources Parks and Recreation Trust Fund not to exceed $500,000 for reimbursement of future construction costs for the Dr. Wesley Grant, Sr. Southside Center.

RESOLUTION BOOK NO. 36 - PAGE 27

I. MOTION ADOPTING ASSIGNMENT OF BOARDS & COMMISSIONS MEMBERS/LIAISONS FOR 2014-15

Summary: City Clerk Burleson has a complete listing of all appointments made for City Council liaison and mandatory seats for Council on the various boards and commissions.

The following changes were made: (1) Vice-Mayor Hunt (Chairman), Councilman Davis and Councilman Pelly were appointed to the City Council Boards & Commissions Committee; (2) Mayor Manheimer as a member of the Riverfront Redevelopment Commission; and (3) Councilman Bothwell will serve as the liaison to the Housing Authority of the City of Asheville.

RESOLUTION NO. 13-265 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: As Mayor Terry Bellamy is no longer a member of the Asheville City Council, there currently exists a vacancy on the Asheville-Buncombe Community Relations Council.

Councilman Gordon Smith be and he is hereby appointed as a voting member to the Asheville-Buncombe Community Relations Council to serve a term according to the length of his Council term of office.

RESOLUTION BOOK NO. 36 - PAGE 34

RESOLUTION NO. 13-266 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD OF DIRECTORS

Summary: The term of Esther Manheimer, as a member on the Metropolitan Sewerage District Board of Directors, expires on January 19, 2014.

Mayor Esther Manheimer be and she is hereby appointed to serve a three-year term, expire to expire January 19, 2017, or until her successor has been appointed.

RESOLUTION BOOK NO. 36 - PAGE 35

RESOLUTION NO. 13-267 - RESOLUTION APPOINTING VICE-MAYOR AS CHAIRMAN TO THE POLICE OFFICERS & FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: There is a need to appoint the Vice-Mayor to serve as the Chairman of the Police Officers and Firefighters Disability Review Board.

Vice-Mayor Marc Hunt be and he is hereby appointed as the City Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board to serve a term according to the length of his Vice-Mayor term of office.

RESOLUTION BOOK NO. 36 - PAGE 36

RESOLUTION NO. 13-268 - RESOLUTION APPOINTING AN EX-OFFICIO, NON-VOTING MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Summary: Councilman Gordon Smith has resigned from the ex-officio non-voting member on the Buncombe County Tourism Development Authority, thus creating a vacancy for a City Council representative.

Councilman Jan Davis be and he is hereby appointed as the ex-officio non-voting City Council representative on the Buncombe County Tourism Development Authority to serve a term according to the length of his Council term of office.

RESOLUTION BOOK NO. 36 - PAGE 37

RESOLUTION NO. 13-269 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Summary: Councilman Jan Davis has resigned as a member of the Asheville Area Riverfront Redevelopment Commission, thus creating a vacancy for the City Council ex-officio voting member.

Mayor Esther Manheimer be and she is hereby appointed to the Asheville Area Riverfront Redevelopment Commission to serve in an ex-officio voting member capacity until she is no longer a member of the Asheville City Council.

RESOLUTION BOOK NO. 36 - PAGE 38

J. RESOLUTION NO. 13-258 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH TELECOMMUNICATION AND INDUSTRIAL CONSULTING SERVICES CORPORATION TO PERFORM RIGHT-OF-WAY ACQUISITION SERVICES FOR THE US 25 / HENDERSONVILLE ROAD SIDEWALK PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Telecommunication and Industrial Consulting Services Corporation (TELICS) to perform right-of-way acquisition services for the US 25 / Hendersonville Road Sidewalk Project.

The Hendersonville Road Sidewalk Construction Project consists of constructing an identified priority for the linkage of the City's Pedestrian Plan. It will consist of installing several public infrastructure improvements, including (1) installing new sidewalks and associated items, (2) bus shelters, bike racks and other multimodal amenities, (3) ADA improvements.

The mass of the project consists of 7.5 feet of N.C. Dept. of Transportation (NCDOT) right-of- way off of the back of curb. The proposed typical section of sidewalk to be constructed consists of a 6 foot sidewalk constructed off of the back of curb. The majority of the work is expected to be performed within the existing right of way but there will be a need to acquire permanent and/or temporary easements and/or fee interest in some properties where there are issues with grade, the need for drainage improvements, installation of bus shelters, relocation of utilities, installation of retaining walls and other structures, and other related items to the construction of the sidewalk.

Since this project is receiving federal funds for construction, certain requirements / qualifications and guidelines have to be met. A Request for Proposals was issued to ascertain a qualified firm to acquire the necessary rights-of-way and meet the required federal guidelines.

Ten firms submitted proposals. These proposals were evaluated by a team of 5 members which rated each proposal based on qualifications and fees. The firm with the highest score among all the evaluators was TELICS, Charlotte, N.C.

Currently, staff is in the initial phase of design and it is estimated that over one-hundred parcels will be adjacent to the new sidewalk. A truly accurate estimate of the cost for the services rendered is not realistic at this time. Based on an assumption of acquiring 60 easements, with 30 of those requiring appraisals and with no relocations, and using the unit costs provided by TELICS, it is estimated the cost would be in an amount of $180,000. This requested amount is for services only and does not include monies for the actual purchase of land or land use.

This action is needed to fulfill the contract agreement between the City and the NCDOT to construct the sidewalk along this corridor.

Funding for the Hendersonville Road sidewalk project was included in the adopted Fiscal Year 2014 Capital Improvement Budget.

City staff recommends that City Council adopt the resolution authorizing the City Manager to enter into a contract with TELICS for a not to exceed amount of $180,000 for right-of-way acquisition services for the Hendersonville Road Sidewalk Construction Project.

RESOLUTION BOOK NO. 36 - PAGE 28

K. RESOLUTION NO. 13-260 - RESOLUTION ACCEPTING EMERGENCY SOLUTIONS GRANT FUNDS

ORDINANCE NO. 4253 - BUDGET AMENDMENT TO FUND LOCAL ORGANIZATIONS WITH THE EMERGENCY SOLUTIONS GRANT FUNDS

Summary: The consideration of a resolution authorizing the City to accept Emergency Solutions Grant funds and to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services, Housing and Homeless Unit; and a budget amendment, in the amount of for $159,247, to fund local organizations with 2013 and 2014 Emergency Solutions Grant funds.

In the process approved by Council at the August 27, 2013 Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

We have been informed that our application has been approved, with the following agency awards:

	Emergency Response	Housing Stabilization	Administration	Total
Organization				
ABCCM		$ 25,195		$ 25,195
Helpmate	$ 26,559			$ 26,559
Homeward Bound		$ 76,577		$ 76,577
Salvation Army	$ 23,441			$ 23,441
City of Asheville			$ 7,475.00	$ 7,475
TOTAL REQUESTS	$ 50,000	$ 101,772		$ 159,247

These awards are conditional on providing to the State additional information needed and/or assurances that must be provided. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City).

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution authorizing the City to accept ESG funding, and to provide those funds to the agencies for the programs approved by the State

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Division of Aging and Adult Services (DAAS), Housing and Homeless Unit, and the associated budget amendment.

RESOLUTION BOOK NO. 36 - PAGE 29
ORDINANCE BOOK NO. 28 - PAGE 386

L. RESOLUTION NO. 13-261 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH BOLTON CONSTRUCTION COMPANY FOR THE MONTFORD GYM FLOORING REPLACEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of $29,000 to increase the construction services contract for Bolton Construction of WNC Inc., from a total in the amount of $130,000 to $159,000 for the Montford Gym Flooring Replacement Project.

On October 10, 2013, City Council awarded the construction services contract to Bolton Construction of WNC Inc., for the Montford Gym Flooring Replacement Project. The contract originally consisted of a demolition and removal of the tile flooring, and installation of a new wood sports flooring system within the Montford Recreation Center. During the initial construction phase, it was determined that accessibility improvements were required per current ADA guidelines and the six (6) existing basketball goals/backboards needed replacement in order to meet the project objectives of improved level of service. A new curb ramp, replace four (4) entry doors, two (2) sets of interior door hardware, and six (6) basketball goals & backboards were added to the construction services contract.

The additional construction services for the curb ramp, doors, and basketball goal/backboard replacement creates the need for a change order to increase the contract amount by an additional $29,000.00 for a total contract amount of $159,000.00. Funding for this contract change order will come from the Parks and Recreation Department's existing FY 2013-14 deferred capital maintenance budget.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of $29,000.00 to increase the construction services contract for Bolton Construction of WNC Inc., from a total in the amount of $130,000.00 to $159,000.00 for the Montford Gym Flooring Replacement Project.

RESOLUTION BOOK NO. 36 - PAGE 30

M. RESOLUTION NO. 13-262 - RESOLUTION AUTHORIZING AN AMENDMENT TO THE TERMS OF THE CONTRACT WITH MOUNTAIN HOUSING OPPORTUNITIES FOR THE USE OF HOME PARTNERSHIP ACT FUNDS FOR THE EAGLE MARKET PLACE PROJECT

Councilman Smith disclosed a possible conflict of interest; however, Interim City Attorney McGlohon determined that there was no conflict of interest that would warrant recusal.

Summary: The consideration of a request by Mountain Housing Opportunities to amend the terms of their HOME grant for the Eagle Market Place residential development.

In May of 2013, Mountain Housing Opportunities and the City of Asheville executed a contract for the use of $462,600 in federal HOME funds, for use in the Eagle Market Place project. This funding was provided to the project as part of the 2011-2012 Annual Action Plan, which was amended in May of 2011 to increase the award $100,000 from $362,600 as approved by Council in April of 2011. The contract was not executed until this year because the Low Income Housing Tax Credit award for the project was not made until September, 2012.

The terms of the contract, negotiated by City and MHO staff, called for the grant funds to be used for "construction" only, and for progress payments of the HOME grant based upon percentages of completion.

The Draw Schedule in the contract is as follows:

Activity	**Amount**
Construction 30% complete	$146,490
Construction 60% complete	$146,490
Construction 95% complete	$146,490
Closeout 100% (5% Retainage)	$23,130
Total	**$462,600**

MHO now seeks to amend the terms of that contract to allow for the use of funds for non-direct construction activities ("soft costs"), and to allow the immediate draw of HOME funds, making HOME funds "first in" to the project.

Although terms for HOME funds for projects in prior years have been more flexible, City staff has been reflecting increased concern by HUD about the expenditure of HOME funds, as a result of increased scrutiny of the HOME program by Congress. City staff has received guidance from HUD staff and technical assistance providers regarding contract terms, again reflecting HUD's primary directive for the HOME program that the use of HOME funds must result in the production of affordable housing. HUD has advised staff that ideally, HOME funds are disbursed on a pro-rata basis with all other funding. By doing so, the risk of having to repay HOME funds from non-federal resources- required by HUD if a project does not achieve its affordable housing deliverable within four years of the commitment of funds- is significantly reduced.

All parties agreed at the time of the contract that these terms were reasonable. To this date, however, other committed financing for the residential project has not closed. No explanation for the delay in closing those loans has been given other than paperwork complications. MHO seeks to use HOME funds to pay obligations that have been incurred prior to the closing for other committed funds, including construction financing committed by TD Bank.

The proposed amendment to the contract could expose the City to the financial risk of the federal regulation requiring that the contracted number of affordable housing units (8) be fully constructed and occupied within four years of the date of the commitment.

Staff recommends that Council approve the request to amend the term of the HOME contract to allow for disbursement of HOME funds as needed for the project, and to allow HOME funds to be used to reimburse non-construction costs; and that the amendment confirm that Mountain Housing Opportunities will be required to repay the HOME funds to the City in full from non-federal sources if the HOME units specified in the contract are not completed within four years of the original commitment.

RESOLUTION BOOK NO. 36 – PAGE 31

N. RESOLUTION NO. 13-263 - RESOLUTION APPROVING A WRITTEN EXEMPTION FROM THE REQUEST FOR QUALIFICATIONS PROCESS IN THE CASE OF CONSTRUCTION MANAGEMENT SERVICES FOR EAGLE MARKET PLACE

ORDINANCE NO. 4254 - BUDGET AMENDMENT FOR EAGLE MARKET PLACE

Councilman Smith disclosed a possible conflict of interest; however, Interim City Attorney McGlohon determined that there was no conflict of interest that would warrant recusal.

Summary: The consideration of (1) a resolution approving a written exemption to the Request For Qualifications (RFQ) process for a time sensitive project management contract for the Eagle Market Place with a cost that falls below the state's minimum requirement for such processes; and (2) a project budget amendment in the amount of $49,500 from Economic Development Capital Improvement Plan (EDCIP) debt proceeds to fund the contract.

The City of Asheville is providing significant financial support to the Eagle Market Place (EMP) project for the purpose of creating affordable housing and revitalizing the "Block." In order to ensure that the project is completed in a timely manner with little cost overruns, the City will hire a construction manager.

Previously, the City had contracted with Kimley-Horn to provide similar services for the 51 Biltmore Avenue Parking Garage, and was pleased with their work. We have determined that they are qualified to perform construction management services for the EMP project as well. If accepted, the contract with Kimley-Horn will be for $49,500. The state's general statute allows for a written exemption from the RFQ process for professional contracts under $50,000. G.S. 143-64.32 was updated per session law 2013.401, H.B. 857, to read:

> §143-64.32. **Written exemption of particular contracts.**
>
> Units of local government or the North Carolina Department of Transportation may in writing exempt particular projects from the provisions of this Article in the case of proposed projects where an estimated professional fee is in an amount less than fifty thousand dollars ($50,000).

The demolition of the project has begun and the construction period is expected to last for fourteen months. Given the time constraints on the project, the fact that a contract of this size is allowed exemption from the RFQ process by state statute as updated per session law 2013-401, H.B. 857, and our previous positive experience with the work and qualifications of a preferred firm, an written exemption for this project from the RFQ process by Council would expedite the contract and ensure construction management can begin when needed.

The fiscal impact would be that it saves the City the staff time of an RFQ process, and saves the project the potential of errors or overrun due to insufficient management until an RFQ process is complete. The contract will be funded through the Economic and Community Development CIP.

City staff recommends City Council (1) approve a resolution approving a written exemption from the RFQ process in the case of construction management services for Eagle Market Place; and (2) approve a project budget amendment in the amount of $49,500 from EDCIP debt proceeds to fund the contract.

Councilwoman Wisler asked that staff provide City Council with a monthly report via e-mail.

Councilman Smith was pleased that there is going to be a construction manager and hoped that they would bring the project in on time.

RESOLUTION BOOK NO. 36 – PAGE 32
ORDINANCE BOOK NO. 28 - PAGE 389

O. ORDINANCE NO. 4255 - BUDGET AMENDMENT FOR PHASE IV OF THE LED STREETLIGHTS AND PHOTOCELLS

Summary: The consideration of a budget amendment, funded with debt proceeds, to establish a Fiscal Year 2014 budget in the amount of $575,000 for purchasing Phase IV LED streetlights and photocells.

In April 2011 City Council approved a resolution to increase the annual municipal carbon footprint reduction goal from 2% to 4%. A key element to achieving this goal is the 4 year plan to change most of the municipal streetlights to LED technology. The mechanism city council approved the fund this initiative is through the Green Capital Improvement Program (Green CIP). The Green CIP borrows money to capitalize carbon reduction efforts then uses operational energy savings to pay off the investment, thus maintaining a revenue neutral if not positive program.

The City will use debt proceeds to fund the $575,000 expense associated with this purchase. It is estimated that the annual debt service will be approximately $70,000 over a ten year period. As noted above, installation of the LED streetlights will generate an estimated $105,000 in electricity savings, which will more than offset the annual debt service payments.

City staff recommends City Council adopt a budget amendment to purchase a Phase IV of LED street lights.

ORDINANCE BOOK NO. 28 - PAGE 391

P. ORDINANCE NO. 4256 - BUDGET AMENDMENT TO INCREASE THE BUDGET FOR THE HARVEST HOUSE AND SENIOR OPPORTUNITY CENTER FROM THE N.C. DEPT. OF HEALTH AND HUMAN SERVICES

Summary: The consideration of budget amendments in the amount of $3,893 for Senior Opportunity Center and $3,893 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to 1) renovate the pool room, and 2) purchase program and facility equipment. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

The allocation will increase the City's General Fund budget by $7,786.00 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) $3,893.00 for Senior Opportunity Center, and 2) $3,893.00 for Harvest House for facility improvements and equipment.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. QUARTERLY REPORTS

Financial Report

Budget Manager Tony McDowell provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through September, 2013.

Amendments. The General Fund budget presented in this first quarter report reflects the adopted budget of $95,861,764 along with three budget amendments approved by Council during the first quarter. Two of the three first quarter budget amendments were technical amendments that moved budgets from the General Fund to other City funds. The overall net impact of the amendments in the first quarter lowered the General Fund budget by $379,218. A summary of the three amendments is presented below. None of the amendments involved an appropriation from fund balance.

Adopted Budget	95,861,764
Budget Amendments:	
Technical: Move Changing Together to Grant Fund	(79,060)
Technical: Move Computer Purch. to Capital Fund	(350,000)
Add School Resource Offjcer	49,842
9/30/2013 Budget	$95,482,546

Revenues. Through September 30, 2013, the City has collected $15,040,749 in General Fund revenue, which represents approximately 15.8% of the total General Fund revenue budget. As Council is aware, the Town of Biltmore Forest cancelled its fire protection contract with the City of Asheville, which will result in a revenue loss of approximately $600,000 in the current fiscal year. Also, based on early sales tax trends, staff is projecting a $335,000 budget shortfall in this revenue. On a positive note, revenues from Development Service fees and the new sanitation fee are trending higher than anticipated. Overall, staff is currently projecting that ***FY 2013-14 General Fund revenue will come in under budget by $409,000 or 0.43%.***

Expenditures. General Fund expenditures through September 30, 2013 total $17,159,239 or 18.0% of the budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. Expenditures for fuel and fleet maintenance and other operating costs are running slightly under budget through the first quarter. ***Based on the trends noted above, staff is conservatively projecting that expenditures will finish the year under budget by $760,000 (99% of budget) which will more than offset the expected revenue shortfall.***

Fund Balance. The City ended FY 2012-13 with available fund balance of $15.4 million, which equated to 17.6% of FY 2012-13 expenditures. Based on ***current revenue and expenditure projections for FY 2013-14, staff estimates that available fund balance at June 30, 2014 will be $15.8 million or 16.7% of estimated expenditures.***

Public Safety Committee Chair Report

Mayor Manheimer, former Chair of the Planning & Economic Development Committee, provided Council with a brief update on some major accomplishments during this quarter.

Councilman Bothwell moved to distribute City Council Committee Chair quarterly reports via e-mail because the time for the Chairs to make their report is when the pertinent issue comes before Council. This motion was seconded by Councilman Smith and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 291 EAST CHESTNUT STREET LOCATED AT 287 AND 291 EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING WITH A MODIFICATION REQUEST TO THE SETBACK AND LANDSCAPE BUFFER REQUIREMENTS

Mayor Manheimer announced that the City Clerk received an e-mail on December 4, 2013, from Mr. Chad Roberson requesting a continuance until January 28, 2014. Therefore, Vice-Mayor Hunt moved to continue this public hearing until January 28, 2014. This motion was seconded by Councilman Smith and when no one from the public spoke, the motion carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF NEW FACILITIES AT ASHEVILLE MIDDLE SCHOOL LOCATED AT 197 SOUTH FRENCH BROAD AVENUE

ORDINANCE NO. 4257 - ORDINANCE GRANTING A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF NEW FACILITIES AT ASHEVILLE MIDDLE SCHOOL LOCATED AT 197 SOUTH FRENCH BROAD AVENUE

Interim City Attorney McGlohon reviewed with Council the conditional use district zoning process. This process is the issuance of a conditional use permit, which is a quasi-judicial site specific act. At this public hearing, all the testimony needs to be sworn.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Interim City Attorney McGlohon said that as documentary evidence is submitted, he would be noting the entry of that evidence into the record.

Interim City Attorney McGlohon said that the Authorized Practice Committee of the North Carolina State Bar has issued an advisory opinion that appearing in a representative capacity for a party before a local governmental body in a quasi-judicial proceeding is the practice of law, especially with respect to such aspects of the hearing as examining or cross-examining witnesses, or advocating for legal conclusions or results. This does not prevent persons, including land use professionals, from presenting information or expressing opinions within their knowledge or area of expertise.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:30 p.m.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for the construction of new facilities for the Asheville Middle School located at 197 S. French Broad Avenue.

Ms. Bernstein said that the applicant is requesting review of site plans for the construction of new facilities for the Asheville Middle School. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which designates review for institutional uses of over 100,000 square feet. Level III projects are reviewed as Conditional Use Permits in the Institutional District and schools are reviewed as a Use By Right, Subject to Special Requirements in residential districts.

The site consists of a 25.97 acre parcel located at 197 South French Broad Street. The parcel is split-zoned Institutional and RM-8 and is currently the location of the Asheville Middle School. The site is bordered by CI to the west, Office and RS-8 to the east, Institutional (YWCA) and RM-8 to the north and CI and RS-8 to the south.

The proposal is to demolish the existing school building and construct a new facility with upgraded site improvements (students will remain in the existing building until the new facility is complete). Plans show a 3-story (48 feet in height), 174,695 square foot building with 67 classrooms, located towards the southern end of the site and parking and open space towards the northern end. Existing uses on the rear end of the site are not expected to change (track, football/soccer field, baseball diamond, open space) (City Exhibit 3 - Location Map and Site Plan).

Plans show access into the site by vehicles from five locations. One access point is via Charles Street which is proposed to become one-way (into the site) south of Timothy Street. The other four access points are all along South French Broad Avenue, starting at the northern end with an entrance-only, two-lane loop that provides a drop-off in front of the school building and access to the parking lot, connecting back to the roadway as an exit-only opening to complete the loop. The third and fourth driveways provide a second "loop", for bus drop-off and access to the bus parking.

There are two surface parking areas proposed with this project. The first is towards the front of the building and includes 106 spaces. The second parking area is to the side of the building and provides bus parking (six spaces) and an additional 28 car spaces. There are a total of 134 car spaces shown on the site. Bicycle parking is required and provided.

Ten foot wide sidewalks are provided along the entire frontage of the property along South French Broad Avenue and a six foot sidewalk will be included along Charles Street. There is one pedestrian route shown into the site from South French Broad, at the southernmost driveway entrance (10 feet, back of curb) and another from Charles Street (six feet wide). There are draft plans for the Clingman Forest Greenway segment, which will travel through the northern end of the site, and potential connections into the site are under discussion. Details on the greenway segment are not yet formalized.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and property line buffer in two locations. There is significant existing vegetation on the site that is proposed to remain, primarily along the rear of the site by the sports fields.

Fifteen percent of the total lot area is required to be dedicated as open space, which would be 3.89 acres for this site. Significantly more than the minimum is provided, with 9.64 acres designated on the plans and more area left open on the site but not included in the calculation.

This proposal was approved with conditions by the Technical Review Committee on October 21, 2013. The Planning & Zoning Commission reviewed the proposal at their meeting on November 6, 2013, and unanimously recommended approval. Staff has heard from a member of the pubic residing on Charles Street with concerns about current and future traffic congestion.

City Council must take formal action as set forth in Section 7-5-5(e)(3) of the Unified Development Ordinance (UDO), and must find that all seven standards for approval of conditional uses are met based on the evidence and testimony received at the public hearing or otherwise appearing in the record of this case pursuant to Section 7-16-2(c). Staff's review indicates that all seven standards are met as proposed in the site plan.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   The proposed use and development of the land is compatible with the natural and topographic features on the site in that the area intended for construction of the new middle school facility is previously graded (where the old baseball field and basketball courts are currently located) and the new parking area will be on the previous school site. The bulk of the project area will remain unchanged. The area for construction is flat and where there are a few locations around the perimeter of the project area with topographic challenge, they will be appropriately managed with retaining walls.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The parcel containing the Asheville Middle School is quite large (over 25 acres) and the school use has long been established in this location. Schools are a complementary use to have in proximity to residential neighborhoods and should enhance the value of these abutting properties. The adjacent YWCA and small offices in residential conversions are also compatible with this type of development and are not expected to see a decline in value.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   The new Middle School will be located towards the previously developed southeastern end of this large parcel. As mentioned in #3, this is an appropriate location for an educational use and this use has been established on the site for some time. The new school building is approximately 40,000 square feet larger and one-story taller than the existing building.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   Elements of the project are directly aligned with the City's goals and objectives including infill development, investment in the public school system, enhancement of the residential community and supporting a high quality of life for Asheville residents. The project is also aligned with separate Clingman Forest Greenway discussions occurring separately.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**

This proposed development is located near major road facilities and interstate connections. In addition, the project has been reviewed by the Technical Review Committee who found that existing infrastructure appears adequate and preliminary review has not revealed any problems for future service to the development. The site is located along the S4 transit route and the proposed Clingman Forest Greenway is adjacent to the site.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
There was no TIS required for this project. The traffic control plans for the project have been reviewed. Based on the plans that were presented, the proposed use should not cause undue traffic congestion or create a traffic hazard. The proposed configuration on the AMS campus should be a positive change to traffic congestion issues along South French Broad Avenue.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:

- The proposal provides an upgraded facility for Asheville Middle School students and families.
- Reconfigured drop-off and pick-up loops for automobile and school bus traffic should streamline vehicular access to the site.
- The proposed Clingman Forest Greenway should be near or through the northern part of this site, providing potential connections to the school campus.

Con:

- Not currently proposing LEED-certification (as has been included in several recent Asheville City school projects).

Staff recommends supporting the requested Level III project (Conditional Use Permit) to support this development proposal, subject to the additional condition recommended by City staff and the standard conditions. The upgraded school facility will be a benefit to many local students and residents and investment in education is well supported by City goals and objectives.

Councilman Smith thanked the Buncombe County Commissioners for working with the Asheville City Schools, which is an excellent example of good partnerships.

Ms. Jacquelyn Hallum, Chair of the Asheville City Board of Education, was pleased with this new project.

Using Applicant Exhibit 1, Mr. Chad Roberson showed the existing site, the new building, the different levels of the building, views from various vantage points, etc. He said the new building will be constructed in its entirety and then the old building demolished. He showed where the garden would be located off S. French Broad Avenue. One of their goals was to get the traffic off of S. French Broad and they will accomplish that with the loops. Sustainability has been a focus of the building and the building is designed for the school to grow.

In response to Councilman Bothwell, Mr. Roberson said that the traffic level will be the same, but instead of cueing on S. French Broad, they will be bringing the cueing deep into the site.

After rebuttal, Mayor Manheimer closed the public hearing at 5:48 p.m.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the

master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4257 granting a conditional use permit for the construction of new facilities for the Asheville Middle School located at 197 South French Broad Avenue, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards; and (6) The applicant will continue to work closely with City staff to provide connections into the site, where feasible and appropriate, from the proposed Clingman Forest Greenway. This motion was seconded by Councilman Smith and carried unanimously.

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C. PUBLIC HEARING REGARDING THE MERGER OF THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

At the request of City staff, Councilman Davis moved to continue this public hearing until January 14, 2014. This motion was seconded by Vice-Mayor Hunt and when no one from the public spoke, the motion carried unanimously.

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 12.33 ACRES FOR A PROJECT KNOWN AS THE AVALON LOCATED ON SWEETEN CREEK ROAD FROM INDUSTRIAL DISTRICT TO RM-16 MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone 12.33 acres for a project known as The Avalon, located on Sweeten Creek Road, from Industrial District to RM-16 Multi-Family High Density District/Conditional Zoning for the development of 8 multi-family buildings and 1 clubhouse building. This public hearing was advertised on November 29 and December 6, 2013.

Ms. Bernstein said that the applicant is requesting review of a conditional zoning request from Industrial to Residential Multi-family High Density (RM-16), in accordance with Section 7-7-8 of the UDO, for the construction of a multi-family apartment complex.

The site consists of a 12.33-acre parcel located on Sweeten Creek Road in South Asheville. The parcel is currently zoned Industrial (IND) and is vacant. The site is bordered by the Norfolk-Southern Railroad to the west; Institutional zoning to the east (nursing home); Commercial Industrial (CI) zoning to the north (a mix of manufacturing operations, warehousing and associated offices in an industrial park) and Commercial Industrial (CI) zoning to the south (warehousing and storage uses).

The proposal is to develop a multi-family apartment complex with a total of 192 units. Plans propose a mix of 1-bedroom (48 units), 2-bedroom (120 units) and 3-bedroom (24 units) configurations. There are 8 residential buildings shown on the site, with a maximum building height of 36 feet (all three-stories). Additional structures proposed include a single-story clubhouse building located at the entrance to the development and three 1-story garages within the site.

Vehicles will access the site from two driveway cuts, both off of Sweeten Creek Road, with the primary entrance placed next to the clubhouse at the northern end of the parcel.

There are 312 parking spaces shown on plans, both along the 26 foot wide two-way private drives and in small parking lots throughout the site. This parking count includes 11 HC-accessible spaces dispersed throughout the site, a small parking area on pervious pavers and three six-car covered garages. Also, 16 bike parking spaces are distributed among the buildings.

Sweeten Creek Road is identified as a "needed linkage" for sidewalks but none are shown along this frontage due to anticipated road widening in the near future by the North Carolina Department of Transportation. Pedestrian pathways are shown interior to the site and would connect to any future sidewalk.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and tree save area. The applicant is proposing to preserve existing vegetation around the north, west and southern perimeters of the site and to apply those as credits for some of the required landscaping.

Open space is also required for this project, at a rate of 500 square feet per unit, which will result in a total of 2.20 acres for the site.

Under the current Industrial zoning, residential is not a permitted use. As is noted above, the requested rezoning is not consistent with a Comprehensive Plan policy stating that Industrially-zoned land should be preserved for industrial uses. However, there are multiple recent precedents for City Council approval of similar zoning changes. At the August 2009 meeting of the Planning and Economic Development Committee, City staff discussed these cases, and reviewed the practice of considering each such rezoning petition on a case-by-case basis, under close consultation with the Office of Economic Development.

Staff consulted with the Economic Development Coalition (EDC) who shared staff's concern that industrially-zoned land should be preserved or industrial uses and requests examined on a case-by-case basis. In this particular case, the group did not feel strongly enough to formally oppose the rezoning.

The following provides a list of several examples where the City has approved rezoning applications eliminating Industrial sites:

- In October 2005, City Council approved a rezoning of roughly 31 acres off of Dogwood Road in Candler from Industrial to RS4.
- In May 2006, a rezoning of approximately 1.5 acres of land at 1301 Sand Hill Road was rezoned from Industrial to Community Business II.
- In July 2007, City Council approved a rezoning of approximately 37 acres from Industrial to RM16 for an area on the eastern edge of the Biltmore Lake community.
- In October 2010, City Council approved a rezoning from Industrial to Airport, a district allowing fewer industrial uses.
- In January 2011, 13 acres off Orchard Street were rezoned from IND to RM6.
- In February 2013, the Possum Trot rezoning changed 1.3 acres from CI to RM8.

This project was approved with conditions by the Technical Review Committee on October 7, 2013. The Planning & Zoning Commission evaluated this request at their meeting on November 6, 2013, and voted 6-1 in favor of the project. There was discussion on the rental

rates as well as the loss of industrially-zoned property, with information provided by the applicant regarding the need in the rental market for rates at this level and the unsuitability of the site for true industrial use. No communication from the public has been received as of the writing of this report (November 7, 2013).

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   This site has been previously graded and is mostly flat with areas of existing vegetation around the north, south and west property lines. The proposed development of the land is compatible with these features in that the buildings and parking areas are focused in the center of the site and areas around the perimeter incorporate and retain landscaping materials for required bufferyards.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The proposed use and development of the land is not expected to injure the value of abutting property. Although the parcels immediately adjacent to the north and south are industrial and warehousing uses, the required landscape buffers should provide adequate visual separation. As noted below, there are numerous other residential developments in the immediate vicinity.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   The subject area has a variety of zoning districts and uses. The parcels directly adjacent to the north and south are manufacturing/storage/warehousing uses and this proposed development can be said to be inharmonious with those uses. However, there are instances throughout the City where these uses are adjacent to one another. Additionally, there are a number of residential developments existing in the immediate vicinity, just on the other side of those parcels and across the street to the east (Holiday Drive – zoned CI, Carrington Place and Pigeon Lane – both zoned RM-16), and this use is very similar to those in scale, bulk, coverage, density and character. The "area or neighborhood in which it is located" is not entirely straightforward in this situation.

   City-adopted goals indicate the need to preserve industrially-zoned land for industrial and manufacturing uses and there is some question as to whether a residential use is in harmony with the uses permitted on those neighboring sites. However, as previously stated, there are multiple residential uses in the immediate vicinity (the three mentioned above are within 0.4 miles) as well as a very large residential presence in the general area (as shown on the Exhibit C map). There are several sizable under-developed parcels across Sweeten Creek Road to the east that are either residentially zoned

already or Institutional, which permits residential uses. So it seems that while the proposed use may be out of character with the uses immediately to the north and south, the multi-family residential development is similar in scale, bulk, coverage, density and character to a number of other like developments in very close proximity.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   Elements of the project align with the City's goals and objectives including siting development in an infill location, proposing a density that supports transit and offering rentals as a "workforce" rate. However, multiple plans caution eliminating Industrially-zoned land, which this proposal does.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
   The site is located in an area accessible by vehicle. The nearest transit route is the S3 at Hendersonville and Buck Shoals Road (approximately 0.5 miles). Adequate water supply, police protection, waste disposal and similar facilities are verified during the TRC review process.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
   The Traffic Impact Study for the Avalon has been reviewed. Based on the findings and presuming that the recommendations presented by the report are implemented, the proposed use should not cause undue traffic congestion or create a traffic hazard.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Pros:
- Some existing vegetation around the perimeter of the site will be preserved.
- Project incorporates pervious pavers into one of the parking areas.
- Proposes a density that supports transit (S3 on Hendersonville Road is within 0.5 miles and the S1 ends 5 miles north)

Con:
- Application does not propose to dedicate any units for affordable housing (*although none is required) – however, the applicant has been directed to the Community Development Department to discuss possibilities.*

The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially-zoned land for industrial uses.

Based on policies stated in the Comprehensive Plan and other plans, staff notes concerns about eliminating Industrially-zoned land. However, both the Planning and Zoning Commission and City Council have supported similar rezoning actions in the recent past and the EDC did not oppose the proposal when consulted. If the Commission wishes to consider this rezoning independent of the existing policies, staff feels a case can be made for recommending approval based on the proliferation of residential uses in the near vicinity.

Mr. William Ratchford, Vice-President of Triangle Realty, said that his company is family owned, and they are constructing another project in Asheville - The Palisades. They are based in Gastonia, N.C., and consider themselves a regional company with regional interests. This is about a $20 Million with 4 full-time staff of and 2 part-time. They are long-time holders, managers and operators of the property. They have 71 communities with three additional construction and

three under planning. There is a huge need for apartments in the City of Asheville. He sets the unit rents for 13,000 out of their 14,900 units, and except two places, Asheville has the highest rent for apartments because there is a huge lack of supply. He feels their apartment rates shown, even though not listed in the City's affordable category, can help reduce the rates of the apartments in this area. They are long-term holders of properties and hoped City Council would support their project.

Mr. G. Thomas Jones, civil and site engineer, talked about the details of the property. The property is really 10 acres because they can't put buildings in the 2 acre railroad right-of-way. He then talked about the adjacent land uses and the neighborhood. He felt that this property has been vacant for 10 years because industrial projects that create a lot of jobs typically require more land than 10 acres. Another challenge for industrial is that the site has an elevation difference of 58 feet from the highest point on Sweeten Creek Road to the lower corner of the property. He felt that based on the surrounding zoning and property uses, and because of the size and nature of the property and the fact that the property has been available for over 10 years, an apartment project is an excellent use of the property at this time.

Mr. Gene Ratchford Jr. offered to respond to Council's questions, but would support a continuation of this public hearing until February 11, 2014, to review land use issues.

Vice-Mayor Hunt moved to continue this public hearing until February 11, 2014, in order have City staff to organize the data and input for Council to be more informed on industrial site property, noting that the 2025 Plan, which was developed by a broad section of the community, identified the loss of industrial sites. This motion as seconded by Councilman Bothwell.

Councilman Bothwell questioned if the access to the railroad has any particular benefit for potential industry use on that property, since not every property has railroad access. The railroad transport of goods is increasing in America.

Councilman Davis agreed that the 2025 Plan was adopted over 10 years ago and they felt they needed to reserve industrial space because there was not a lot of interest from developers. Housing was also a short supply and we all agree that apartments are very much in need. He suggested further contact with the Economic Development Coalition to see if there is still a market for reserving industrial sites. With this project, we have an opportunity to improve our tax base and provide apartments for people who work in that area.

Councilman Smith also wanted to look closely at our industrially zoned land to make sure they are right for this type of zoning. The proposed site, to him, looks like a usable piece of land for perhaps a distribution location site or other different use. If we rezone industrial sites, we need to do that with our strategic goals in mind as well. We are also trying to create affordable housing and we have had hundreds of apartment units approved by Council in the last few months and only 14 of them are designated affordable. We do need to improve housing stock, but this looks like we are only creating one kind. He was also concerned about the open space and how the developer is using only the existing buffer.

Mr. Jones addressed the questions raised by Council regarding the railroad access and noted that there is very little vegetation on the site to preserve. He said that their open space meets or exceeds the City's requirements.

In response to Councilwoman Wisler, Assistant City Manager Ball said that staff will look at the suitability of the industrially zoned properties and prioritize them to say which would be appropriate to maintain in that category, and which ones are not as likely to be usable space. They will also provide the additional information requested to Council.

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Vice-Mayor Hunt also asked that staff make sure there is some design dialogue with not just Economic Development Coalition staff, but with the Board members, on their assessment of industrial sites county-wide. They may have some data that may help us.

After Mayor Manheimer asked for public comment and received none, the motion made by Vice-Mayor Hunt and seconded by Councilman Bothwell carried unanimously.

E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 2.12 ACRES OF PROPERTY LOCATED ON TAFT AVENUE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

ORDINANCE NO. 4258 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON TAFT AVENUE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 2.12 acres located on Taft Avenue from RS-4 Residential Single-Family Medium Density District to RS-8 Residential Single-Family High Density District/Conditional Zoning, to facilitate the development of a single-family residential community composed of 10 lots and 10 detached single-family dwellings. This public hearing was advertised on November 29 and December 6, 2013.

Ms. Fields said that the project site (currently three separate parcels) is approximately 3.34 acres in size and is located off of Taft Avenue in the Shiloh community. The current zoning of the property is RS4. The property is traversed by a stream and sewer line presenting challenges to development. A 30 foot platted right-of-way abuts the parcels.

Asheville Area Habitat for Humanity proposes to create a ten-lot subdivision utilizing a previously platted right-of-way to create a new street, McKinley Avenue, on which the lots in the subdivision will be located. All homes to be constructed will meet affordable standards.

Due to property constraints and a desire to create as many affordable home lots as possible, they are requesting a rezoning to RS8CZ. The rezoning will allow smaller lot sizes, but due to site constraints it will not result in an increase in density. The resulting density will be less than what would be permitted under the current zoning (around 14 lots) because much of the property must remain undisturbed due to the location of streams and a sewer line on the property. In an effort to work with an adjoining property owner the developer is requesting a modification of lot size for Lot #1. The modification is 382 square feet; the resulting lot will be 4,618 square feet in size.

Access to all lots will be via a new roadway, McKinley Avenue that is proposed to be 24 feet wide with a right-of-way varying from 30 to 40 feet. City standards require 22 feet of pavement with a 50 foot right-of-way. The applicant is requesting a modification of the right-of-way standard (20, 15 and 10 foot modifications). No sidewalk us proposed as the development will not generate the vehicular traffic to warrant a sidewalk per city standards.

Street trees and significant tree save area are shown. Open space exceeding the required 20% (63.5%) is proposed.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. **That the proposed use or development of the land will not materially endanger the public health or safety.**
   The proposal has been reviewed by the City of Asheville Technical Review Committee and meets, or can meet all applicable regulations with the exception of the right-of-way and the size of Lot #1. Staff is supportive of these modifications as they result from existing conditions on the property and an effort to assist an adjoining property owner.

2. **That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.**
   The use is compatible with the significant challenges presented on site due to a stream/floodplain. The proposed development leaves this sensitive portion of the property primarily as open space and tree save area.

3. **That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.**
   The proposed use should not injure the value of adjoining properties. It abuts a single-family community and a shopping center.

4. **That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.**
   All but two of the RS4 properties in the immediate area are less than 10,000 square feet in size (the RS4 standard). Most of these lots are 5,000 to 7,000 square feet in size. The developer plans to build traditional single-family homes on the lots which is in keeping with the adjacent community.

5. **That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.**
   This project supports several goals found in the City's comprehensive plan including goals concerning infill development and affordable housing. The area where this development is proposed was specifically encouraged as an infill possibility in the Shiloh Community Plan adopted in 2010.

6. **That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.**
   The proposed subdivision in located in an established community and will have all appropriate facilities provided. Additionally, it is located in close proximity to a community center.

7. **That the proposed use will not cause undue traffic congestion or create a traffic hazard.**
   There are only ten single family home lots proposed in the development.

Pros:

- The development provides ten new affordable single-family home lots.
- The development meets City goals concerning infill and the provision of affordable housing.
- The development abuts an established community of single-family homes.

Con:

- None noted.

The Asheville Planning and Zoning Commission held a meeting on this matter on November 6, 2013. Besides the applicant, there was only one other individual who spoke. It was the son of a neighborhood resident who had some basic questions. The applicant was able to address their issues and provided contact information for future reference. The Commission recommended this matter to the Asheville City Council unanimously (7-0).

Based on the above finding and the analysis provided in the report, staff finds this request to be reasonable and recommends approval of the conditional zoning request with the modifications to lot size and right-of-way width and with the conditions set forth in the TRC report and the standard conditions listed below.

The Asheville Planning and Zoning Commission voted to recommend this conditional zoning to the Asheville City Council at a meeting on November 6, 2013, with a vote of 7-0.

Mayor Manheimer opened the public hearing at 6:36 p.m.

Mr. Will Buie, with Lapsley & Associates Engineering, explained the compatibility with the neighborhood and felt that this is serving a need in the community.

Mayor Manheimer closed the public hearing at 6:37 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4258 to conditionally zone 2.12 acres located on Taft Avenue from RS-4 Residential Single-Family Medium Density District to RS-8 Residential Single-Family High Density District/Conditional Zoning, with a lot size modification for Lot #1 of 382 square feet and a right-of-way modification ranging from ten to twenty feet in size, and subject to the conditions recommended by staff and all standard conditions as follows: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 - PAGE 400

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 13-264 - RESOLUTION ACCEPTING THE REPETITIVE LOSS AREAS ANALYSIS REPORT AS A COMPANION DOCUMENT TO THE BUNCOMBE COUNTY ALL HAZARDS MITIGATION PLAN

Director of Development Services Shannon Tuch said that this is the consideration of a resolution accepting the report prepared by Brown and Caldwell for the Repetitive Loss Area

Analysis (RLAA) for the City of Asheville as a companion document to the previously approved Buncombe County All Hazards Mitigation Plan.

The City of Asheville has prepared an application to join the Community Rating System (CRS) program administered by the Insurance Services Office (ISO). Through the application process, points are assigned for actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. A successful application with a high score will provide lower insurance premiums under the National Flood Insurance Program (NFIP). The premium reduction is relative to the final score of the application where higher scores result in greater reductions. In addition to reducing insurance premiums for Asheville's citizens, another benefit of the program is the education offered to the property owners for those properties located in a Repetitive Loss Areas. A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than $1,000 that have been paid by the NFIP within any 10-year period since 1978). An RLAA is a mitigation plan developed for those areas with the purpose of reducing damages from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to stem the consistent increase in flood insurance premiums that has been occurring for a number of decades.

In order to become a member of the CRS program, the City must adopt a RLAA commonly included in a hazard mitigation plan. However, a preliminary review of the city's application by ISO representatives indicated that the previously adopted Buncombe County All Hazards Mitigation Plan did not have an adequate RLAA included. As a result, in order to meet the eligibility requirements for the CRS program, a separate RLAA had to be performed.

The current cost of the engineering report is $30,500 which is being funded through the stormwater utility fund. The ongoing cost associated with this program will be staff time.

City staff recommends City Council adopt a resolution to accept the Repetitive Loss Area Analysis report prepared by Brown and Caldwell and reviewed by City staff.

Mr. Hal Clarkson, representing Brown and Caldwell, explained the community rating system - repetitive loss area analysis. After their analysis, they found 18 valid repetitive loss properties in 6 repetitive loss areas - Biltmore Village, Sweeten Creek, Swannanoa River Road, east Asheville, Lyman Street and Carrier Park. The analysis process (1) generated repetitive loss area maps; (2) performed general area site visits; and (3) generated fact sheets on approximately 9 structures. Specific recommendations for owners include (1) wet flood proofing; (2) dry flood proofing; and (3) compliance ore removal of structures that are not in compliance with applicable building permits. Specific recommendations for the City are (1) continued public outreach by meeting with property owners to raise awareness and answer questions; (2) enforce building codes; and (3) flood awareness/flood warning - consider the feasibility of implementation of a flood warning system. Moving forward he said the City should (1) advise and educate repetitive loss area owners; track progress; and report and adjust.

When Councilman Davis asked how many of the 90 buildings are derelict and should be demolished, Mr. Clarkson said that there are about 18-20 that would not be suitable for either wet or dry flood proofing. The City should contact them now and provide their options to them.

Mr. Clarkson responded to Vice-Mayor Hunt when he asked if they had any sense of the frequency of floods.

Councilwoman Wisler asked if an individual property owner chooses not to do anything, would that affect the other property owners. Mr. Clarkson said that might indirectly affect adjoining property values if those owners know there is an adjoining building that continually floods.

In response to Councilman Bothwell, Mr. Clarkson said that anyone who pays a flood insurance premium will see a decrease in their flood insurance premiums.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 13-264. This motion was seconded by Councilman Bothwell and, after hearing no public comment, carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 33

B. MOTION ESTABLISHING THE CITY COUNCIL GOVERNANCE COMMITTEE AND DISSOLVING THE PERSONNEL COMMITTEE, RULES COMMITTEE, AND THE RETREAT COMMITTEE

Mayor Manheimer said that recognizing the need to explore implications of policy alternatives and the policy development process in the areas of strategic planning, intergovernmental relationships, legislative agendas, and public engagement. She proposed a new standing committee called the Governance Committee.

The following committees would roll into the function of the Governance Committee:

- Rules Committee: Set up to discuss and advise the full City Council on proposed changes to City Council's Rules of Procedures. Members include the Mayor and Vice Mayor. The Committee meets on an as needed basis.

- Personnel Committee: Set up in 2008 by Council motion to provide leadership and guidance for the city council on matters related to personnel issues. The Personnel committee is responsible for leading the annual review of the City Manager, City Clerk and City Attorney. The Personnel Committee is also responsible for leading the process for filling these positions when they become vacant. The Personnel Committee does not have direct decision making authority, serving in an advisory capacity to City Council. 4 members, including a chair, appointed by Council. Committee meets on an as needed basis.

- Retreat Committee: Advises the full City Council on planning for the Annual Council Retreat.

The Governance Committee will operate as a policy review and discussion arm of the City Council. The Committee will provide an opportunity to explore implications of policy alternatives and the policy development process while serving in an advisory capacity to Council as a whole. The Governance Committee will review policy matters referred to them, inform and educate Council on the existing city programs and issues and review other related matters.

The Governance Committee will provide guidance in the following areas:

- City Council Rules of Procedure
- Personnel Issues
- City Council Retreat Planning
- Legislative Agenda
- Strategic Planning
- Public Engagement

Councilman Bothwell moved to establish the City Council Governance Committee and dissolve the Personnel Committee, Rules Committee, and Retreat Committee. This motion was seconded by Councilman Davis.

Councilwoman Wisler asked for a friendly amendment that the functions of the Governance Committee be revisited in six months. Councilman Bothwell and Councilman Davis accepted the friendly amendment.

The amended motion, after hearing no public comment, carried unanimously.

Councilman Bothwell moved to appoint Mayor Manheimer (as Chair), Vice-Mayor Hunt and Councilman Smith to serve as members on the City Council Governance Committee. This motion was seconded by Councilman Pelly and carried unanimously.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

PRIMARY ELECTION RESULTS – CITY OF ASHEVILLE – OCTOBER, 8, 2013; GENERAL ELECTION RESULTS – CITY OF ASHEVILLE – NOVEMBER 5, 2013

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes in the Primary Election, City of Asheville, held on October 8, 2013. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 5, 2013.

Rev. Christopher Chiaronmonte spoke to Council about treating all people equally and showing no favoritism.

Ms. Kim Martin-Engel, representing the Economy, Assets, Safety and Teamwork (EAST) group, said that the mission of their group is to identify and beautify east Asheville, noting that safety has become a priority. They requested a Tunnel Road Corridor Study that better balances the needs of both drivers and pedestrians; and creates a shared vision of how we want this critical roadway to evolve. In February of 2013 they contacted the Transportation Department to address their safety concerns but no follow-up has occurred. The Tunnel Road Corridor Study concept was approved by Council in February of 2012; however, due to staff reorganization by the City they have no City representative to work with them. In May of 2012 they received a draft of the Corridor Study but nothing has been done towards this effort. She asked for the City to move this project to the top of their priority list and address their safety issues.

After a short discussion, it was the consensus of Council to refer this matter to the Planning & Economic Development Commission to have a full discussion on steps to move forward with a Corridor Study.

Recess

At 7:14 p.m. Vice-Mayor Hunt moved to recess the Tuesday, December 10, 2013, meeting of the Asheville City Council until Tuesday, December 17, 2013, at 3:30 p.m. in the Council Chamber, located on the 2nd Floor of City Hall. At that time, it is anticipated that City Council will immediately go into closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

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Tuesday – December 17, 2013 - 3:30 p.m.

Recessed Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Christopher A. Pelly; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Legal Counsel Robert W. Oast Jr.; and City Clerk Magdalen Burleson

Absent: Councilman Jan B. Davis (ill) and Councilman Gordon D. Smith (family emergency)

At 3:30 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

At 4:59 p.m. Mayor Manheimer moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 4:59 p.m.

Magdalen Burleson
CITY CLERK

Esther Manheimer
MAYOR

MUNICIPAL ELECTION
October 8th, 2013
ABSTRACT OF VOTES
FOR
STATE OF NORTH CAROLINA

INSTRUCTIONS

THREE COPIES are to be made. One copy is to be signed by the County Board of Elections and delivered by them, when the canvass is concluded, to the City Clerk (GS 163-300). One copy is to be retained by the County Board of Elections. One copy is to be mailed on canvass day to the Chairman of the State Board of Elections, Raleigh, North Carolina (GS 163-182.6).

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, held as above stated, do hereby certify that the above is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office or referendum named, the name of each person or choice voted for, their party affiliation (where applicable), and the number of votes cast for each person or choice for the item named.

This is the 15th day of October 2013

This day personally appeared before me, John D Watson III
Chairman of the County Board of Elections, who being duly sworn, says the abstract of votes herein contained is true and correct, according to the returns made to said Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed My notarial seal this the 15th day of October 2013.

(Seal)

My Commission (if any) Expires: 7/11/16

Exhibit "A"
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251

	ASHEVILLE MAYOR CITY OF ASHEVILLE		
	Esther Manheimer	John Mial	Martin Ramsey
01.1 STEPHENS LEE CENTE	96	43	43
02.1 ISAAC DIXON ELEMEN	236	32	114
03.1 ST MARKS LUTHERAN	151	40	82
04.1 N ASHEVILLE COMM C	191	56	12
05.1 NEWBRIDGE BAPTIST	292	160	22
06.1 TRINITY PRESBYTERI	79	48	12
07.1 KENILWORTH PRES CH	202	44	30
08.2 SHILOH COMMUNITY C	64	42	13
08.3 FAITH TABERNACLE C	53	25	20
09.1 MURPHY-OAKLEY CENT	99	67	38
10.1 WESLEY GRANT SR CT	50	16	22
11.1 ASHEVILLE SENIOR C	51	13	32
12.1 HALL FLETCHER SCHO	94	39	68
13.1 W ASHEVILLE CHURCH	79	35	53
14.2 ASHEVILLE PRE-SCHO	67	26	35
14.3 PAUL AMOS REC CENT	22	26	12
15.1 VANCE ELEMENTARY	143	70	40
16.2 W ASHEVILLE LIBRAR	98	63	52
17.1 BETHISRAEL SYNAGOG	162	55	25
18.2 TC ROBERSON HIGH	223	92	14
19.1 SKYLAND FIRE DEPT	40	8	3
20.1 BOARD OF ELECTIONS	65	17	16
21.1 HAW CREEK ELEMENTA	136	80	9
22.2 IRA B JONES SCHOOL	284	111	18
23.2 TRIED STONE	7	1	0
23.3 EVERGREEN CHARTER	96	48	1
24.1 CROSSROADS ASSEMBL	51	61	17
25.1 CHARLESCBELL SCHOO	94	45	15
26.1 ASHEVILLE SCHOOL	59	36	16
28.1 COVENANT REFORMED	128	49	25
29.2 NEWHOPE PRESBYTERI	164	63	11
43.2 JOHNSTON SCHOOL	0	1	0
44.1 NEWMORGANHILLBAPTI	30	15	11
45.1 ENKA MIDDLE SCHOOL	0	2	0
54.2 LUTHERAN CH NATIVI	3	2	0
55.1 GLEN ARDEN SCHOOL	3	2	1
62.1 GRASSYBRANCH BAPTI	10	6	2
70.1 WOODFIN COMM CENTE	1	0	0

71.1 WOODLANDHILLSBAPTI	10	4	0
ONE STOP	0	0	0
ABSENTEE	0	0	0
PROVISIONAL	0	0	0
TRANSFER	5	1	3
TOTALS	3638	1544	887

MUNICIPAL GENERAL ELECTION
November 5, 2013
ABSTRACT OF VOTES
FOR
STATE OF NORTH CAROLINA

INSTRUCTIONS

THREE COPIES are to be made. One copy is to be signed by the County Board of Elections and delivered by them, when the canvass is concluded, to the City Clerk (GS 163-300). One copy is to be retained by the County Board of Elections. One copy is to be mailed on canvass day to the Chairman of the State Board of Elections, Raleigh, North Carolina (GS 163-182.6).

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

The County Board of Elections for said county, having opened, canvassed, and judicially determined the original returns of the election in the precincts in this county, held as above stated, do hereby certify that the above is a true abstract thereof, and contains the number of legal ballots cast in each precinct for each office or referendum named, the name of each person or choice voted for, their party affiliation (where applicable), and the number of votes cast for each person or choice for the item named.

This is the 12th day of November 2013

[redacted], Chairman

Robert D. Knapp, Secretary

[redacted]

This day personally appeared before me, JOHN JAY WATSON Chairman of the County Board of Elections, who being duly sworn, says the abstract of votes herein contained is true and correct, according to the returns made to said Board.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed My notarial seal this the 12 day of Nov., 2013.

[redacted]
(Seal)

My Commis[redacted]any) Expires: 7/11/16

[redacted]

[redacted]

Exhibit "B"

	STATISTICS		ASHEVILLE MAYOR CITY OF ASHEVILLE			ASHEVILLE COUNCIL CITY OF ASHEVILLE						BLACK MOUNTAIN MAYOR TOWN OF BLACK MOUNTAIN		
	REGISTERED VOTERS - TOTAL	CAST BALLOTS - TOTAL	Esther Manheimer	John Mial	WRITE-IN	Cecil Bothwell	Mike Lanning	Gordon Smith	Jonathan Wainscott	Gwen Wisler	WRITE-IN	Larry Harris	Michael Sobol	WRITE-IN
01.1 STEPHENS LEE CENTE	1949	336	232	92	2	232	71	245	57	257	10			
02.1 WILLIAM RANDOLPH S	3648	672	558	101	8	547	70	554	84	535	15			
03.1 ST MARKS LUTHERAN	2638	502	415	79	5	422	65	406	78	398	9			
04.1 N ASHEVILLE COMM C	1405	478	344	122	2	337	115	348	78	383	13			
05.1 NEWBRIDGE BAPTIST	2530	887	534	344	6	527	277	621	176	690	13			
06.1 TRINITY PRESBYTERI	1467	308	208	99	1	217	79	237	66	228	0			
07.1 KENILWORTH PRES CH	1773	494	388	95	4	384	94	401	74	408	5			
08.2 SHILOH COMMUNITY C	2343	262	163	96	2	169	93	183	54	183	3			
08.3 FAITH TABERNACLE C	1558	207	158	46	1	152	55	148	41	140	2			
09.1 MURPHY-OAKLEY CENT	3191	400	246	153	0	239	158	258	116	265	7			
10.1 WESLEY GRANT SR CT	1698	184	143	37	1	145	48	127	41	131	2			
11.1 ASHEVILLE SENIOR C	1717	174	142	25	5	139	29	121	31	116	1			
12.1 HALL FLETCHER SCHO	2083	448	327	109	8	303	103	361	117	336	7			
13.1 W ASHEVILLE CHURCH	2397	326	236	83	4	215	77	264	81	237	5			
14.2 ASHEVILLE PRE-SCHO	2329	291	202	87	1	205	74	229	65	210	6			
14.3 PAUL AMOS REC CENT	1442	128	76	46	3	71	57	84	35	79	5			
15.1 VANCE ELEMENTARY	2143	570	408	157	1	404	160	443	131	418	12			
16.2 W ASHEVILLE LIBRAR	2825	505	325	167	5	316	163	375	148	356	7			
17.1 BETHISRAEL SYNAGOG	1782	446	317	126	0	203	101	319	62	373	10			
18.2 TC ROBERSON HIGH	4910	792	499	290	0	451	313	518	181	545	7			
19.1 SKYLAND FIRE DEPT	1116	147	80	66	0	59	70	94	44	105	1			
20.1 BOARD OF ELECTIONS	1023	195	145	49	0	146	44	153	36	148	2			
21.1 HAW CREEK ELEMENTA	2598	501	287	213	0	310	170	327	124	350	11			
22.2 IRA B JONES SCHOOL	2132	791	523	256	4	517	210	578	141	629	14			
23.2 TRIED STONE	121	22	18	3	0	14	7	12	7	14	0			
23.3 EVERGREEN CHARTER	915	270	157	113	0	155	95	189	69	198	3			
24.1 CROSSROADS ASSEMBL	2394	301	159	139	0	155	147	194	103	190	4			
25.1 CHARLESCBELL SCHOO	2508	319	188	131	0	184	113	223	90	228	5			
26.1 ASHEVILLE SCHOOL	1713	249	163	82	4	171	76	183	54	159	3			
28.1 COVENANT REFORMED	2890	404	288	105	3	272	93	291	73	331	7			
29.2 NEWHOPE PRESBYTERI	2811	522	308	210	0	317	201	338	125	373	1			
32.1 OWEN MIDDLE SCHOOL	17	11										5	6	0
33.2 BLACK MTN PRIMARY	1227	326										113	204	2
33.3 BLACK MTN ELEMENTA	2023	504										251	245	1
34.1 LAKE TOMAHAWK	1243	397										188	197	4
35.1 CARVER COMMUNITY C	1732	519										253	260	0
36.1 WALKUP BLDG MONTRE	427	134												
42.1 EMMA ELEMENTARY	127	12												

	STATISTICS		ASHEVILLE MAYOR CITY OF ASHEVILLE			ASHEVILLE COUNCIL CITY OF ASHEVILLE						BLACK MOUNTAIN MAYOR TOWN OF BLACK MOUNTAIN		
	REGISTERED VOTERS - TOTAL	CAST - BALLOTS TOTAL	Esther Manheimer	John Mial l	WRITE-IN	Cecil Bothwell	Mike Lanning	Gordon Smith	Jonathan Wainscott	Gwen Wisler	WRITE-IN	Larry B. Harris	Michael Sobol	WRITE-IN
43.2 JOHNSTON SCHOOL	15	0	0	0	0	0	0	0	0	0	0			
44.1 NEWMORGANHILLBAPTI	880	131	78	50	1	75	54	89	35	86	0			
45.1 ENKA MIDDLE SCHOOL	114	5	3	2	0	4	1	4	0	4	0			
54.2 LUTHERAN CH NATIVI	387	19	3	16	0	7	14	4	18	7	0			
55.1 GLEN ARDEN SCHOOL	162	9	7	2	0	7	3	7	2	8	0			
58.1 N BUNCOMBE MID SCH	55	5												
59.1 FIRST BORN BAPTIST	244	92												
62.1 GRASSYBRANCH BAPTI	264	32	22	10	0	19	9	25	10	24	4			
67.1 WEAVERVILLE TOWNHA	2298	892												
68.1 WEST BUNCOMBE SCHO	149	15												
69.1 ERWIN LIONS CLUB	418	35												
70.1 WOODFIN COMM CENTE	2696	302	2	0	0	2	0	2	0	2	0			
71.1 WOODLANDHILLSBAPTI	1403	218	21	9	0	19	12	21	6	25	2			
OS ESOS	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS AVML	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS SBBL	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS WABL	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS NABL	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ABSENTEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROVISIONAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRANSFER	0	2	2	0	0	2	0	1	0	2	0	0	0	0
TOTALS	81930	15791	8375	3810	71	8193	3521	8977	2653	9171	196	810	912	7

	BLACK MOUNTAIN ALDERMAN TOWN OF BLACK MOUNTAIN						MONTREAT MAYOR TOWN OF MONTREAT		MONTREAT COMMISSIONER TOWN OF MONTREAT				WEAVERVILLE MAYOR TOWN OF WEAVERVILLE			WEAVERVILLE COMMISSIONER TOWN OF WEAVERVILLE			
	Thomas (Tom) Gilliland	E. V. Gouge	Tim Raybourn	Carlos L. Showers	Ryan Stone	WRITE-IN	Jean Letaylor	WRITE-IN	Tim R. Helms	Mary Stanley McPhail	Ann Vinson	WRITE-IN	Gene Knoefel	Dottie Sherrill	WRITE-IN	Lou Acconero	Doug Dearth	Doug Jackson	WRITE-IN
32.1 OWEN MIDDLE SCHOOL	6	2	4	4	6	0													
33.2 BLACK MTN PRIMARY	86	71	95	99	245	4													
33.3 BLACK MTN ELEMENTA	105	146	110	206	351	13													
34.1 LAKE TOMAHAWK	137	97	59	160	274	1													
35.1 CARVER COMMUNITY C	163	104	73	282	354	4													
36.1 WALKUP BLDG MONTRE							123	5	128	120	125	4							
58.1 N BUNCOMBE MID SCH													1	4	0	2	3	4	0
59.1 FIRST BORN BAPTIST													41	50	0	43	54	64	2
67.1 WEAVERVILLE TOWNHA													325	557	1	386	548	639	10
71.1 WOODLANDHILLSBAPTI													29	75	3	44	70	75	1
OS ESOS	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS AVML	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS SBBL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS WABL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
OS NABL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
ABSENTEE	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
PROVISIONAL	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TRANSFER	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
TOTALS	497	420	341	751	1230	22	123	5	128	120	125	4	396	686	4	475	675	782	13

	WOODFIN MAYOR TOWN OF WOODFIN		WOODFIN ALDERMAN TOWN OF WOODFIN					WOODFIN WATER AND SEWER DIST WOODFIN WATER DISTRICT			
	M. Jerry Vehaun	WRITE-IN	Andrea Boyer	W. Jackie Bryson	Debra Gieze (Debbie Dennett)	Don Hensley	WRITE-IN	Sara Wasay	Joseph Melisk	Keith S. Snyder	WRITE-IN
05.1 NEWBRIDGE BAPTIST	0	0	0	0	0	0	0	194	166	193	3
28.1 COVENANT REFORMED								7	5	5	1
42.1 EMMA ELEMENTARY	9	0	7	7	10	8	0				
68.1 WEST BUNCOMBE SCHO	13	1	8	9	9	12	1				
69.1 ERWIN LIONS CLUB	25	4	24	22	19	22	0				
70.1 WOODFIN COMM CENTE	259	9	118	228	243	197	2	209	157	175	10
71.1 WOODLANDHILLSBAPTI	71	1	22	66	68	72	0	3	2	2	0
OS ESOS	0	0	0	0	0	0	0	0	0	0	0
OS AVML	0	0	0	0	0	0	0	0	0	0	0
OS SBBL	0	0	0	0	0	0	0	0	0	0	0
OS WABL	0	0	0	0	0	0	0	0	0	0	0
OS NABL	0	0	0	0	0	0	0	0	0	0	0
ABSENTEE	0	0	0	0	0	0	0	0	0	0	0
PROVISIONAL	0	0	0	0	0	0	0	0	0	0	0
TRANSFER	0	0	0	0	0	0	0	0	0	0	0
TOTALS	377	15	179	332	349	311	3	413	330	375	14

MUNICIPAL ELECTION
November 5th, 2013
ABSTRACT OF WRITE-IN VOTES
STATE OF NORTH CAROLINA

INSTRUCTIONS

THREE COPIES are to be made. One copy is to be signed by the County Board of Elections and delivered by them, when the canvass is concluded, to the City Clerk (GS 163-300). One copy is to be retained by the County Board of Elections. One copy is to be mailed on canvass day to the Chairman of the State Board of Elections, Raleigh, North Carolina (GS 163-182.6).

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

Write-in votes must be accounted for if an individual receives 5 or more votes. All other write-in votes shall be accumulated and placed under Miscellaneous

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OFFICE: **Mayor City of Ashveille** TOTAL WRITE-IN VOTES: **71**
NAME: **Martin Ramsey** WRITE-IN VOTES: **29**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **42**

OFFICE: **City Council City of Asheville** TOTAL WRITE-IN VOTES: **196**
NAME: **Martin Ramsey** WRITE-IN VOTES: **6**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **190**

OFFICE: **Black Mountain Mayor** TOTAL WRITE-IN VOTES: **7**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **7**

OFFICE: **Black Mountain Alderman** TOTAL WRITE-IN VOTES: **22**
NAME: **Bob Pauly** WRITE-IN VOTES: **10**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **12**

OFFICE: **Town of Montreat Mayor** TOTAL WRITE-IN VOTES: **5**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **5**

OFFICE: **Town of Montreat Commissioner** TOTAL WRITE-IN VOTES: **4**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **4**

OFFICE: **Town of Weaverville Mayor** TOTAL WRITE-IN VOTES: **4**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **4**

OFFICE: **Town of Weaverville Commissioner** TOTAL WRITE-IN VOTES: **13**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **13**

OFFICE: **Town of Woodfin Mayor** TOTAL WRITE-IN VOTES: **15**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **15**

OFFICE: **Town of Woodfin Alderman** TOTAL WRITE-IN VOTES: **3**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **3**

OFFICE: **Woodfin Water & Sewer District** TOTAL WRITE-IN VOTES: **14**
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
NAME: WRITE-IN VOTES:
MISCELLANEOUS VOTES: **14**

Tuesday – January 14, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Manager recognized (1) from the Women's Pipe Tapping Team Michelle Smith, Brenna Cook, Virginia Pardo, and Myrriah Ringgenberg; (2) Timothy Burdine Jr. as the Water Distribution Operator of the Year Award and the Operators Meritorious Service Award; (3) Barb Mee, Sgt Scott Pruett, Officer Jon Derrick, Scott Barnwell, Alan Glines and Marsha Stickford for their work on the Asheville Silver Walk Friendly Community Award; (4) Mark Case, Joe Chennault, Abigail Riley, Jay Eichhorn, Susannah Carver, Alec Arthur, Alisha Carrol, Eric Evans, Heather Rhinehart, Steve Bothelo, Jamie Fortner, Gary Sanders, Sheila Salyer, Garrett Gates, Misty Lipe, Jim Hayes, Amy Tesner, Anne Graham. Diane Meek, Chris Rossi, Kim Levi, Jerry Reese, Ron Evans, Gary Stamey, Scott Metcalf, and Mark Matheny for their work on achieving the ISO Building Code Effectiveness Grading Classification 2; (5) ACEC Excellence in Engineering - RADTIP Design Project - Dan Baechtold, Stephanie Monson-Dahl, Ken Putnam, and Cathy Ball; (6) ACEC Excellence in Engineering - Cherokee Retaining Wall - Greg Shuler, John Gavin, Brian Estes, Lee Morrison and Stacy Merten; (7) Asheville Police Department employees for their response to a discharged weapon on Max Street; and (8) Asheville Fire Department, Asheville Police Department, Water Resources Department, and Public Works Department for their assistance with the gas line rupture beneath Sand Hill Road.

On behalf of City Council, Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

II. CONSENT AGENDA:

At the request of City Manager Jackson, Consent Agenda Item "H" was removed from the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE ORGANIZATION MEETING AND FORMAL MEETING HELD ON DECEMBER, 10, 2013

B. RESOLUTION NO. 14-1 - RESOLUTION ACCEPTING A 6,000 GALLON ABOVE GROUND FUEL STORAGE TANK AS A GIFT FROM THE NATIONAL GUARD ARMORY IN SYLVA, N.C.

ORDINANCE NO. 4259 - BUDGET AMENDMENT IN ORDER TO RELOCATE THE TANK AND GET IT READY FOR USE

Summary: The consideration of a resolution to accept a 6,000 gallon above ground fuel storage tank as a gift from the National Guard Armory in Sylva, N.C.; and an associated budget amendment in the amount of $75,000 from general capital reserves to setup a budget in the Transit Services Fund in order to relocate the tank and get it ready for use.

The National Guard Armory in Sylva, North Carolina, has a used 6,000 gallon above ground fuel storage tank that is no longer needed and through the efforts of Mr. Jerry VeHaun, who is the Director of Emergency Services for Buncombe County, it is being offered to the City of Asheville as a gift. City staff is requesting that the gift be accepted with gratitude to Mr. VeHaun and the National Guard Armory in Sylva.

With the arrival of the new transit buses, an unintended consequence has occurred. The buses have smaller fuel tanks and as a result, they have to be refueled more often especially the buses that are used for both the daytime and nighttime shifts. The normal refueling time is between 6:00 pm and 9:00 pm. It is critical to be able to "top-off" the buses that come in after 9:00 pm so that they will be ready for the next day.

Public Works, Fleet Management, and First Transit staff went to Sylva to look at the tank and they verified that it is in excellent condition. Our challenge is to get it moved and setup at the transit garage complex since the tank weighs 59,000 pounds empty. The estimated cost to accomplish the work including the fuelmaster card reader system is about $75,000 (the estimated cost includes 13% for contingencies).

In addition to resolving a refueling need for the transit buses, the tank would be available for use by other departments especially during emergency times or when the primary fueling station is closed for maintenance activities. The City of Asheville has a fuel conservation plan that recognizes the need for a fuel supply in order to conduct city business as a progressive service delivery organization. The fuel conservation plan is grounded on the need to practice responsible conservation whenever possible. The plan applies to all city departments and it implements measures in three stages (levels) dictated by the availability of fuel in the community. Under Level 1, the City is uncertain about fuel supply sources and is generally operating with less than 15 days of fuel storage. Under Level 2, the City does not anticipate fuel deliveries in the immediate future and is generally operating with less than 10 days of fuel storage. Under Level 3, the fuel supply is very limited and the City is generally operating with less than 5 days of fuel storage. The tank would increase the City's fuel storage capacity thereby enabling the City to gain an additional 5 to 7 days of independent emergency operation during fuel conservation directives.

The total estimated project cost is $75,000 which includes 13% for contingencies. The project will be paid for out of the Transit Services Fund, but funding for the project will come from general capital reserves. As reported in the 1st Quarter Financial Report, there is currently $130,000 available in unspent general capital reserves. After this $75,000 appropriation, there will be a remaining balance of $55,000.

City staff recommends that City Council approve a resolution to accept a 6,000 gallon above ground fuel storage tank as a gift and approve an associated budget amendment in the amount of $75,000 from general capital reserves to setup a budget in the Transit Services Fund in order to relocate the tank and get it ready for use.

In response to Councilman Bothwell, Interim Public Works Director Ken Putnam said that the net savings to the City is approximately $27,000 compared to the cost of a new tank.

RESOLUTION BOOK NO. 36 - PAGE 39
ORDINANCE BOOK NO. 28 - PAGE 404

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C. RESOLUTION NO. 14-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SPECIAL MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ALLOW PUBLIC PARKING UNDER A SECTION OF BRIDGE # 322 AND # 323 IN THE RIVER ARTS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to execute a special maintenance agreement between the N.C. Dept. of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 in the River Arts District.

Bridge # 322 and # 323 are known as the Capt. Jeffrey Bowen Bridges and they provide access for I-26, I-240, US 19-23, and US 74-A across the French Broad River. In addition, the bridges provide a critical connection between downtown Asheville and West Asheville. As a part of the infrastructure improvements for the New Belgium project, a low impact development (LID) surface parking area will be constructed that will accommodate about 68 parking spaces. This parking area, which will be located adjacent to the French Broad River and a greenway trailhead, will enable citizens to park their vehicles and enjoy the scenery.

The City and the N.C. Dept. of Transportation have similar agreements at other locations including the public parking under the I-240 bridge adjacent to North Lexington Avenue, the public parking under the US 25 (McDowell Street) bridge adjacent to SR 3556 (Meadow Road), the public parking under the SR 3548 (Haywood Road) bridge adjacent to Riverside Drive, and the public parking adjacent to Cherry Street.

The parking area will be constructed as a part of the infra-structure improvements for the New Belgium project at an estimated cost of $260,000. Staff anticipates bringing a construction contract and budget amendment to fund construction to Council for approval in early 2014.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a special maintenance agreement between the N.C. Dept. of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 in the River Arts District.

RESOLUTION BOOK NO. 36 - PAGE 40

D. RESOLUTION NO. 14-3 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS TO PERFORM THE FEE SIMPLE ACQUISITION OF REAL PROPERTY FOR THE PURPOSE OF INSTALLING SIDEWALK ALONG AZALEA ROAD AND NC 81 AS PART OF THE LAKE CRAIG/AZALEA ROAD PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute all necessary documents to perform the fee simple acquisition of a portion of real property located along NC 81 and a portion of real property located at the intersection of NC 81 and Azalea Road, for the purposes of installing sidewalk along Azalea Road and NC 81 as part of the Lake Craig/Azalea Road Project.

The Lake Craig/Azalea Road Improvement Project has the opportunity to provide improved access to the Azalea Park along Azalea Road, to provide a much needed water connection to the John B. Lewis Soccer Complex and to provide additional flood protection to Biltmore Village. A majority of the work will be performed within the existing right-of-way owned by the city. The remaining work will require the acquisition of the two private properties to include but not limited to: easements for sidewalks and roadway improvements. Staff has been in contact with the property owners impacted by the improvements, and anticipates the total cost for both easements to be approximately $10,500. This pricing is consistent with the tax-appraised value of the impacted areas. To streamline the process, staff is requesting that City Council

authorize the City Manager to negotiate the final cost associated with this fee simple acquisition and to accept all legal interest in real property associated with this project.

The City's staff will be responsible for obtaining all legal interest in real property associated with this project. Modest costs for the value of the fee simple easement, deed recording fees, surveys, etc. have been budgeted within the existing project budget for the Lake Craig/Azalea Road Improvements Project.

City staff recommends that City Council adopt the resolution authorizing the City Manager to negotiate the final cost associated with this fee simple acquisition of an 0.013 acre portion of property on NC 81 (portion of PIN # 9668-15-1194) and an 0.051 acre portion of property located at the intersection of NC 81 and Azalea Road (portion of PIN #9668-15-2008), and to accept all legal interest in real property associated with this project.

RESOLUTION BOOK NO. 36 - PAGE 41

E. RESOLUTION NO. 14-4 - RESOLUTION ADOPTING THE 2012 LOCAL WATER SUPPLY PLAN

Summary: The consideration of a resolution adopting the 2012 Local Water Supply Plan as required by N.C. Dept. of Environment & Natural Resources.

Every year, the Water Resources Department is required to complete a Local Water Supply Plan (LWSP) update. On November 20, 2013, the N.C. Dept. of Environment and Natural Resources (NCDENR) issued a letter stating that the department's 2012 LWSP is complete and must be adopted by the water system's governing board. The LWSP contains a variety of information about the City of Asheville's water system, including:

- The distribution system (i.e. types/sizes of water lines);
- Water conservation programs;
- Water use (i.e. number of metered connections and average use by customer type);
- Water sales to wholesale customers;
- Monthly withdrawals from reservoirs;
- Surface water sources (i.e. locations and average monthly withdrawals);
- Wastewater discharge by the Metropolitan Sewerage District (MSD);
- Present and projected population;
- Present and future water supplies; and
- Other relevant information as NCDENR may require.

In order for the 2012 LWSP to be compliant with N.C.G.S. §143-355(l), City Council must formally adopt the plan. Once the City Council adopts the 2012 LWSP NC DENR will change the status of the report from "Provisional" to "Compliant".

City staff recommends City Council adopt the 2012 Local Water Supply Plan.

RESOLUTION BOOK NO. 36 - PAGE 42

F. RESOLUTION NO. 14-5 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO ADD THE CITY COUNCIL ANNUAL RETREAT ON FEBRUARY 7-8, 2014, BEGINNING AT 9:00 A.M. AT THE U.S. CELLULAR CENTER

RESOLUTION BOOK NO. 36 - PAGE 43

G. RESOLUTION NO. 14-6 - RESOLUTION ACCEPTING A U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT CONTINUUM OF CARE PLANNING GRANT

ORDINANCE NO. 4260 - BUDGET AMENDMENT FOR A CONTINUUM OF CARE PLANNING GRANT

Summary: The consideration of a resolution to accept HUD 2012 Continuum of Care Grant Planning funds to provide staff support for the Homeless Initiative; and the associated budget amendment in the amount of $13,180.

The City of Asheville is the Collaborative Applicant for the Asheville-Buncombe Continuum of Care (NC-501 as designated by HUD). In this past year's Continuum of Care Grant Competition, Collaborative Applicants were eligible to apply for Planning Project funds to assist with staff support. Funding recommendations were made by the Homeless Initiative Advisory Committee for each project application, including the City's application. These recommendations followed a process that included review and preliminary selection by a funding Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee. The City submitted a timely application to the Department of Housing and Urban Development, Special Needs Assistance Projects office for Planning Project funds in the FY2012 Continuum of Care Competition. We have been informed that our application has been approved, for $13,180.

These funds will be used to support the part-time Continuum of Care Coordinator position, within the Community Development Division. The position supports Asheville and Buncombe County agencies providing services to the homeless, ensuring that the HUD-required databases are accurately maintained; that funding flowing through the City to those agencies is distributed on a timely basis; and supporting the Homeless Initiative Coordinator in other administrative tasks.

Program funding is entirely from the US Department of Housing and Urban Development. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution and budget amendment in the amount of $13,180 authorizing the City to accept HUD Continuum of Care funding, and to provide those funds to the Community Development Division to support the Homeless Initiative staff, approved by the Department of Housing and Urban Development, Special Needs Assistance Projects office.

RESOLUTION BOOK NO. 36 - PAGE 44
ORDINANCE NO. 28 - PAGE 406

H. RESOLUTION DELEGATING THE CITY MANAGER TO EXEMPT (IN WRITING) PROJECTS FROM THE FORMAL BIDDING PROCESS WHEN THE ESTIMATE FOR THE PROFESSIONAL SERVICES ARE LESS THAN $50,000 IN ACCORDANCE WITH N.C. GEN. STAT. SEC. 143-64.32

This item was removed from consideration.

I. ORDINANCE NO. 4261 - BUDGET AMENDMENT IN EACH OF THE CITY'S ANNUAL OPERATING FUNDS TO APPROPRIATE FROM RESERVED FUND BALANCE THE REQUIRED BUDGET AUTHORIZATION FOR PRIOR YEAR CONTRACTS, PURCHASE ORDERS, AND OTHER CARRY-OVER APPROPRIATIONS THAT ROLLED FORWARD TO FISCAL YEAR 2013-14

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from reserved fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2013-14.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the FY 2012-13 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2013-14, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2013-14 budget for each of the City's annual operating funds.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's FY 2012-13 financial statements. There is no impact on available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from reserved fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2013-14.

ORDINANCE BOOK NO. 28 - PAGE 408

J. ORDINANCE NO. 4262 - BUDGET AMENDMENT FOR THE TERRAZZO FLOOR ARTWORK AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment in the amount of $16,800 to transfer funding from the public art maintenance project to the public art acquisition project for the cost to develop the terrazzo floor artwork in the US Cellular Center.

In October 2013, the terrazzo floor artwork in the US Cellular Center was completed as part of the center renovations. Total cost for artwork floor was $16,800 for project proposal, design and fabrication. The project was funded by the budget for the Public Art Program, which the City maintains in two separate projects in its financial system, one for maintenance of existing artwork and one for art acquisition. In order to fund the terrazzo floor artwork planned for FY 2013-14, staff is requesting Council approve a technical budget amendment moving $16,800 from the public art maintenance project to the public art acquisition project

The technical budget amendment is a one-time reallocation of previously approved public art funding from maintenance to acquisition.

Staff recommends City Council approve the technical budget amendment authorizing the City Manager to transfer budget in the amount of $16,800 from the public art maintenance project to the public art acquisition project for the cost to develop the terrazzo floor artwork in the US Cellular Center.

ORDINANCE BOOK NO. 28 - PAGE 410

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE EXTERNAL AUDIT OF THE FISCAL YEAR 2013 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Ms. Barbara Whitehorn, Director of Finance and Management Services, said that this is the consideration of a motion to accept the FY 2013 Comprehensive Annual Financial Report (CAFR).

Mr. Collin Hill, CPA, Audit Partner with Cherry Bekaert LLP, delivered the City's Comprehensive Annual Financial Report (CAFR) and provided City Council with a review of the audit. He reviewed the different audit areas of focus.

Their result on financial statements resulted in (1) their opinion was unmodified; (2) there are no significant deficiencies or material weaknesses noted in internal control; and (2) no instances of noncompliance noted in statutory compliance.

The results on the OMB A-133 Audit resulted in (1) their opinion was unmodified; (2) there were no significant deficiencies or material weaknesses noted in internal control; and (3) regarding statutory compliance, there are three instances of nonmaterial noncompliance: (1) one related to Davis-Bacon Act, questions costs below required reported amount; (2) one related to Allowable Cost/Cost Principles, questioned costs determined to be immaterial; and (3) one related to Subrecipient Monitoring, questioned costs not applicable.

The results of state single audit resulted in (1) their opinion was unmodified; (2) there are no significant deficiencies or material weaknesses noted in internal control; and (2) no instances of noncompliance noted in statutory compliance.

When Councilwoman Wisler asked about the information technology recommendations noted in the audit, Mr. Hill stated that they only noted those because they are best practices and that in an ideal world all of those would be implemented. City Manager Jackson said that he would provide City Council with a written response.

In response to Vice-Mayor Hunt, Ms. Whitehorn said that the City has a policy of maintain a 15% General Fund Fund Balance. In 2012, the City ended with a 15.9% Fund Balance and in 2013, the City ended with a 17.6% Fund Balance. She was glad that the City is beginning to see economic recovery.

Vice-Mayor Hunt moved to accept the 2014 Comprehensive Annual Financial Report. This motion was seconded by Councilman Smith and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE THE EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES

RESOLUTION NO. 14-8 - RESOLUTION PERMANENTLY CLOSING THE EXCESSIVE SUMMIT AVENUE RIGHT-OF-WAY AND AN UNOPENED RIGHT-OF-WAY BETWEEN SUMMIT AND ALLEN AVENUES

Interim Public Works Director Ken Putnam said that this is the consideration of a resolution to permanent close the Summit Avenue right-of-way. This public hearing was advertised on December 20, 2013; December 27, 2013; January 3, 2014; and January 10, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, the adjoining property owners have requested the City of Asheville to permanently close a portion of the excess right-of-way adjacent to Summit Avenue and an unopened right-of-way between Summit and Allen Avenues.

City staff has reviewed the request and concur that the right-of-way closings will not have a negative impact on City services or active City transportations systems. The developer will maintain a minimum of 50 feet to remain open as right-of-way for Summit Avenue.

The Multimodal Transportation Commission met on December 4, 2013, and voted to unanimously support the right-of-way closures on condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

Mr. Putnam noted that the resolution will be amended to include the Multimodal Transportation Commission's condition that the developer consider providing multimodal improvements as part of the improvements of the development project.

This closure allows maximum land use potential for further development complying with the Asheville City Development Plan, Land Use. The Strategic Plan Goals most closely aligned with this closure request is the Job Growth and Community Development Goal in that it will provide infill growth to make efficient use of existing resources.

City staff recommends City Council adopt the resolution to permanently close portions of excessive Summit Avenue right of way and an unopened right-of-way between Summit and Allen Avenues.

Mayor Manheimer noted that the property description will be amended to include a metes and bounds description.

Mayor Manheimer opened the public hearing at 5:40 p.m. and when no one spoke, she closed the public hearing at 5:40 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-8, including the condition by the Multimodal Transportation Commission and the revised property description. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 26– PAGE 46

B. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AMENDMENT TO THE 2011-12 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO ALLOW THE ASHEVILLE HOUSING AUTHORITY TO REPURPOSE CDBG FUNDS

RESOLUTION NO. 14-9 - RESOLUTION TO SUBSTANTIALLY AMENDED THE 2011-12 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO ALLOW THE ASHEVILLE HOUSING AUTHORITY TO REPURPOSE CDBG FUNDS

Director of Community Development Jeff Staudinger said that this is the consideration of a resolution to substantially amended the 2011-2012 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME funds to allow the Asheville Housing Authority to repurpose CDBG Funds. This public hearing was advertised on January 3 and 10, 2014.

In 2011, the Housing Authority requested and was awarded $40,037 in CDBG funds to support resident engagement, education and participation in a possible HOPE VI or Choice Neighborhoods redevelopment process for Lee Walker Heights. Although the Housing Authority is still investigating long-term options for Lee Walker Heights, their efforts (in partnership with the City of Asheville) to obtain Choice Neighborhood funding from HUD were unsuccessful. However, the Housing Authority's application to HUD in support of the creation of a green jobs training center at the Reid Center was successful.

In support of that project, the Housing Authority is requesting that the funds originally programmed for Lee Walker Heights instead be made available for infrastructure including high speed Internet connectivity at the W.C. Reid Center, or if that can be funded through donation or other grants, for other improvements to the Center. The specific use can be determined at the time of the development of the grant contract.

The Housing Authority estimates that 275 persons will benefit from the training activities supported by the facility.

The Housing and Community Development Committee considered this request in November of 2013, and supports this request.

The proposed use of funds would grant federal funds already allocated to the City. No City general funds are affected.

Staff recommends City Council amend the 2011-2012 Annual Action Plan to repurpose $40,037 allocated to the Asheville Housing Authority to support infrastructure development at the Reid Center.

Mayor Manheimer opened the public hearing at 5:43 p.m. and when no one spoke, she closed the public hearing at 5:43 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 14-9. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 26– PAGE 48

C. PUBLIC HEARING REGARDING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S MERGER WITH THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4263 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES MERGING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA

RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4264 - ORDINANCE AMENDING CHAPTER 2 OF THE CODE OF ORDINANCES MERGING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE'S FUNCTION AND DUTIES INTO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

ORDINANCE NO. 4265 - ORDINANCE DISSOLVING THE RIVER DISTRICT DESIGN REVIEW COMMITTEE

RESOLUTION NO. 14-10 - RESOLUTION ADOPTING A REVISION TO THE RIVER DISTRICT DESIGN GUIDELINES

On December 10, 2013, at the request of City staff, Councilman Davis moved to continue this public hearing until January 14, 2014. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

Urban Planner Stephanie Monson-Dahl said that this is the consideration of (1) an ordinance to dissolve the River District Design Review Committee and reassign the river district design review function to the Asheville Area Riverfront Redevelopment Commission; (2) two ordinances to amend the Asheville City Code to effect this aforementioned change; and (3) a resolution to revise the River District Review Guidelines to include a River District Design Review Area Map which expands the area for performing river district design review beyond the current River District zoned parcels.

The River District Design Review Committee (RDDRC) was formed in November of 1997 to promote Asheville's riverfront as a vital economic development area for Asheville and western North Carolina and to perform design review for major works projects located within the River District zoned areas of the city. It has been staffed by the Office of Economic Development since March 2013.

In 2009 Asheville City Council chartered a new board - The Asheville Area Riverfront Redevelopment Commission (AARRC) that serves a similar, yet expanded purpose of promoting riverfront revitalization through an explicit partnership with Buncombe County, the Town of Woodfin, RiverLink, the Asheville Area Chamber of Commerce, and the Council of Independent Business Owners. The AARRC charter, though modeled after the Downtown Commission (which performs Downtown Design Review), did not include the River District Design Review function. The AARRC has been staffed by the Office of Economic Development since its creation.

On August 28, 2013, the River District Design Review Committee unanimously recommended to the AARRC and City Council that staff pursue changes to the Code of Ordinances that would: dissolve the RDDRC; maintain river district design review as a development review requirement and reassign the function of river district design review/major works review to the AARRC; and realign the geography of the river district design review function so that it no longer is based on River District zoning, but aligns with the geography of the City's redevelopment efforts by using an adopted map area.

The City Council Planning and Economic Development, at their September 17, 2013, meeting, voiced support for staff to work on the RDDRC proposal, and to bring the Code of Ordinance changes forward for Council consideration when appropriate.

The Planning and Zoning Commission, at their November 6, 2013, meeting, voted unanimously to recommend that Council to amend sections 7-3-10 (Decision Making Bodies, River District Design Review Committee) and 7-5-18 (Development Review Procedures, River District Design Review) of the Code of Ordinances; and for Council to revise the river district

review guidelines by adopting a new map that expands the design review area to parcels that are not zoned River District but are located within the riverfront area.

The Asheville Riverfront Redevelopment Commission reviewed this item at their November 2013 meeting and unanimously voted to support Planning and Zoning's recommendation and to recommend that Council amend section 2-185.20 (Asheville Area Riverfront Redevelopment Commission).

City staff recommends City Council (1) adopt an ordinance dissolving the River District Design Review Committee and re-assigning the river district design review function to the Asheville Area Riverfront Redevelopment Commission; (2) to adopt an ordinance amending sections 7-3-10 and 7-5-18 of the City Unified Development Ordinance to effect the change described in (1); (3) adopt an ordinance amending the section 2-185.20 of the Asheville Code of Ordinances to effect the change described in (1); and (4) adopt a resolution to revise the River District Design Guidelines to include a new River District Design Review Area Map that will serve as the basis for performing river district design review.

Mayor Manheimer opened the public hearing at 5:49 p.m. on the amendments to Chapter 7 at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and resolution and they would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4263. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 412

Mayor Manheimer opened the public hearing at 5:50 p.m. on the amendments to Chapter 2 at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4264. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 418

Mayor Manheimer opened the public hearing at 5:50 p.m. on the dissolution of the River District Design Review Committee at 5:50 p.m., and when no one spoke, she closed the public hearing at 5:50 p.m.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4265. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 424

Mayor Manheimer opened the public hearing at 5:50 p.m. on the revision to the River District Design Guidelines at 5:51 p.m., and when no one spoke, she closed the public hearing at 5:51 p.m.

Councilman Smith moved to adopt Resolution No. 14-10, adopting a revision to the River District Design Guidelines. This motion was seconded by Councilman Davis and carried unanimously.

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Ms. Pattiy Torno, Chair of the Asheville Area Riverfront Redevelopment Commission, spoke in support of the amendments.

On behalf of City Council, Councilman Smith thanked those who served on the River District Design Review Committee over the years.

D. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF PROPERTY FRONTING ROBINHOOD ROAD, BEAVERBROOK ROAD AND BEAVERBROOK COURT FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4266 - ORDINANCE REZONING A PORTION OF PROPERTY FRONTING ROBINHOOD ROAD, BEAVERBROOK ROAD AND BEAVERBROOK COURT FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of property fronting Robinhood Road, Beaverbrook Road and Beaverbrook Court from RS-2 Residential Single-Family Low Density District to RS-4 Residential Single-Family Medium Density District. This public hearing was advertised on January 3 and 10, 2014.

Mr. Esselstyn said that the subject property is approximately 13 acres (of which approximately 11 are in the City's jurisdiction) of vacant, wooded land. The parcel overall has an average natural slope of about 42%, with elevations from 2,390 to 2,550 feet above sea level, putting it in the most restrictive category of the UDO's steep slope development regulations. The lot has frontage on Beaverbrook Court, Beaverbrook Road, and Robinhood Road. Several small streams run through the property.

The applicant has requested a standard rezoning from RS-2 (Residential Single-Family Low Density) district to RS-4 (Residential Single-Family Medium Density) district, which is the predominant zoning classification to the south and east of the subject property, in order to achieve marginally higher density.

As mentioned above, a majority of the subject parcel's area is in the City's corporate limits; however, the northern and western tips are in the Town of Woodfin. Other nearby properties to the north and west are either zoned by the Town of Woodfin, or not zoned at all, in the case of former City of Asheville ETJ area at the terminus of Beaverbrook Road.

At their December 4, 2013, meeting, the Planning and Zoning Commission voted unanimously (6-0) to recommend approval of the request. Several citizens spoke in opposition to the rezoning or to voice concerns about stormwater runoff and disturbance of the land.

Along the southern and eastern boundaries of the subject property, most of the adjacent zoning is RS-4, and the adjacent lots are developed with single-family homes on lots averaging roughly 0.8 acres in size. At the northeast corner, there is an area of RS-2 zoning.

To the north and west, there is a large vacant property owned by the same corporation that owns the subject parcel, and a single-family home on a four-acre lot, owned by the president

of said corporation. Part of the single-family house lot is zoned RS-2, but most of the zoning in this area is the Town of Woodfin's "Mountain Village" zoning district. To the southwest, there are seven single-family residential lots (six are developed) that are in unincorporated Buncombe County and are unzoned.

Owing to the steep slope classification mentioned above, the currently allowed residential density is much lower than the two units per acre one might expect in a flatter, lower elevation setting of RS-2 zoning. The regulations limit density to 0.1 units per acre, meaning that the minimum average lot size in a new subdivision would be 10 acres. As such, the applicant can't currently subdivide the 13-acre parcel.

The allowed density in RS-4 zoning at this slope and elevation, by contrast, is 0.2 units per acre, which would allow for a new subdivision with minimum average lot sizes of 5 acres, and in this case, would permit the 13-acre parcel to be divided into two single-family house lots.

It is important to note that the amount of grading allowed would remain substantially unchanged, regardless of the zoning district. Only 15% of the site would be allowed to be graded; in other words, at least 85% of the land area would need to remain undisturbed, whether the property is developed as one lot or two. Further, the steepness of the terrain would require that development applications be accompanied by geotechnical analysis to address the higher risk of slope failure in this setting.

Since the adoption of the revisions to the steep slope ordinance in 2007, staff has not typically been supportive of requests to "up-zone" properties in sensitive steep slope areas, especially those that are "Zone B" and in the steepest slope category. Staff has some concern that such action could be viewed as a precedent inviting other such requests or as a perceived weakening of the City's stance on such environmental protections.

This particular parcel, however, does stand out as unlike many of the other steep slope properties in RS-2 zoning. The majority of its boundary is adjacent to higher-density zoning, and there is established higher-density development on two of the roads on which the parcel has frontage. The rezoning, if it were approved, would still require the applicant to create parcels significantly larger than the existing house lots on two sides. Much of the area to the west and north is in different jurisdictions, where the zoning (or lack thereof) would even allow high-density multifamily development.

Were the zoning change to be approved, a narrow sliver of RS-2 zoning would remain on an adjacent parcel on Robinhood Road (lot 1371), but this split-zoning situation has existed on the neighbor's lot for at least eight years. Were it to become problematic for the property owners, staff feels it would not be difficult to resolve, as the vast majority of that lot is already zoned RS-4.

Staff has been contacted by several neighboring property owners, and several neighboring residents spoke at the Planning and Zoning Commission public hearing in opposition to the proposal. While two phone calls were solely seeking more information, the dominant concern recurring through these communications was disturbance of fragile land and the potential for problematic erosion and increased runoff.

The Asheville City Development Plan 2025 supports special treatment for sensitive areas and steep slopes that should be treated with caution during development, which could be viewed as contrary to the applicant's request. A different perspective, however, would cite the plan's recommendation that "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure" to support the rezoning as compatible with the higher-density surroundings.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Rezoning a steeply sloped property to a higher-intensity zoning district is in conflict with past staff actions and Council direction.
- In this particular instance, RS-4 zoning can be viewed as more compatible with the surrounding zoning and development context than the currently assigned zoning district.

Staff is reluctant to support a change to higher-impact zoning in high-elevation areas with over 40% slope. This rezoning, however, would not increase the amount of land disturbance allowed. Since the property in question is flanked by almost twenty parcels developed with single family homes, all but one of which is less than two acres in size, staff feels an argument can be made for allowing two house lots averaging 6.5 acres in size – in the name of compatibility.

In response to Vice-Mayor Hunt, Mr. Esselstyn explained how the proposed rezoning would not increase the amount of land disturbance allowed.

In response to Vice-Mayor Hunt, Stormwater Services Manager McCray Coates said that there is no requirement for stormwater for single-family properties; however, they still have to comply with erosion control measures.

Mayor Manheimer opened the public hearing at 6:01 p.m. and when no one spoke, she closed the public hearing at 6:01 p.m.

In response to Councilman Smith, Mr. Scott Best, attorney representing Sherwood Heights Development Inc., said that they hope to sell the two lots to individual users and what kind of lot configuration will depend on those users. His sense is that there will be a building site on the lower area and then one higher up. He felt the fairest and easiest would divide the 15% based upon the amount of acreage and how the acreage is split. At this time, they can't market and sell the lots because it is one big lot.

Councilman Smith understood the conformity of the surrounding area, but wondered if we leave the property as is are we likely to see less land disturbed in a very sensitive area than to divide it and get closer to the 15% land disturbance. That uncertainty leaves him uncomfortable.

Mr. Best said that if rezoned, this would be two of the largest lots within miles around. He felt it's reasonable to have more than one home on 13 acres. He understood Councilman Smith's concern; however, under the statute, 15% of land disturbance is allowed.

Councilman Pelly felt that the City enacted the steep slope ordinance to protect surrounding properties and given that the developer intends to comply with the standards, he would support the rezoning.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to deny the proposed rezoning due to the steep slope. This motion was seconded by Councilman Smith and failed on a 2-5 vote, with Mayor Manheimer, Vice-Mayor Hunt, Councilman Davis, Councilman Pelly and Councilwoman Wisler voting "no."

Councilman Pelly found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4266. This motion was seconded by Councilman Davis and carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no".

ORDINANCE BOOK NO. 28 – PAGE 426

E. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4267 - ORDINANCE REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RM-16 Residential Multi-Family High Density District. This public hearing was advertised on January 3 and 10, 2014.

On September 10, 2013, staff presented a Council requested zoning analysis of the properties that are the subject of this rezoning proposal (and others in the vicinity). After the presentation the Council voted to direct staff to pursue a rezoning of these properties, and to contact the owner of these properties to request that he consider a rezoning of the adjacent property with the Institutional Conditional Zoning to an RM-16 Conditional Zoning. This report proposes a rezoning from Institutional to RM-16 for the Kenilworth Inn property (PIN:9648722062 / 5.81 acres) and a small adjoining property owned by Caledonia Development LLC (PIN:9648714812 /.61 acre).

As noted in prior reports to Council, the staff believes that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues. The Institutional Zone is a relic of a time when the Kenilworth Inn operated as a medical facility. When comprehensive rezoning was implemented in this area in 1980 a zone was chosen to reflect the existing use on the property (a common practice at the time) rather than appropriate zoning for future potential uses taking into consideration the steepness of residual parts of the property. Later, when the structure was renovated and turned from a medical facility into apartments no rezoning was required as multi-family housing is a use allowed in the Institutional zone. Further, there does not seem to have been any thought at that time that the remaining properties (primarily steep wooded slopes) owned by Caledonia LLC might later be proposed for additional development.

The proposed change to the RM-16 district for the Kenilworth Inn Apartments and the small (.61 acre) property adjoining it that fronts on Caledonia Road) would retain the existing residential density potential, so the Kenilworth Inn would remain a conforming use, but would eliminate the potential for a range of nonresidential uses allowed in the Institutional zone that the staff believes could be problematic at this location. Any reduced density zone for the Kenilworth Inn property would render the property non-compliant for density, so that was not considered.

It should be noted that the small (.61 acre) property just to the south of the Kenilworth Inn property, does have some limited development potential; as the Inn property is large enough to support the 16 dwelling units per acre density alone. Although, the 2010 subdivision plat creating this separate property has a note indicating intent to recombine it with the larger Kenilworth Inn property.

As of this writing, staff has received no communications from the property owner or the public regarding the proposed rezoning.

The Planning Commission considered this application at their November 6 meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. After a brief

discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change meets a smart-growth goal of the comprehensive plan better than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal to be reasonable and recommends approval.

Mayor Manheimer opened the public hearing at 6:16 p.m.

Ms. Valerie Hoh, resident on Finalee Avenue, was pleased to see this coming to fruitation after 3.5 years. She felt this proposed rezoning is more compatible with the Kenilworth neighborhood, and was pleased that City Council is stopping inappropriate development on the Caledonia Road steep slopes.

Mayor Manheimer closed the public hearing at 6:19 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4267. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 429

F. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4268 - ORDINANCE REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on January 3 and 10, 2014.

On September 10, 2013, staff presented a Council-requested zoning analysis of the properties that are the subject of this rezoning proposal (and others). After the presentation the Council voted to direct staff to pursue a rezoning of these properties. This report is the request for rezoning on five properties from the Institutional zoning district to the RS-8 zoning district.

This proposed rezoning to RS-8 will affect three properties owned by Caledonia Development LLC, the one property owned by Riverlink Inc., and a portion of one property that is

currently split zoned between Institutional and RS-8. All of these properties have substantially steep topography. The 3.24 acre property to the east of the Kenilworth Inn property bifurcated by Caledonia Road (PIN: 9648726180) and the 3.36 acre Riverlink property (PIN: 9658714686) take access from a steep and winding segment of Caledonia Road. The two small recently created lots (PINs: 9648718624, and 9648718648) owned by Caledonia Development LLC (.16 acre each), take access from the lower portion of Caledonia Road, and the proposed zoning replicates recently requested and approved zoning for the other four small lots created along this road segment. All affected property owners have been notified of this pending action and to date staff has received no communications from them regarding the proposed rezoning.

These changes would substantially impact development potential of the larger properties, reducing the potential density by approximately 50%, but would bring the development potential closer to an appropriate level given the location, topography, other limiting site conditions, and current community expectations. The 3.24 acre property has an average slope of 35%, and the 3.36 acre property has an average slope of 44%.

The small lot located in the lower curve of Caledonia Road (PIN 9648727364) is included in this zoning action because it is split between Institutional and RS-8 zoning; and in the context of a general zoning evaluation of this area, staff believes this situation should be resolved. A single family home was built on the property (owned by Arthur Trupp and Nancy Headley) within the past few years, so a rezoning to single family zoning for the portion zoned Institutional (.34 acre) is appropriate. The owners have been notified, and as of the date of this report they have not responded regarding the proposed rezoning.

The Planning Commission considered this application at their November 6, 2013 meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. No comments were received from Riverlink or the owners of the residential property. After a brief discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change better meets smart-growth goals of the comprehensive plan than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development on these properties, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal reasonable and recommends approval.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Ms. Patsy Brison, attorney representing the Kenilworth Residents Association, recommended City Council approve the rezonings based on slope data. She showed (1) a map of the average slope; (2) a slope stability index; (3) a map showing the high and moderate hazard areas; and (4) a map of the debris flow path.

Ms. Teddy Jordon, resident in the Kenilworth area, stated that the neighborhood is not anti-development and previously presented the developer with multiple alternatives for development. She noted there are many compelling reasons why the property should be rezoned from Institutional which ultimately is for the best interest of all Kenilworth residents.

Mayor Manheimer closed the public hearing at 6:22 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4268, to rezone the following properties: PIN 9648726180, PIN 9648714686, PIN 9648718648, PIN 9648718624, and the pertinent .16 acre portion of the .34 acre PIN 9648727364 from Institutional to RS-8 (Residential Single-Family Medium Density). This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 432

G. PUBLIC HEARING TO CONSIDER REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4269 - ORDINANCE REZONING PROPERTIES LOCATED ON CALEDONIA ROAD FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance rezoning properties on Caledonia Road from Institutional District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on January 3 and 10, 2014.

She said that September 10, 2013, staff presented a Council requested zoning analysis of the properties that are the subject of this rezoning proposal (and other adjoining properties). After the presentation the Council voted to direct staff to pursue a rezoning of these properties. This report is the request for rezoning on two properties from the Institutional zoning district to the RM-8 zoning district. The staff believes that Institutional is not appropriate zoning for any of these properties. Regardless of any other considerations, the Institutional Zone allows a wide range of non-residential uses, many of which could be inappropriate at this location due to access and compatibility issues.

This proposed rezoning to RS-8 will affect the 1.74 acre residual portion of property owned by Caledonia Apartments LLC (PIN: 9648710317) that was the subject of a subdivision along the Finalee Avenue frontage earlier this year (a 50 unit multi-family development was approved on this property in 2012 but later voided by the creation of the subdivided lots); and the majority (3 acres) of a 3.05 acre property owned by Caledonia Development LLC (PIN 9648713307). This recommendation includes the remaining 1.74 acre portion of the parcel on Finalee property (owned by Caledonia Apartments LLC). A small portion of that property (.05 acre) fronts on Swannanoa River Road and is zoned River, and no change to it is proposed.

The two properties that are the subject of this report are quite steep (both over 40% average slopes) but have the advantage of access directly from a lower segment of Caledonia Road and from Swannanoa River Road. Because of that access these two properties are recommended for the RM-8 zoning (rather than the RS-8 single-family zone). That designation will allow development at a reduced density reflecting the steep slopes of these properties, and would eliminate the potential for problematic non-residential uses allowed in the Institutional zone; while still allowing clustered multi-family development potential. The change would substantially

impact development potential, reducing the potential density by approximately 50%, but it reflects a more realistic development potential given the site constraints.

The Planning Commission considered this application at their November 6, 2013, meeting. There were a number of speakers and public testimony was primarily in support of the action. The attorney for the owner of Caledonia Development, LLC expressed opposition. After a brief discussion the Commission voted 5-2 (Commissioners Cannady and Goldstein voting no) in support of the proposal.

Pros:

- The change is suitable for the subject area and consistent with other adjacent and nearby land uses.
- The change meets a smart-growth goal of the comprehensive plan better than the current zoning.

Con:

- The zoning change was not requested by the property owner.

Staff's analysis indicates that the proposed zoning district would support appropriate development, and prevent incompatible development better than the existing zoning, and, accordingly, staff finds the proposal to be reasonable and recommends approval.

Councilman Pelly thanked the Kenilworth Residents Association for their perseverance on trying to give area residents peace of mind.

Mayor Manheimer opened the public hearing at 6:23 p.m., and when no one spoke, she closed the public hearing at 6:23 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4269. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 435

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-11 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CDM-SMITH TO PERFORM ENGINEERING SERVICES FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

ORDINANCE NO. 4270 - BUDGET AMENDMENT FO THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Transportation Planner Dan Baechtold said that this is the consideration of (1) a resolution authorizing the City Manager to enter into a contract with CDM-Smith to perform engineering services and provide 100% complete construction documents for the River Arts District Transportation Improvement Project (RADTIP), and to conduct other necessary pre-development activities for a budget not to exceed $2,186,000; and (2) a budget amendment in the amount of $2,208,000 from debt proceeds to formally establish a project budget for this contract and previously incurred legal costs.

The RADTIP is a multi-modal transportation project that will construct roadway improvements, sidewalks, bike lanes and greenways along Lyman Street and part of Riverside Drive adjacent to the French Broad River. The preliminary cost estimate is $25 Million. After the next phase, the cost estimate will be refined.

The RADTIP is one of the projects identified in the City's Economic Development Capital Improvements Program (EDCIP). In order to implement the project, the City must complete four major steps in the project development process. They are: 1) Preliminary Engineering and Environmental Studies; 2) Detailed Design and Engineering; 3) Right of Way Acquisition; and 4) Construction.

Step one is complete. The City's consultant, CDM Smith led an extensive process which included public involvement, design, and technical documentation to complete the required environmental document and bring the project design to a level of 30% complete.

This contract will complete step two. Staff issued a Request for Qualifications seeking professional firms that could provide 100% complete construction documents, permits and flood studies, and right-of-way plans for the RADTIP. After thorough review and evaluation, a review panel recommended CDM Smith as the most qualified to perform this next phase of engineering.

In addition to the major deliverables listed above, the contract will also include tasks such as detailed surveying, soil testing, streetscape plans, bridge and culvert design, utility relocation plans, and additional public involvement. At the completion of the contract the City will have 100% complete construction documents, which will put the City in a position to begin acquiring right- of-way and seeking funding for construction.

One of the first products for this phase of engineering will be an analysis of the Craven Street intersection and the Norfolk Southern railroad bridge in order to explore ways to accommodate truck traffic associated with New Belgium.

Implementation of the RADTIP is identified as an investment initiative in the focus area of Economic Growth and Financial Sustainability. In addition the project supports implementation of numerous master plans including the Wilma Dykeman Riverway Plan, Greenway Master Plan, and the 2025 City Development Plan.

As noted above, this project is funded through the Economic Development Capital Improvements Program (EDCIP) that was approved by City Council as part of the FY 2013-14 budget adoption. The budget amendment in the amount of $2,208,000 from debt proceeds will formally establish a project budget for the contract with CDM Smith and previously incurred legal costs associated with the project. Expenditures to CDM Smith will occur in FY14 and FY15.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract with CDM Smith to perform engineering and design services for the RADTIP for an amount not to exceed $2,186,000; and (2) a budget amendment in the amount of $2,208,000 from debt proceeds to formally establish a project budget for this contract and previously incurred legal costs.

Mr. Baechtold responded to Vice-Mayor Hunt when he asked if the cost estimating is part of the analysis to be provided to the City, and if the engineering for the greenway is included in this step.

Ms. Pattiy Torno, Chair of the Asheville Area Riverfront Redevelopment Commission felt this is the way to move forward on our riverfront. They have been working closely with CDM-Smith and are pleased with their work.

Mayor Manheimer and Councilman Davis each spoke about the careful planning and decision-making of City Council on this incredible project. This is an area of the City that will really grow and become an exuberant place for the City.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-11. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 51

Councilman Bothwell moved for the adoption of Ordinance No. 4270. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 438

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-12 - RESOLUTION ESTABLISHING A JOINT CITY-COUNTY AFRICAN AMERICAN HERITAGE COMMISSION

Mr. Marvin Chambers encouraged City Council to vote in support of establishing this City-County African American Heritage Commission. Many years ago there was an E.W. Pearson, Isaac Dickson, Floyd McKissick, James Ferguson, Dr. John Holt, Ruben Dailey, and many others who made their mark in the City. Unfortunately there are few people who know how Asheville transpired and the many African Americans who worked to make Asheville what it is today. Asheville used to be a road to Tennessee from South Carolina to where African Americans were sold on the County Courthouse steps. We are trying to find what has been contributed by the African American community. I-40 came right through the African American community, along with other projects that have destroyed or separated the African American community. He hoped Council will see that the African American community has had a part in developing Asheville.

Ms. Deirdre Wiggins provided Council with a brief overview of the project. So many organizations and individuals over the years have worked to bring the narrative of the African American community to light. This was prompted, mostly in part, from the 2006 discovery of photos, taken by Andrea Clark of the East End Neighborhood, just prior to the coming of Urban Renewal in the late 1960's to mid-1970's. Clark's photographs became the basis of an educational project, with the help of the Buncome County Library, about the necessity of the social fabric of neighborhoods and included a lecture by Dr. Mindy Fullilove in 2008. She shared her research from her book "Root Shock: How Tearing up City Neighborhoods Hurts America and What We Can Do About It". As she said, such "root shock" brings with it special disastrous consequences for both the aged and the young.

After the program and exhibits ended, Dr. Fullilove encouraged the committee not merely to document the loss but also to work to rebuild the social fabric of the communities impacted by Urban Renewal. At her encouragement, the committee raised funds and invited authors to contribute to a special addition of "Crossroads" from the NC Humanities Council. She hoped Council has seen a copy of this extensive feature article on Asheville's African American neighborhoods. Dr. Fullillove felt, along with Harlan Gradin of the Humanities Council, that Asheville has a unique story and because of the amount of visitors who come here each year, these stories could be told in a way that promote health – including physical, emotional, and economic well-being. These stories are enlightening, and beneficial for local citizens and visitors alike. "Crossroads" tells a part of the story and is a platform for further opportunities.

At that City Council meeting three years ago, former Mayor Bellamy told the committee members if there was anything that the Council could do to help to please let members know.

So .....we're back! The founding of an African American Heritage Commission is an avenue that gives enough collaborated effort between representatives of many different organizations, with the authority of a government sponsored citizens committee, to attract the interest of larger supporters. This is important as "collaboration" is the name of the game these days when it comes to fundraising.

The aesthetic beauty of our mountains is unquestionable. However, equally important is the bigger issue of ensuring that the promotion of being a culturally diverse city and county does indeed give credence to this effort. This would be a collaborative effort, rather than a new organization, that would harness the power of non-profits, neighborhoods, individuals, educational, and governmental agencies to talk about our shared history, and love, for our mountain home.

As stated in the resolution, the goals of the project are to discover, develop, promote, and implement projects and programs to recognize African American history in Buncombe County.

Our young people especially need to hear the stories. Without a dedicated way to tell the story to youth, both black and white, we miss the opportunity for them to understand and enlighten their heritage.

This is also about economic development and there are many ways that the City and Council can benefit, including: (1) Education through schools, universities, fraternities, and sororities, and mentoring programs; (2) Economic stimulation by increasing revenue through cultural attractions, tours, symposiums, national meetings, and social engagements; and (3) Retention of African American professionals.

Mr. James Lee said that this is about economic development and preparing our community for the 21st Century and an economy that values diversity. As America becomes more and more diverse, the importance of a diverse work force becomes greater and greater. By uplifting stories we will not only broaden and strengthen our community's self-understanding but demonstrate to our community how to meet our commitment to diverse challenges.

, Over the last two years, members of this committee have been meeting with other organizations to enlist their support of this idea and the application for the 9 positions. We have already received encouragement for the project from leaders of the YMI, the NAACP, the WNC Historical Association, and other community leaders, including the African American churches, which he provided to Council.

He believed that by building strong initial connections with other local, state, and national organizations this collaboration will have greater success of achieving the goals. A strategic plan would include the examination of what are the cultural resources that are here along with how to build an infrastructure that with marketing for pride of place, cultural tourism, and economic development.

It is important and imperative that we create a Commission that honors our legacy within this community.

Councilman Smith thanked all the people who worked on the creation of this Commission. This is an opportunity to recognize and discover and acknowledge and preserve pieces of history that might be lost otherwise and to help us understand who we are as a community. He was pleased to be partnering with the Buncombe County Commissioners and perhaps the Culture & Recreation Authority in the future on making sure that the mission can be fulfilled.

Councilman Pelly knows that the African American community has been challenged over the years, but with its rich history, he looked forward to them getting the stories out.

Mayor Manheimer said that she chaired the City Council Boards & Commissions Committee when they met with several organizers of this Commission on this exciting project. There are a lot of functions of this Commission that many envision. The Committee also discussed the hope that this Commission might be able to be a sounding-board for projects or planning that might take place in historically African American communities and provide a forum for community input and collaboration. She felt this is a great way to be able to constructively engage the community.

The following individuals spoke in support of the resolution establishing the Commission:

Dr. Lamar Hilton, member of the Board of Directors of the YMI Cultural Center
Mr. Maceo Z. Keeling, representing Asheville Business Accelerators
Ms. CC Weston, Asheville native
Ms. Carmen Ramos-Kennedy
Mr. Timothy Sadler
Mr. Richard Grant, representing the WNC Historical Association

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-12. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 52

B. BOARDS & COMMISSIONS

Regarding the Asheville-Buncombe Community Relations Council, the following individuals applied for the vacancy: Sandra Houts, Brandee Boggs and Fyffe Aschenbrenner. It was the consensus of City Council to delay appointment until February in order to give Councilman Smith (liaison to the Community Relations Council) the opportunity to meet with the board to gather their input on the criteria they seek in a new board member.

Regarding the Homeless Initiative Advisory Committee, the following individuals have applied for the vacancy: Sabrah n'haRaven, Matthew Shepley, Allison Bond, Heather Smith, Carrie Pettler and Kristi Case. It was the consensus of City Council to delay appointment until March in order for the Homeless Initiative Advisory Committee to make a recommendation.

Regarding the Sustainable Advisory Committee on Energy & the Environment, the following individuals applied for the vacancies: Thomas Bryan Tompkins, Joyce Brown, Sonia Marcus, Parker Sloan, Mindy Fisher, Leslee Thornton, Philip Pritchard, Mary Ann Garwood, Sabrina Wells and Ulla Reeves. A motion was made by Councilman Bothwell and seconded by Councilwoman Wisler to reappoint Duncan McPherson. It was the consensus of City Council to interview Sonia Marcus, Mindy Fisher and Mary Ann Garwood.

RESOLUTION NO. 14-7 – RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Adjustment.

The terms of Douglas Hattaway (Regular), Mac Swicegood (Alternate) and David Brown (Regular) as members on the Board of Adjustment expire January 21, 2014.

The following individuals applied for the vacancies: Keaton Edwards, Amy Kemp and Gary Herndon.

It was the consensus of the Boards & Commissions Committee to (1) reappoint Douglas Hattaway (Regular) to serve a full three-year term, term to expire January 21, 2017; (2) reappoint Mac Swicegood (Alternate) to serve a full three-year term, term to expire January 21, 2017; and (3) reappoint David Brown (Regular) to serve an additional three-year term, term to expire January 21, 2017. All appointments are until their successors have been appointed.

Councilman Pelly moved to (1) reappoint Douglas Hattaway (Regular) to serve a full three-year term, term to expire January 21, 2017; (2) reappoint Mac Swicegood (Alternate) to serve a full three-year term, term to expire January 21, 2017; and (3) reappoint David Brown (Regular) to serve an additional three-year term, term to expire January 21, 2017. All appointments are until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 45

RESOLUTION NO. 14-13 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund.

The term of Pat Leckey expired on January 1, 2014.

The following individual has applied for the vacancy: Gary Herndon.

Councilman Pelly moved to reappoint Pat Leckey to serve an additional two-year term, term to expire January 1, 2016, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 56

RESOLUTION NO. 14-14 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville Area Riverfront Redevelopment Commission.

The terms of Joe Ferikes (representing the riverfront property or business owner), and Cindy Weeks expired on January 1, 2014.

No one applied for the vacancies.

The Boards & Commissions Committee recommended reappointment of Joe Ferikes (representing the riverfront property or business owner), and Cindy Weeks.

In addition, due to merging of Asheville Area Riverfront Redevelopment Commission and River District Design Review Committee, the Asheville Area Riverfront Redevelopment Commission requested City Council to appoint Carleton Collins (currently member of the River District Design Review Committee) to serve as a design professional on the Asheville Area

Riverfront Redevelopment Commission, whose term would expire January 1, 2017. It was the consensus of the Boards & Commission Committee to appoint Mr. Collins.

Councilman Smith moved to (1) reappoint Joe Ferikes (representing the riverfront property or business owner) to serve an additional three-year term, term to expire January 1, 2017; (2) reappoint Cindy Weeks to serve a three-year term, term to expire January 1, 2017; and (3) appoint Carleton Collins (design professional) to serve a three-year term, term to expire January 1, 2017. All appointments are until their successors are appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 57

RESOLUTION NO. 14-15 – RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Tree Commission.

The terms of Debbie Emmons and Mike Keaton expired on December 31, 2013.

The following individuals applied for the vacancies: Mike Dale.

The Boards & Commissions Committee recommended reappointing Debbie Emmons and Mike Keaton.

Councilman Bothwell moved to reappoint Debbie Emmons and Mike Keaton to each serve a three-year term respectively, term to expire December 31, 2016, or until their successors have been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 58

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler was concerned that the City of Asheville puts fluoride in its water supply since science now finds that medicating the water is not a good thing for people's health. Mayor Manheimer responded that she has spent a lot of time on this issue. In 1967 Asheville voters voted to add fluoride to the water system; however, we have reduced the amount per the CDC's recommendation. To remove fluoride in our water system will require a vote of the people. Councilman Bothwell supported a referendum on this issue since science and public opinion has changed.

Ms. Jeanie Rosenthal was concerned that low-income apartments, specifically mentioning The Griffin Apartment Complex, now allows electronic cigarettes and urged Council to help ban the smoking to the outside.

Dr. Milton Byrd asked to be placed on an agenda for Council to consider a resolution in support of legalizing medical cannabis.

Mr. Todd Stimson asked to be placed on an agenda for Council to consider a resolution in support of the renewal of industrial hemp as an agricultural crop in North Carolina.

Councilman Smith said that due to the protocols and dedication of our service providers, Code Purple was successful and no lives were lost when we had sub-zero temperatures.

Lawsuit Report

The City was served with a civil action on December 27, 2013, from Juanita L. Jones a/k/a Juanita L. Owens vs. J. Calvin Hill, Julie M. Kepple, Patric K. Young, City of Asheville and State of North Carolina. The lawsuit involves eminent domain without just compensation. This matter will be handled by an attorney outside the City Attorney's Office.

Closed Session

At 7:30 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville; Wilcox, Mary Ann; and Henderson County and Cane Creek Water and Sewer District. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:12 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:12 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – January 28, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: Councilman Cecil Bothwell (weather related)

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 14, 2014

B. RESOLUTION NO. 14-16 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE HENDERSONVILLE ROAD WATERLINE PROJECT

ORDINANCE NO. 4271 - BUDGET AMENDMENT FOR THE HENDERSONVILLE ROAD WATERLINE PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into a construction agreement with Cooper Construction Company, Inc., for the bid amount of $441,266 plus a contingency amount of $44,127 for a total project budget of $485,393 for the Hendersonville Road Water Line Consolidation project; and a budget amendment in the amount of $185,393 from savings in another capital project.

On June 12, 2013, the Water Resources Department issued an Invitation for Bids for the Hendersonville Road Water Line Consolidation project. The project location is on Hendersonville Road from 1378 Hendersonville Road to Mills Gap Road. The scope of the project consists of abandonment of a problematic 6-inch cast iron water line located on the east side of Hendersonville Road. Water services attached to the 6-inch water line will be transferred to the 24-inch ductile iron water line located on the west side of Hendersonville Road. Abandonment and removal of existing vacant services are also a part of the project scope. In response to the Invitation for Bids, no bids were received.

On July 16, 2013, the department issued another Invitation for Bids for the project. No bids were received in response to the second bid.

On December 4, 2013, the department issued another Invitation for Bids for the project. Two (2) bids were received for the project on January 7, 2014. Companies responding were:

1. Cooper Construction Company, Inc. – Hendersonville, NC; $441,266
2. Buckeye Bridge, LLC – Canton, NC; $948,648

A review team comprised of City staff reviewed these bids and selected Cooper Construction Company, Inc., as the lowest responsible responsive bidder in the amount of $441,266. A contingency amount of $44,127 has been added total project budget of $485,393.

The Water Resources Department currently has $300,000 budgeted for this project. The remaining funds of $185,393 needed for the contract will be transferred from the Monte Vista / Sand Hill Road Master Plan capital project. The Monte Vista project has been reduced in scope, allowing funds to be transferred out to other projects as needed. In order to use the funds in the Monte Vista project, a budget amendment is necessary.

Amount in Hendersonville Road WL Project	$300,000
Amount Needed for Construction Contract	$185,393
Total Amount for Project	$485,393

The amount remaining in the Monte Vista / Sand Hill Road Master Plan capital project will remain in the project budget to complete the project.

City staff recommends City Council approval of the City Manager to enter into a construction agreement with Cooper Construction Company, Inc., for the bid amount of $441,266 plus a contingency amount of $44,127 for a total project budget of $485,393 for the Hendersonville Road Water Line Consolidation project; and a budget amendment in the amount of $185,393 from savings in another capital project.

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C. RESOLUTION NO. 14-17 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT CONVEYANCE OF A N.C. DEPT. OF TRANSPORTATION REMNANT PROPERTY ON SWEETEN CREEK INDUSTRIAL PARK TO FACILITATE IMPROVED ACCESS TO THE GE AVIATION FACILITY

Summary: The consideration of a resolution authorizing the Mayor to accept the conveyance of a N.C. Dept. of Transportation (NCDOT) remnant property on Sweeten Creek Industrial Park in order to assemble the property into existing City right-of-way and facilitate improved access to the GE Aviation facility.

NCDOT owns a 2.79 acre remnant property identified by PIN 965742089400000 along the Sweeten Creek Industrial Park roadway. This property runs between the Buncombe County owned property being developed for the GE Aviation facility and the City right of way. NCDOT has offered to convey the property to the City of Asheville at no charge. The City plans to assemble the property into the existing right-of-way at Sweeten Creek Industrial Park and thereby allow for improved access to the GE Aviation site.

No monetary consideration required for the conveyance. Deed recordation fees will be the responsibility of the City, which should not exceed $100.00.

City staff recommends City Council to adopt a resolution accepting the conveyance of an NCDOT remnant property to assemble the property into existing right-of-way adjacent to the new GE Aviation site.

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D. RESOLUTION NO. 14-18 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT ACROSS CITY-OWNED PROPERTY AT 166 RESERVOIR ROAD TO CHRIS AND JESSICA LARSEN

Summary: The consideration of a resolution authorizing the Mayor to convey an easement over a portion of City-owned property at 166 Reservoir Road to Chris and Jessica Larsen for the purpose of creating a driveway to a residential lot.

The City of Asheville owns real property at 166 Reservoir Road and the parcel is currently used for telecommunications purposes. The parcel is approximately 7.42 acres in size and is improved with two telecommunications towers and related buildings. There is a significant grade change between the land area used for telecommunications and the area of the property that meets McCauley Drive.

Chris and Jessica Larsen have a contract to purchase on an adjoining vacant parcel that fronts McCauley Drive. The land area of their lot is too steep to accommodate a driveway within the existing lot footprint, and as such Chris and Jessica Larsen have approached City staff with a request to purchase an easement to create a driveway connection to McCauley Drive. City transportation and traffic staff have reviewed the easement request and have no concerns with the proposed easement. The area of the easement is not currently being utilized by the city, and presents no apparent conflict with future development of the Beaucatcher Greenway and/or development of the Reservoir Road property for a park purpose.

The proposed easement area is approximately 473 square feet and would service a new single family residence. To develop a price for the sale of this easement, City staff calculated a price per square foot value based on the contract price of the adjacent lot. In this instance, the residential lot has a contract price of $199,000 and is 2.12 acres. This translates into a value of $2.16 per square foot, yielding an easement price of $1020.

The amount of revenue generated by the sale of the easement will be deposited into the General Fund.

Staff recommends that City Council approve a resolution authorizing the Mayor to convey a 473 square foot easement over a portion of City-owned property at Reservoir Road for the purchase price of $1020 to Chris and Jessica Larsen.

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E. RESOLUTION NO. 14-19 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AWARD THE SALE OF SIDEWALK GARBAGE RECEPTACLES TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to award the sale (no compensation) of surplus sidewalk garbage receptacles no longer in use on public sidewalks to the Asheville Housing Authority (AHA) and to enter into a negotiated purchase agreement.

The AHA has demonstrated a long standing commitment to the environment including the reduction of litter on AHA property. Through the donation of goods from the City, the AHA would be able to significantly increase the amount of waste receptacles which will in turn reduce litter and improve cleanliness in AHA neighborhoods. The garbage receptacles are currently still installed on downtown sidewalks but will be replaced with upgraded waste stations this spring. NCGS 160A-280 authorizes a City to dispose of property to another governmental unit or an incorporated non-profit agency that is carrying out a public purpose. Providing waste collection infrastructure in AHA neighborhoods would provide a public purpose for the environment and public health.

The potential loss of resale revenue could be offset by the benefit of increasing cleanliness in Asheville Housing Authority neighborhoods.

Staff recommends City Council adopt a resolution authorizing the City Manager to award the sale (no compensation) of surplus sidewalk garbage receptacles no longer in use on public sidewalks to the Asheville Housing Authority and to enter into a negotiated purchase agreement.

RESOLUTION BOOK NO. 36 - PAGE 63

F. RESOLUTION NO. 14-20 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AGREEMENTS WITH Z SMITH REYNOLDS FOUNDATION AND THE DYNAMIC GOVERNANCE INSTITUTE TO DEVELOP A PROGRAM TO STRENGTHEN NEIGHBORHOOD PARTNERSHIPS

ORDINANCE NO. 4272 - BUDGET AMENDMENT TO ACCEPT THE Z SMITH REYNOLDS FOUNDATION GRANT FUNDING

Summary: The consideration of a resolution authorizing the City Manager to sign agreements with Z Smith Reynolds Foundation and Dynamic Governance Institute to facilitate the development of training materials and process to enhance partnerships to build neighborhood capacity; and the associated budget amendment in the amount of $30,000 from the Z Smith Reynolds Foundation.

The project to be funded by this grant is a collaborative effort of the City's Communication and Public Engagement Division, the Dynamic Governance Institute, and residents of public housing communities in the South French Broad neighborhood and was developed to strengthen effective neighborhood participation in policy and planning decisions.

The pilot program will employ an alternative group facilitation method called Dynamic Governance to provide a common framework for effective meetings, shared leadership, and structures for cooperation in the South French Broad neighborhood. The Dynamic Governance model is used locally by many non-profits and initiatives to self-organize and engage participants in cooperative decision-making. Examples of organizations currently using Dynamic Governance are the East West Asheville Neighborhood Association, the YWCA, the Food Policy Council, Handmade in America, and Rosetta's Kitchen.

The pilot will involve the creation of a team consisting of public housing resident leadership, community members familiar with Dynamic Governance, and city staff. This team will begin by training members of the Aston Park Towers and Garden Apartments Resident Association and Housing Authority Residents' Council and expand to include all residents of the South French Broad neighborhood. Public Housing residents have identified the capacity-building tools offered by the method as a means of bridging racial, class and education diversity. While these barriers are addressed, staff will facilitate ways for community members to engage with government. The project will also serve to strength existing public-private partnerships initiated by the East of the Riverway initiative and the Neighborhood Advisory Committee.

Grant revenue of $30,000 will be administered by the Dynamic Governance Institute through a sub-award agreement at no cost to the City. Funding will be used to administer the grant, oversee the development of materials, and coordinate and facilitate meetings and training sessions, including providing support services like babysitting and transportation to enable residents to participate in the free training. In addition, the grant provides opportunities for residents who assume key leadership roles to receive stipends for activities aimed at making the program sustainable over time and available to all Asheville neighborhoods.

Staff recommends that City Council adopt the resolution authorizing the City Manager to sign the grant agreement with the Z Smith Reynolds Foundation and the Sub-Award Agreement with the Dynamic Governance Institute; and the associated budget amendment.

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G. RESOLUTION NO. 14-21 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICES CONTRACT WITH TYLER TECHNOLOGIES FOR MAINTENANCE AND SUPPORT OF THE CITY'S MUNIS ENTERPRISE SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to execute a general services agreement with Tyler Technologies for the estimated amount of $144,000 per year plus a maximum of 5% escalation in subsequent years for maximum of (5) five fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

The City of Asheville Information Technology Services is seeking to extend our current maintenance agreement for the estimated amount of $144,000 per year plus a maximum of 5% escalation in subsequent years for maximum of (5) five fiscal years

The funding needed for this agreement is currently allocated within IT Services Business & Public Technology Division's maintenance budget.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a general services agreement with Tyler Technologies, for the estimated amount of $144,000 per year plus a maximum of 5% escalation in subsequent years for maximum of (5) five fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 291 EAST CHESTNUT STREET LOCATED AT 287 AND 291 EAST CHESTNUT STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN RESIDENTIAL DISTRICT/CONDITIONAL ZONING WITH A MODIFICATION REQUEST TO THE SETBACK AND LANDSCAPE BUFFER REQUIREMENTS

Mayor Manheimer announced that on January 20, 2014, Planning & Development Director Judy Daniel received a letter withdrawing their rezoning application.

B. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CHANGES TO CONDITIONAL ZONING APPLICATIONS AND CONDITIONAL USE PERMITS TO REQUIRE THAT

ANY APPROVED ORDINANCES BE RECORDED WITH THE BUNCOMBE COUNTY REGISTER OF DEEDS

ORDINANCE NO. 4273 - ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CHANGES TO CONDITIONAL ZONING APPLICATIONS AND CONDITIONAL USE PERMITS TO REQUIRE THAT ANY APPROVED ORDINANCES BE RECORDED WITH THE BUNCOMBE COUNTY REGISTER OF DEEDS

Director of Planning & Development Judy Daniel said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance regarding changes to conditional zoning applications and conditional use permits to require that any approved ordinances be recorded with the Buncombe County Register of Deeds.. This public hearing was advertised on January 17 and 24, 2014.

The UDO currently requires that upon adoption, the Planning Department will keep records of all adopted ordinances modifying the UDO. For conditional zoning ordinances, the UDO also requires that the city zoning map will be amended. For Conditional Use Permits and Conditional Zonings, ordinances that impose specific limits on individual properties, these changes and conditions are currently not easy to find for the general public. The proposed change will add a requirement that the property owner will record the ordinance and conditions of the approval at the Buncombe County Register of Deeds, cross-referencing the applicable property deed. This change will allow those who are seeking information on a specific property to easily see the limits imposed on the property.

The Planning Department will continue to keep records of the ordinances, but this action will provide the public with an easily accessible means to determine what requirements and restrictions are tied to any approved conditional zoning in the city.

This has been an issue of concern to the public as, due to space constraints, the Planning Department records usually do not include the full contents of the approved plans attached to the ordinance records, which are filed sequentially. Such files are eventually moved to long term storage which may take some time to retrieve. While this situation may be relieved over time as use of more advanced software will allow improved access, it will be helpful to have a backup means of access to this information in the county records; which are already accessible online. A parallel action is nearing completion to provide easier means to locate pertinent ordinances and conditions of approval from past approved CUPs and CZs through creation of a cross-referenced file kept in the Planning Department.

This action will not create a substantial expense for the property owner, and will provide greater transparency to the general public. Staff research with the Register of Deeds has revealed that most actions will cost less than $50 to file (a small percentage will be higher depending on the complexity of the conditions). Further, a review of other cities in North Carolina has revealed that this is not an uncommon requirement. Real estate professionals are among those who most frequently ask for this information as they need to understand any limiting requirements on properties they are working with to buy or sell. Nearby residents are also among those interested in this information, as the zoning maps only say that the property has this zoning, and do not provide the limiting conditions.

These changes affect Section 7-5-5(c)(3) (Information Required for Conditional Use Plan Submittal), Section 7-5-5(e)(3)(b) (Formal review by City Council for Conditional Use Approvals), and Sections 7-7-8(d) (1) and (8) (Application procedures for Conditional Zoning).

Since this change increases transparency regarding regulatory limits on specific properties, staff believes the proposal to comply with the Asheville City Development Plan 2025 in that it works toward Goal IV of the Economic Development section related to insuring

compatibility between local infrastructure and regulatory environment and the needs of business and industry.

The Planning and Zoning Commission reviewed this proposal at their December 4, 2013, meeting, and with limited discussion it was approved 5-1 (with one absent). Commissioner Edmunds voted against the change citing concern over added complexities for property owners. No members of the public spoke about the proposal.

Staff believes the proposal to comply with the City Council's Strategic Plan Focus Area 1: Economic Growth and Financial Sustainability in that it creates a more transparent regulatory environment for potential investors as noted in the "Job Growth" section which notes the need for UDO analysis and recommendations.

Considerations:

- The primary benefit will be increased transparency and access to this information by the public.
- A concern would be the increased cost of compliance (although minimal) for the property owner.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable. Staff recommends approval of this proposed change as it will provide the public with a more accessible means of determining the conditions imposed by the Council in granting approval of conditional use permits and conditional zonings.

City staff recommends City Council approve the proposed changes to Section 7-5-5(c)(3), Section 7-5-5(e)(3)(b), and Sections 7-7-8(d) (1) and (8) as outlined in this report and (if approving) find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

After Councilman Pelly spoke in support of this first step and questioned what the plan is to get the prior ordinances recorded, Ms. Daniels said that she would report back to Council with a cost estimate for recording those prior ordinances, working with the Register of Deeds Office.

Director of Development Services Shannon Tuch said that the City has launched a new permitting software program that has the capability to geographically assign documents. When the new program comes on-line, staff will attach all the former CUPs and CZs to the specific parcel.

In response to Councilwoman Wisler about how someone researches for that information now, Ms. Daniel said that most real estate professionals know to go to MapAsheville and/or the Planning Department.

Mayor Manheimer noted that she received an e-mail from the Coalition of Asheville Neighborhoods noting that they support this amendment.

Mayor Manheimer opened the public hearing at 5:06 p.m., and when no one spoke, she closed the public hearing at 5:06 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master

plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4273. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 444

C. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CHANGES TO OUTDOOR LIGHTING STANDARDS TO ALLOW FOR UPDATES TO STANDARDS REGULATING LED LIGHTS TO BETTER ALIGN THE GOALS OF REDUCED GLARE AND DARK SKY CONCERNS WITH ENERGY EFFICIENT LIGHTING GOALS

ORDINANCE NO. 4275 - ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING CHANGES TO OUTDOOR LIGHTING STANDARDS TO ALLOW FOR UPDATES TO STANDARDS REGULATING LED LIGHTS TO BETTER ALIGN THE GOALS OF REDUCED GLARE AND DARK SKY CONCERNS WITH ENERGY EFFICIENT LIGHTING GOALS

Director of Development Services Shannon Tuch said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance regarding changes to outdoor lighting standards to allow for updates to standards regulating LED lights for updates to standards regulating LED lights to better align the goals of reduced glare and dark sky concerns with energy efficient lighting goals. This public hearing was advertised on January 17 and 24, 2014.

In 2011, the Department of Public Works in support of the sustainability Master Plan, announced a multi-year plan to phase in new LED street lights. In order to support this change, a wording amendment was approved by the Planning & Zoning Commission in August 2012 stating that all new privately installed street lights would match the city's new LED street lighting standards as well as setting LED area lighting requirements.

At the December 4, 2013, Planning & Zoning Commission meeting, the Commission approved changes to the BUG rating requirement for area lighting, and to the lumen level requirements for area and street lighting. Since that time, staff has become aware of two more areas that need attention, specifically, the BUG ratings for 1) Lighting attached to structures or buildings, and 2) Street lighting.

Since the first meeting with the Commission, Buncombe County Schools has run into an obstacle with the section of the ordinance regulating lights attached to structures or buildings. They are attempting to replace wallpack fixtures and canopy lights for many of their schools, both within and outside the city's jurisdiction, and are hoping to replace them with efficient LED fixtures. However they are unable to find any products in the marketplace that meet our ordinance and their needs. Our current standard calls for a B-U-G rating of 0-0-0.

The City of Asheville has run into an obstacle when it comes to LED street lighting product availability. There are currently four manufacturers of LED street lighting approved by Asheville's electric utility, Duke Energy Progress. Under our current ordinance, 2 of those 4 do not meet our guidelines for street lights installed in residential areas because their products are ever so slightly above what we have specified. This is problematic because when making a large purchase of street lights, having adequate choice in manufacturers can have a significant financial impact to the City.

The recommended solution is to adjust the BUG rating standards for lighting attached to structures or buildings and for street lighting, and the lumen output for street lights in residential areas, thus giving developers and the City greater product choice. The proposed changes are still consistent with the National Dark Sky Model Lighting Ordinance recommendations for backlight, uplight, and glare as well as lumen output.

Recommended Ordinance Language

1. The allowable backlight and glare ratings for LED lighting attached to structures or buildings should be raised from the current B0 and G0 to B2 and G2. This would bring the overall BUG rating to 2-0-2, which is still more conservative than what is allowed for area lights: 3-0-3.

   Specifically, the text of section (j) 5. would read, "All LED lighting attached to buildings or structures shall comply with the standards in subsection (g)(8) and shall have a maximum BUG rating of ~~B0, U0, G0~~ B2, U0, G2, unless otherwise exempted or excepted."

2. The allowable backlight and glare ratings for new street lighting on residential streets should be raised from the current B1 and G1 to B2 and G2. This would bring the overall BUG rating to 2-1-2, which is still more conservative than what is allowed for commercial streets: 3-3-3. Additionally, the allowed luminance for residential districts should be raised from the current 6,000 lumens to 6,500 lumens. This is still well below what is allowed for commercial districts: 20,000 lumens.

   Specifically, the text of section (g) 8 b. would read, "The maximum number of fixture lumens shall not exceed ~~6,000~~ 6,500 in residential districts and no more than 20,000 lumens in non-residential districts, unless otherwise allowed or exempted."

   The text of section (h) 4 c (i). would read, "In residential districts - no greater than ~~6,000~~ 6,500 fixture lumens, with exceptions noted in subsection (5) below."

   The text of section (h) 5. would read, "All LED street lighting shall comply with the standards in subsection (g)(8) and shall have a maximum BUG rating of B3, U3, G3 on commercial streets and major arterial DOT and City of Asheville roads, and a maximum of ~~B1, U1, G1~~ B2, U1, G2 on residential streets.
   Exceptions:

   a. Use of LED street lights in residential areas over ~~6,000~~ 6,500 and up to 8,200 fixture lumens are allowed at intersections and safety sensitive locations, as deemed necessary by the director of public works."

The Planning & Zoning Commission considered the first amendment focusing on street and area lights at their December 4, 2013, meeting where the recommendation was unanimously supported.

Staff brought the matter back before the Commission on January 16, 2014, to consider expanding the changes to include an amendment to the BUG rating for wallpack and canopy lights, along with an adjustment to the lumen level for streetlights in residential areas. The Commissioners again unanimously recommended approval but requested that staff return in another 12 months for a report on the alignment of the city's ordinance with product availability in the marketplace. There was also a recommendation to review canopy lights separately from wall pack lights.

This amendment was also reviewed by the Sustainable Advisory Committee on Energy and the Environment (SACEE) at their November 20, 2013, meeting where the Committee voted to support the changes and on-going review.

The proposal complies with the Asheville City Development Plan 2025 in that it works toward balancing city goals for sustainability (carbon footprint) and safety (glare) with development options that encourage reinvestment in the community.

Pros:

- Adjusts standards to allow energy efficient options for developers, property owners and street lighting.
- Encourages the use of energy efficient fixtures.
- Maintains limits to discourage unsafe glare and support dark skies.

Con:

- Although still consistent with the National Dark Sky Model Ordinance, these changes do slightly relax the standards as it relates to public safety concerns regarding glare.

No direct municipal fiscal impact on the ordinance amendment itself.

Staff recommends approval of the proposed wording amendment and finds that it is consistent with the City's adopted plans and goals.

When Councilwoman Wisler asked if staff has a sense that the industry is moving forward quickly enough for the City to create stronger standards, Ms. Tuch said yes, while some products that meet the standards are available, they fail to address other concerns

Mayor Manheimer opened the public hearing at 5:10 p.m.

Mr. Jason Walls, District Manager for Duke Energy Progress, spoke in support of the ordinance amendment.

Mayor Manheimer closed the public hearing at 5:11 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4275. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 451

D. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING STATUTORY CHANGES TO BOARD OF ADJUSTMENT PROCEDURES

ORDINANCE NO. 4274 - ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES REGARDING STATUTORY CHANGES TO BOARD OF ADJUSTMENT PROCEDURES

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance regarding statutory changes to Board of Adjustment procedures. This public hearing was advertised on January 17 and 24, 2014.

Ms. Daniel said that in this year's legislative session, the General Assembly passed session law 2013-126 entitled "An Act to Clarify and Modernize Statutes Regarding Zoning Boards of Adjustment", effective October 1, 2013, which resulted in a number of modifications to N.C. G.S. sec. 160A-388, the statute which governs the composition, duties and procedures of Boards of Adjustment. This was the first major re-write of this statute since its original inception in the early 1920's and in Staff's opinion, the clarifications provided by this new law were necessary and should prove helpful to the administration of board of adjustment matters. The amendments are also applicable to other boards and commissions, such as Planning & Zoning

commission, when acting as a board of adjustment pursuant to section 7-5-9.1 of the UDO. Though many of the City's UDO provisions related to board of adjustment procedures, such as notification requirements and hearing conduct, are already consistent with the standards and procedures in this new law, some amendments do need to be made.

These changes affect **Section 7-3-3 Board of Adjustment**, subsection (c)(2) Meetings and Voting and subsection(e) Administering Oaths and Issuing Subpoenas; **Section 7-6-1 Variances**, subsection (a) Purpose, subsection (c) Applications, subsection (d) Action by the board of adjustment, and subsection (e) Standard of Review; **Section 7-6-2 Appeals of Administrative Decisions**, subsection (c) Persons who may file an appeal, subsection (d) Filing of an Appeal, and (e) Action by the board of adjustment; **Section 7-5-20 Notices and Public Hearings**, subsection (b) Notice procedure; and Section **7-13-9 Sign Variances.**

The major modifications or clarifications of session law 2013-126 that have an impact on the current UDO provisions can be summarized as follows:

- Regarding Appeals Process (UDO sections 7-3-3 and 7-6-2):
  - Appeals of zoning decisions must be filed with the city clerk (currently file with planning director or board secretary)
  - Appeals must be taken within 30 days of date of decision (currently ordinance provides for appeal to be taken as required by the Board of Adjustment Rules of Procedures, which in turn, currently allows 60 days to appeal)
  - Appeal may be made by a person who has standing as defined by statute (previously appeal could be made by any "aggrieved party" which had no exact definition)
  - Clarification that only an appeal of a notice of violation or other enforcement order shall stay all proceedings in furtherance of the contested action. An appeal of decisions granting a permit or otherwise affirming that a proposed use of property is consistent with the ordinance shall not stay further review of the application.

- Regarding Standards for Granting Variances (UDO section 7-6-1 and section 7-13-9):
  - Removes the requirement that variance may not be granted unless *no reasonable use* of the property without the variance
  - Removes the reference to consideration of *practical difficulties*
  - Provides that applicant may qualify for variance *even though applicant purchased property knowing of its limitations and possible need for a variance*

- Regarding Board Decisions and Voting Requirements (UDO sections 7-3-3 and 7-6-2):
  - Appeals of zoning decisions and special and conditional use permits are granted upon majority vote (previously, a 4/5 vote was required. 4/5 vote still required for granting of a variance)

This matter was presented to the Planning and Zoning Commission on December 4, 2013, which unanimously approved the proposed changes and directed that the proposed revisions be sent to Council for action.

Staff recommends approval of these proposed changes as they will make the UDO provisions regarding Board of Adjustment procedures consistent with the new State law.

Mayor Manheimer opened the public hearing at 5:13 p.m., and when no one spoke, she closed the public hearing at 5:13 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4274. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS: None.

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-22 – RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Sustainable Advisory Committee on Energy & the Environment (SACEE).

The terms of Melanie Brethauer, Duncan McPherson and Tim Ballard expired on December 31, 2013. Ms. Brethauer is not eligible for reappointment and Mr. Ballard is not interested in reappointment.

The following individuals applied for the vacancies: Thomas Bryan Tompkins, Joyce Brown, Sonia Marcus, Parker Sloan, Mindy Fisher, Leslee Thornton, Philip Pritchard, Mary Ann Garwood, Sabrina Wells and Ulla Reeves.

The Boards & Commissions Committee recommended reappointment of Duncan McPherson and interviewing Sonia Marcus, Mindy Fisher and Mary Ann Garwood. The consensus of Council directed the City Clerk to arrange interviews for Sonia Marcus, Mindy Fisher, Mary Ann Garwood and Leslee Thornton. Due to adverse weather conditions, Ms. Thornton was unable to attend the interview.

On January 14, 2014, Councilman Bothwell moved to reappoint Duncan McPherson , to serve an additional three-year term, term to expire December 31, 2016, or until his successor has been appointed. This motion as seconded by Councilwoman Wisler and carried unanimously.

After Council spoke highly of the candidates, Sonia Marcus received 6 votes, Mindy Fisher received 6 votes, and Mary Ann Garwood received no votes. Therefore, Sonia Marcus (expertise in field of energy management), was appointed to serve a three-year term, term to expire December 31, 2016; and (2) Mindy Fisher was appointed to serve a three-year term, term to expire December 31, 2016. All appointments are until their successors are appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilman Davis was pleased to note that Mr. Jack Ingram will be inducted into the National Hall of Fame in Charlotte on January 29, 2014, and will be recognized by this City Council at their February 11 meeting.

Lawsuit Reports

The City was served with a civil action on December 27, 2013, from Mark Eaton DeVerges vs. the Board of Adjustment of the City of Asheville. The nature of the proceeding is a

Board of Adjustment appeal regarding E. Chestnut Street in the Charlotte Street neighborhood. This matter will be handled by an attorney outside the City Attorney's Office.

The City was served with a civil action on January 21, 2014, from Mark Byrd vs. City of Asheville and Asheville Police Department. The nature of the proceedings is an EEOC lawsuit of discrimination in the form of discrimination. This matter will be handled by an attorney outside the City Attorney's Office.

The City was served with a civil action on January 23, 2014, from Timothy J. Fortenberry vs. City of Asheville. The nature of the proceedings is a petition for trial de novo for all matters that went before the Asheville Civil Service Board on December 17, 2013. This matter will be handled in-house.

Recess

At 5:18 p.m. Councilwoman Wisler moved to recess the Tuesday, January 28, 2014, meeting of the Asheville City Council until Thursday, January 30, 2014, at 10:00 a.m. in the Council Chamber, located on the 2nd Floor of City Hall. At that time, it is anticipated that City Council will immediately go into closed session to consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

Thursday – January 30, 2014 - 10:00 a.m.

Recessed Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Jan D. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: Councilman Cecil Bothwell

At 10:00 a.m. a.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

At 4:15 p.m. Councilman Davis moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 4:15 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Friday – February 7, 2014 - 9:00 a.m.
U.S. Cellular Center

Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

Mayor Manheimer convened the meeting and introduced Mr. Greg Walker Wilson, who would be facilitating the retreat.

City Manager Jackson highlighted the 2013 accomplishments; and Assistant City Manger Cathy Ball provided Council with the 2013-14 Strategic Plan update.

While Mr. Walker reviewed with Council the pre-retreat interview summary responses on the various topics, City Council asked various questions: (1) most proud of; (2) City's greatest strengths to be sure to preserve and leverage in 2014; (3) how do strengths fit with residents' expectations; (4) how can the City best meet the needs of residents/stakeholders; (5) what are the opportunities given external forces; (6) top opportunities to focus on; (7) what should City be most passionate about; (8) given strengths & opportunities, what direction should City go in; (9) what strategic initiatives does Council want to focus on (projects, programs, etc.); (10) resources needed; and (11) three-five indicators to demonstrate.

City Council then invited the public to join them in breakout sessions to discuss the 2013-14 Strategic Operating Plan. Following the breakout sessions, presentations were given from each breakout group, after which City Council discussed their priorities and goals for 2014-15, mainly with the information from the breakout sessions.

Using the considerable discussion by Council, along with the information from the breakout sessions, staff attempted to begin wordsmithing Council's goals and action items; however, ultimately it was the consensus of Council to have City staff wordsmith their priorities and goals and provide them to Council for review at an upcoming worksession for finalization and at a formal meeting for adoption.

At 3:53 p.m., Mayor Manheimer recessed the retreat until 9:00 a.m. on Saturday, February 8, 2014, at the U.S. Cellular Center.

Saturday – February 8, 2014 - 9:00 a.m.
U.S. Cellular Center

Continuation of Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

Mr. Paul Myers, Executive Director of the N.C. League of Municipalities, reviewed with Council a PowerPoint for "Positioning your City for Legislative Success." He stressed the importance of City/County/legislative relationships, regional collaboration, and ways to implement the legislative agenda.

Mr. Jack Cozort, the City's legal representative, said that he is looking at how Asheville can develop a comprehensive legislative approach and agenda. He said that he would come back to Council in approximately one month with next steps.

There was discussion on Asheville's perception in Raleigh and ways that Asheville needs to change that perception, which in part is to communicate and demonstrate how Asheville is being proactive and doing good things.

City Manager Jackson explained the strategy for improving the City's communication and public engagement, while Director of Communication and Public Engagement Dawa Hitch explained the following three areas that have potential to improve the City's image and improve the effectiveness of the City's interactions with residents and stakeholders (1) continuing to grow and improve a diverse communication portfolio; (2) encourage a culture of engagement in the organization; and (3) effectively manage engagement in the community. Council provided good information in ways our board and commission members can help spread the good work of the City, along with suggestions for the City's electronic newsletter and the possibility of major committee meetings being posted to U-Tube.

City Manager Jackson, along with Mayor Manheimer, reviewed with Council the new City Council Governance Committee, reminding them that there is a need to explore implications of policy alternatives and the policy development process in the areas of strategic planning, intergovernmental relationships, legislative agendas, and public engagement. The Governance Committee will serve in an advisory capacity to the Council as a whole. Mayor Manheimer (Chair), Vice-Mayor Hunt and Councilman Smith were previously appointed to the Governance Committee. Ms. Hitch, Interim Deputy City Manager Mike Morgan and he will staff the new Committee. The idea is for Council to prioritize ideas, delegate them to the Governance Committee and then, with staff, develop an action plan for the new Committee. This Committee will function as any other City Council Committee and if any recommendations are needed, they will be forwarded to the full Council. It was noted that the functions of the Governance Committee will be revised in six months.

At 11:45 a.m., Mayor Manheimer adjourned the meeting.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday – February 11, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: Vice-Mayor Marc W. Hunt (family emergency)

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF JACK INGRAM

On behalf of City Council, Mayor Manheimer and Councilman Davis were pleased to present to Mr. Jack Ingram, recent NASCAR inductee into the National Hall of Fame, a recognition proclamation for his exemplary performance in auto racing, and a key to the City.

B. PROCLAMATION PROCLAIMING FEBRUARY 12, 2014, AS "RED HAND DAY"

Mayor Manheimer read the proclamation proclaiming February 12, 2014, as "Red Hand Day" in the City of Asheville. She presented the proclamation to Ms. Heather Kinlin, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING FEBRUARY 12, 2014, AS "DARWIN DAY"

Councilman Bothwell read the proclamation proclaiming February 12, 2014, as "Darwin Day" in the City of Asheville. He presented the proclamation to Ms. Jennifer Lovejoy, President of WNC Humanists.

D. EMPLOYEE RECOGNITION

City Manager Jackson recognized Director of Water Resources Steve Shoaf who was chosen by the American Water Works Association as Vice-President of the international association, which advocates and educates for clean water across the North American Continent.

On behalf of City Council, Mayor Manheimer thanked Mr. Shoaf for his professionalism and skill he brings to the City of Asheville and City Council.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item "H" was added to the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 28, 2014

B. RESOLUTION NO. 14-23 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A CONTRACT WITH GRAHAM LAND COMPANY, LLC

FOR THE HANDY PARK BUILDING DEMOLITION AND RETAINING WALL CONSTRUCTION PROJECT

ORDINANCE NO. 4276 - BUDGET AMENDMENT FOR THE HANDY PARK BUILDING DEMOLITION AND RETAINING WALL CONSTRUCTION PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $359,981 plus a contingency of 15% ($53,997) with Graham Land Company, LLC for the project known as Handy Park Building Demolition and Retaining Wall Construction; and (2) a budget amendment in the amount of $413,978 from debt proceeds as part of the Community and Economic Development Capital Improvement Program (EDCIP).

The former Handy Park structure is a former two-story parking deck that is in disrepair and is a liability due to its dilapidated condition. The adjacent structure, the former Flying Frog restaurant, is in similar condition. These structures are owned by the City of Asheville, and as the owner the City of Asheville is responsible should any injuries occur at either site. City of Asheville staff has determined that these structures should not remain as they stand due to poor aesthetics and potential liability issues. Removal of these structures entails demolition of the structures and installation of a retaining wall to maintain the integrity of the site's soils. The retaining wall is a temporary measure and is expected to be removed once the properties are sold. The project was advertised on December 10, 2013. Bids were opened with Graham Land Company, LLC of Robbinsville, NC, being the lowest responsible bidder with a bid of $359,981. A 15% contingency ($53,997) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from this contract would resolve liability issues associated with these dilapidated structures and remove unsightly blighted structures from downtown.

The estimated completion date is 53 calendar days from the official notice to proceed date (assuming City Council approval on February 11, 2014, the notice to proceed will be issued on February 12, 2014).

As noted above, this project will be funded with debt proceeds as part of the Community and Economic Development Capital Improvement Program (EDCIP). The City will utilize a construction financing arrangement (draw program) to meet cash flow needs on EDCIP projects with full debt issuance likely occurring at twenty-four month intervals. This financing approach will allow the City to maximize the use of EDCIP funds.

City staff recommends City Council adopt a (1) resolution awarding the contract to Graham Land Company, LLC and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $359,981 plus a contingency of 15% ($53,997), for a total of $413,978, with Graham Land Company, LLC for the project known as Handy Park Building Demolition and Retaining Wall Construction; and (2) the associated budget amendment.

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C. MOTION APPOINTING ALAN GLINES TO THE ASHEVILLE REGIONAL HOUSING CONSORTIUM TO SERVE AT COUNCIL'S PLEASURE

Summary: The Asheville Regional Housing Consortium was formed in 1993 to serve as the governing body for policy and funding recommendations for the HOME Partnership Act Program, for which the City of Asheville is funded by the US Department of Housing and Urban Development.

The Consortium is comprised of participating local government- counties and municipalities- located in Buncombe, Henderson, Madison and Transylvania Counties. Each Consortium member provides representation to the Consortium Board of Directors, serving at the pleasure of the member's elected governing body. The City of Asheville is provided two Board members- one, the Chair of the City's Housing and Community Development Committee (who also chairs the Consortium Board), and one additional representative.

The City now has the opportunity to appoint a new representative, to replace Brenda Mills who has served in this position for the position for the past six years. Except for the City Council representative and one other person, all other Board members serve in staff positions for their respective local governments.

During the January 21, 2014, Housing & Community Development Committee meeting, City staff recommended Alan Glines as the new City representative. Alan has worked for the City of Asheville for 17 years. In 2001, Alan joined the Planning and Development Department where he now holds the position of Planner II. Alan's current work focuses on development review especially in the downtown area, long range planning efforts, and coordination of the Downtown Commission's design subcommittee and other special projects. Alan received a Master's of Landscape Architecture degree from North Carolina State University and has been a past board member of Asheville Greenworks and Neighborhood Housing Services

The Housing & Community Development Committee members approved the recommendation.

Staff recommends City Council appoint Alan Glines as a Board member of the Asheville Regional Housing Consortium.

D. RESOLUTION NO. 14-24 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO N AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

FY 2013-14 funding totals $60,430. The subject grant will provide 80% of the anticipated funding ($48,344), the North Carolina Department of Transportation will provide 10% ($6,043), and the City will provide the remaining 10% ($6,043). The grant funding and the City's local match in the amount of $6,043 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

The total grant funding for Fiscal Year 2013-14 is $60,430. The City is required to provide a 10% local match in the amount of $6,043. The anticipated grant funding and the City's local match in the amount of $6,043 are already budgeted in the Transit Services Fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2013-14.

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E. RESOLUTION NO. 14-25 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM TO INITIATE A DWI TASK FORCE IN ASHEVILLE & BUNCOMBE COUNTY

ORDINANCE NO. 4277 - BUDGET AMENDMENT FOR DWI TASK FORCE IN ASHEVILLE & BUNCOMBE COUNTY

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund a multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of $724,861 to establish a budget for the first year of the grant.

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher.

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. They proposed applying for a grant in the amount of $724,861 in FY 2014 that would cover 100% of the cost, or $329,250, to purchase vehicles, uniforms, and equipment, and to train six officers on DWI enforcement and education. The remaining $395,611 of the grant would cover 100% of the salary and benefits costs for four years at a diminishing rate for these officers. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

On August 27, 2013, Asheville City Council passed Resolution 13-188 authorizing the City Manager to apply for grant funds for this project. On September 30, NCGHSP Director Don Nail authorized the Asheville Police Department to submit the contract to enter into an agreement for this grant funding for the DWI Task Force.

The general fund impact to the City would be approximately $253,957 over the four year grant cycle. At the end of the four years, the general fund impact would be approximately $267,325 per year to permanently add one sergeant and three officers to the APD roster, and to provide their equipment as needed. The chart below outlines the general fund impact over the next four fiscal years.

FY 2014	$0
FY 2015	$40,098
FY 2016	$80,197
FY 2017	$133,662

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of $724,861 to establish a budget for the first year of the grant.

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F. ORDINANCE NO. 4278 - BUDGET AMENDMENT FOR THE PURCHASE OF ADDITIONAL SALT AND SAND

Summary: The consideration of a budget amendment, in the amount of $150,000, from unassigned fund balance to increase the General Fund winter storm control budget to allow for the purchase of additional salt and sand.

Over the last several fiscal years, staff has budgeted approximately $120,000 to purchase materials (salt and sand) for winter storm control. After two consecutive mild winters in which actual expenditures for salt and sand came in well under budget, staff reduced the FY 2013-14 storm control budget during the budget process last spring with a plan to return to Council mid-year if weather conditions required the use of additional materials.

With the unusually cold start to the 2013-14 winter that required the use of sand and salt to treat City streets on five occasions and the pending winter storm this week, staff has depleted the approved budget and is requesting that Council approve the budget amendment that will increase the budget appropriation by $150,000. Staff believes that the additional $150,000 will provide sufficient resources to fund the purchase of materials for the remainder of the winter season.

Pro:

- Provides the required budget authorization for the purchase of additional salt and sand materials for winter storm control.

Con:

- Requires an appropriation from unassigned fund balance.

This budget amendment includes the appropriation of $150,000 from unassigned fund balance in the General Fund. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of $15.48 million, which was approximately $2.3 million above the City's 15% policy target. With the $150,000 fund balance appropriation for this budget amendment, the City will still be approximately $2.1 million above the 15% policy target.

City staff recommends City Council adopt a budget amendment, in the amount of $150,000, from unassigned fund balance to increase the General Fund winter storm control budget to allow for the purchase of additional salt and sand.

Mayor Manheimer gave some statistics regarding the City's preparedness for snow storms.

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G. RESOLUTION NO. 14-26 - RESOLUTION ADOPTING THE CASH AND INVESTMENT POLICY

Summary: The consideration changes to the City of Asheville's Financial Policy to include a Cash and Investments Policy.

Efficient cash management and effective investment activity are fundamental responsibilities of governing bodies and a vital statutory function of finance officers in North Carolina. Deposit and investment activities of local governments are guided by provisions of the NC General Statutes (NCGS), specifically Chapter 159, Article 3 – The Local Government Budget and Fiscal Control Act.

A written cash and investments policy that is adopted by the governing board to establish guidelines for management of public funds is strongly recommended as best practice by the Government Finance Officers Association (GFOA) and the NC Treasurer's office.

The City has historically followed an informal plan of investing idle public funds. During a review of investment performance with the Finance Committee on October 22, 2013, it was suggested that staff poll peer municipalities across the state to determine which units of government had adopted formal cash and investments policies. The Finance Committee also requested that the City Manager and Finance staff propose such a policy if research indicated such formalization and adoption. The table below summarizes the results of the poll our staff conducted.

Unit	Yes, formal policy	No formal policy
Cary	X	
Concord	X	
Wilmington	X	
Charlotte		X
Wilson		X
Winston-Salem	X	
Greenville	X	

City staff recommends that City Council adopt the changes to the City of Asheville's Financial Policy to include a Cash and Investments Policy.

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H. RESOLUTION NO. 14-31 - RESOLUTION AUTHORIZING PAYMENT TO DELPHI DEVELOPMENT FOR OBTAINING A "QUIET ZONE" DESIGNATION AT LYMAN STREET

ORDINANCE NO. 4279 - BUDGET AMENDMENT FOR "QUIET ZONE" DESIGNATION AT LYMAN STREET

Summary: The consideration of a resolution authorizing the payment of $15,000 to Delphi Development for obtaining a "Quiet Zone" designation for the railroad crossing at Lyman Street; and the associated budget amendment in the amount of $15,000 from the City's General Fund Balance to fund this request.

As a general rule, the railroad industry follow protocol for blowing train whistles at railroad crossings for safety purposes. The noise from these whistles can be a deterrent to growth and economic development particularly for housing. It is difficult to have railroad crossings designated as a "Quiet Zones" because of the design, signage and location of the crossing.

Delphi Development contracted with a company to work with Norfolk Southern to designate the Lyman Street Crossing in the River Arts District as a "Quiet Zone." The cost of the consultant was $30,000. The City of Asheville made the application to Norfolk Southern, paid the application fee of $2,800 and installed approximately $5,000 of additional signs to make the crossing safe.

The Quiet Zone designation has now been approved for the Lyman Street Crossing.

As mentioned earlier in the staff report, the cost of the consultant was $30,000 paid by Delphi Development to obtain approval of the quiet zone by Norfolk Southern. The staff recommends the City pay 50% of the fee up to $15,000, contingent on the City receiving paid invoices from Delphi Development to the Consultant. In addition, the City has paid the application to Norfolk Southern, in the amount of $2,800 and installed approximately $5,000 of additional signs to make the crossing safe.

City staff recommends City Council adopt a resolution authorizing the payment of $15,000 to Delphi Development for obtaining a "Quiet Zone" designation for the railroad crossing at Lyman Street; and the associated budget amendment in the amount of $15,000 from the City's General Fund Balance to fund this request.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the addition of Consent Agenda "H". This motion was seconded by Councilman Smith and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 12.33 ACRES FOR A PROJECT KNOWN AS THE AVALON LOCATED ON SWEETEN CREEK ROAD FROM INDUSTRIAL DISTRICT TO RM-16 MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

Mayor Manheimer said that this public hearing was opened and continued from the December 10, 2013, meeting until this date. Earlier today, Mr. W. Louis Bissette, attorney for the applicant, requested a continuance to February 25, 2014, due to inclement weather.

Councilwoman Wisler moved to continue this public hearing, without further advertisement, until February 25, 2014. This motion was seconded by Councilman Pelly and carried unanimously.

B. PUBLIC HEARING TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO ADD STANDARDS TO ALLOW THE USE OF ELECTRIFIED SECURITY FENCES IN ZONING DISTRICTS THAT ALLOW INDUSTRIAL USES

ORDINANCE NO. 4280 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADD STANDARDS TO ALLOW THE USE OF ELECTRIFIED SECURITY FENCES IN ZONING DISTRICTS THAT ALLOW INDUSTRIAL USES

Planning & Development Director Judy Daniel said that this is the consideration of an ordinance to amend Chapter 7 of the Code of Ordinances to add standards to allow the use of electrified security fences in zoning districts that allow industrial uses. This public hearing was advertised on January 31 and February 7, 2014.

Earlier this year a local business requested a permit to install electrified security fences. These are not currently allowed or disallowed; but the Fire Marshall had concerns about the product and held the permit. The business owner with representatives from the fence company appeared before the Public Safety Committee in the summer. The Committee heard the information presented by the fence company and the concerns of the staff; and then requested further information from staff including practices of other cities in North Carolina. The Fire Marshall returned to the Public Safety Committee in October with additional information. That research revealed that there is no consensus in the state regarding this use. The cites of Fayetteville and Durham specifically allow them, Raleigh, Gaston County, and Cary specifically do not allow them, and Charlotte, while silent regarding them in their zoning, allows them by default.

After discussion the Committee directed staff to prepare a change to the appropriate city ordinances to allow the use of these fences for consideration by the full Council. The ordinance change presented reflects that request.

After internal discussion staff determined that the most appropriate location for the regulations (following practice in cities where the fences are allowed) would be in the section of the UDO that regulates fences and walls, Section 7-10-3. The modifications combine suggested model language from the company that sells these fences and criteria to address staff concerns.

As proposed these electric fences would be allowed only in the Industrial, Light Industrial, and Commercial Industrial zoning districts – as outdoor storage of supplies and equipment vulnerable to theft are most likely to be located in those districts. Further, they would be prohibited from being built within any public right-of-way, utility right-of-way, public construction easement, or within 1,000 feet of any residential use. The table below summarizes the proposed standards.

Energizer Standards	Storage battery only of no more than 12 volts DC
	No connection to any overhead power post
	No connection to more than one energizer per section
	Lightening diverter/arrestor required between fence and energizers
	Must be connected to a dedicated ground system
	Must be not be connected to any building or plumbing system
	Must be at least 10 feet from any buried pipes, wire, or other utilities
	Ground system cables must be properly insulated

Electric Charge	Must not exceed standards of IEC latest edition
	Must regulate voltage, pulse, amperage at all times
Fence Design	Must not interfere with nearby transmission lines
	Must not interfere with overhead utility lines or their maintenance
Alarm System	Must be equipped with a monitoring alarm system
	Must obtain a permit meeting City of Asheville standards *and meet the standards of Article II, Section 13 of the City Code*
Height	The electric fence may not exceed 10 feet in height
	The perimeter nonelectric fence may not exceed 10 feet in height
	Any portion of either fence taller than 6 feet must be located beyond the front setback
	Any portion of either fence taller than 8 feet must be located beyond the front or rear setback
Separation	The electric fence must be separated from the perimeter nonelectric fence by an area between 12 and 36 inches wide
	The area between the fences must be free of vegetation or objects
	The lowest portion of the perimeter fence must be close enough to the ground to that no space exists.
Warning Sign	At least one warning sign must be placed on each side of the fenced area, no higher than four feet from the ground
	There may be no less than 25 feet between such signs
	There must also be at least one sign put onto any vehicle or pedestrian access gate.
	The sign must not be larger than 1 square foot in size, with lettering a minimum of 1 inch high
	The sign must be black, or black and red, on a white or yellow background.
	The sign must state: "Danger – Electric Fence" or "Warning – Electric Fence" in English and Spanish
	The sign must include an illustration indicating the potential for electric shock
Disconnect Switch	A disconnect switch in a "key box" of a design approved by the Fire Department must be installed at a location acceptable to the Fire Department that will disconnect the electric fence completely from all energizers if required by police, fire, or other emergency personnel
	The location of the switch must be clearly marked and easily observable and accessible from the main entry path

The proposal can be said to comply with the Asheville City Development Plan 2025 in that it works toward improving security options for businesses in Asheville. It can also be said to comply with the City Council's Strategic Plan in that it works toward the goal of improving economic growth and financial sustainability by improving security options for businesses in Asheville.

The Planning and Zoning Commission reviewed this wording amendment at their January 16, 2014, meeting and after a brief discussion voted 4-2 (with 1 absent) to support the change, with one modification. The Commission requested that the change be modified to reflect that the alarm systems would be governed under the existing city code requirements for alarm systems. That change (referencing Article II, Section 13-31) has been added to the proposed ordinance as shown (shaded) below:

c. *Alarm system* - Electrified fences must be equipped with a monitoring alarm system and must obtain a permit meeting the standards of the City of Asheville for alarms in Article II of Section 13-31 of the City Code that activates simultaneously with any contact to the electrified area of the fence.

There may be minor fiscal impacts. Based on the above findings and the analysis provided in the report, staff believes that the change will have some limited fiscal impact if enforcement by APD is needed when an alarm goes off.

Staff recommends approval of this amendment to Section 7-10-3 fining that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation, and as it reflects the desire of the Public Safety Committee to provide this added security option for local businesses.

She asked for two small amendments: (1) the definition for the electrified security fences include "utility facilities"; and (2) the reference of the Fire Code in "Chapter 13, Article 2, Section 13-32 of the City Code".

Mayor Manheimer opened the public hearing at 5:31 p.m., and when no one spoke she closed the public hearing at 5:31 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4280, as amended by City staff. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-27 - RESOLUTION TO ESTABLISH A LONG RANGE RESIDENTIAL WASTE REDUCTION GOAL TO GUIDE MUNICIPAL WASTE SERVICES

Chief Sustainability Officer Maggie Ullman said that this is the consideration of a resolution to establish a long range residential waste reduction goal to guide municipal waste services.

The City of Asheville's commitment to waste reduction started in 1997 when the residential recycling program was established. Recently, in response to Council Strategic Goals to *reduce community wide waste* the city implemented the single stream recycling and education program called Zero Waste AVL. This program merged the types of materials into one container and increased the size of the recycling container to match the landfill waste container. Affectionately referred to as Big Blue in the community, this April 2012 service enhancement resulted in a 6.4% decrease in the waste going to the Buncombe County landfill from Asheville residents who are served by municipal waste services. In August 2013, the city entered into a partnership with Buncombe County to assess the feasibility of building a compost processing facility at the county landfill in order to open the opportunity for future compost collection for Asheville residents. Throughout these recent service enhancements and explorations the Sustainability Advisory Committee on Energy and the Environment (SACEE) has been researching national best practices and associated policies in waste reduction.

The resolution, written by the SACEE Committee, and recommended by staff, is intended to achieve the following long range goals:

- Extend the life of the Buncombe County landfill, currently projected to reach capacity in 2035

- Increase reuse, recycling, and composting of waste
- Enhance the local economy by diversifying waste services

The following areas are important to understand when considering a long term residential waste reduction policy: landfill capacity, waste composition, and waste data and trends.

Landfill Capacity: Municipal solid waste collected from Asheville residents is taken to the Buncombe County landfill in North Buncombe. Depending on the year this waste accounts for 16-22% of the total waste going to the landfill. When the landfill opened in 1996 it had a projected lifespan of 30 years until 2026. Due to the recession, when consumption patterns decreased and the construction industry significantly slowed, the projected lifespan of the landfill was delayed to 2035. Although, about 20 years away, efforts to plan for the BC landfill closure are in their earliest phases and will increase in the next 5 years.

Due to the significant amount of time locating, permitting, and planning for a new local landfill or to create partnerships to haul local waste out of county or out of state it is prudent to evaluate options now. Either of these future scenarios will require a significant public expense paid for by Buncombe County and Asheville City citizens. Another option is to commit to reduce waste in order to extend the life of the landfill as long as possible. This waste reduction policy is designed to reduce the amount of Asheville residential waste going into the landfill by 50% by 2035.

Waste Composition: In order to evaluate the potential success of a waste reduction policy it is important to understand what is currently being thrown away and taken to the landfill. Through the aforementioned Buncombe County partnership to investigate composting a residential garbage waste audit was completed in November 2013. The results of this audit, which sorted a statistically significantly sample of the waste stream, show that 18% of what is going to the landfill could be recycled and 26% is organic waste which could be composted. When combined 44% of what is being thrown away by Asheville residents could be processed differently and be diverted from the landfill. The proposed resolution calls for a 50% total reduction in landfill waste because staff believes that over time a combination of service expansions for recycling and compost in addition to starting reduction and reuse education programming would yield a total reduction of 50% in the suggested 21 year timeframe.

Residential Waste Data and Trends: The recent trends in Asheville residential curbside waste collection show steady reductions of waste going to the landfill. The two largest decreases in landfill waste were from 2008 to 2009 which corresponds with national residential waste reduction trends due to the recession and then from 2011 to 2012 when the city introduced Big Blue to our neighborhoods. The reduction during those two episodes was 5.8% and 5.4% respectively. Over the last three years since the city has increased recycling education through the Zero Waste AVL program and delivered Big Blue the tons of recycling increased by 25%.

Brush collection is not included in the waste reduction policy because the brush is not going to the landfill but being ground down through the private sector and reused for mulch. It is important to note the fluctuations of brush over time are highly dependent on weather events such as severe winter storms which generate tree falls and limb damage as well as increased rain fall amounts which fuels plant growth. The long term waste reduction policy is intended to continue reducing waste by establishing a strong leadership commitment to waste reduction despite future economic recovery, population growth, and competing municipal priorities over time.

Best Practice Research: SACEE went through a due diligence process to research and assess how the municipality could utilize best practices to support a long range plan and commitment to waste reduction. The trend in waste reduction is to establish a reduction policy with incremental targets for reduction in landfill waste over time as is proposed in the resolution under consideration. At least 30 municipalities have established such policies with varying targets

and timelines based on the local context of municipal waste service, landfill capacity, and community support. The city of Carrboro, NC created a waste diversion target for their residential sector of 61% per capita up from 56% per capita. Austin, TX approved a policy setting a goal of 90% landfill diversion from the residential sector by the year 2040.

The waste reduction policy proposes the following: Establish a goal of 50% residential solid waste reduction by total tonnage by the year 2035. This goal will be measured from the baseline year of 2010 and result in total reductions of:

15% by 2020, 25% by 2025, 40% by 2030, 50% by 2035.

Financial Considerations: When faced with a million dollar service expansion to purchase Big Blue recycling containers for 30,000 households, staff was able to design the program to be revenue neutral. This was achieved by borrowing money to purchase the roll carts and paying it back each year through the money saved in tipping fees at the landfill. In FY13 the city spent $1.1 Million on tipping fees to dispose garbage at the landfill. In order to achieve a 50% waste reduction goal there will likely be additional costs over time. Through replicating the successful savings recycling program stated above staff believes there is great opportunity to manage potential future cost increases by first looking to tipping fee savings as a funding source.

Included in the supporting documents of this proposal is a long term waste reduction plan. This plan is not intended to be a binding plan but a path forward with potential options for staff and Council to evaluate over time. Any and all service expansions or cost changes in waste reduction services would be considered by Council on an annual basis during the budget process.

This resolution supports the following activities in the Strategic Operating Plan: 1) Ask employees to innovate and seek savings.

There is no direct fiscal impact. Any changes to solid waste services will be considered on an annual basis as part of the fees and charges and/or the budget approval processes.

City staff recommends City Council adopt a resolution to establish a long range residential waste reduction goal to guide municipal waste services.

Councilman Smith hoped we will be able to look at increasing that target over time.

In response to Councilman Davis, Ms. Ullman said that the partnership conversation with Buncombe County has been very positive.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 14-27. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. RESOLUTION NO. 14-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MULTI-YEAR PARTNERSHIP WITH MOOG INSTITUTE FOR MOOGFEST

ORDINANCE NO. 4281 - BUDGET AMENDMENT FOR MOOGFEST

Economic Development Specialist for Events Jon Fillman said that this is the consideration of (1) a resolution authorizing a multi-year partnership with Moog Institute for Moogfest; and (2) a budget amendment in the amount of $40,000 from unassigned General Fund fund balance to provide budget authorization for FY 2013-14 Moogfest support.

Moog Institute, a local non-profit organization has requested financial and in-kind support from the City of Asheville through the Office of Economic Development for the production of Moogfest. The request was presented to the Planning & Economic Development Committee for consideration who passed a motion in support of a performance-based partnership at the meeting held on January 21, 2014.

Moogfest is described as an economic development engine for Asheville in the form of a unique hybrid innovation conference, job fair, technology expo and music event held over multiple days, in multiple venues across downtown Asheville. Moogfest's five-day conference is designed as an immersive learning experience targeted to position Asheville as a hub of technology and creativity. The synthesis of Moogfest connects industry leaders to qualified talent, joins corporate sponsors with businesses, and generates content to influence capital investment. Moogfest is a mechanism intended to promote job creation and job growth through a catalytic approach to the development of a technology industry cluster in Asheville.

Moogfest attendance is estimated at 20,000 – 30,000 utilizing 7,300 hotel room nights. Anticipated media value is expected to reach $10M with an overall $30M direct economic impact from the conference overall. Moogfest is funded by over $3M in private investment and is attracting corporate sponsorship commitments ranging from $5K - $300K.

Moog Institute has requested the City of Asheville provide $40K in financial support and a maximum value of $50K of in-kind support per year for three years beginning with the April, 2014 conference. Staff is in support of establishing a multi-year, performance-based partnership agreement with Moog Institute for Moogfest. Post-event reports and an economic impact study to be conducted by the Asheville Area Chamber of Commerce would be used as measurement tools to evaluate outcomes in the areas of job creation and job growth. Specific requirements of the partnership include the creation of a minimum of 10 full-time positions or equivalent combination of temporary and seasonal positions, host no less than 10 technology companies in Asheville with the capacity to relocate or expand and create jobs, and accommodate at least 25 manufacturers in the event's temporary retail environment.

Pros:

- Furthers Economic Development initiatives in the areas of job growth and job creation;
- Meets strategic operating plan goals of leveraging investment in special event partnerships; promoting an environment for investment
- Performance driven investment;
- Supports economic impact in the form of hotel sales and occupancy taxes, retail and sales tax generation;
- Supports development of an identified economic cluster in the City;
- Supports public/private cooperation as well as support for a non-profit organization.

Cons:

- Requires financial support that was not allocated in the City's 2013-14 budget;
- Has an impact on department staff costs for the utilization of in-kind services including staff time, police, fire, and public works;
- Results in lost revenue for permits, parking fees and rentals;
- Contains risks associated with supporting a new economic development concept.

The fiscal impact is a $40,000 financial investment per year. $50,000 of in-kind support and fee waivers per year for a maximum value of $90,000 per year at a maximum term of three years as defined appropriate to support permitting, space uses and on-site conference operations. As noted above, the $40,000 in financial support for the April 2014 conference was not included in the FY 2013-14 adopted General Fund budget, therefore an appropriation from unassigned fund balance is required to provide budget authorization for this payment. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of $15.48 million, which was approximately $2.3 million above the City's 15% policy target.

Staff recommends City Council approve (1) a resolution authorizing the City Manager to execute a three-year, performance based partnership agreement between the City of Asheville and Moog Institute for Moogfest; and (2) a budget amendment in the amount of $40,000 from unassigned General Fund fund balance to provide budget authorization for FY 2013-14 Moogfest support.

Mr. Mike Adams, President and CEO of Moog Music, explained the short term benefits to Asheville being (1) $10 Million media value; 10,000 people per day x five nights; (3) 34,000 hotel room nights; and (4) approximately $30 Million economic impact. He then explained the long term benefits to Asheville which include (1) create the perception that Asheville is supportive of innovation; (2) transition tourism from "Play" to "Play with Purpose"; (3) attract entrepreneurs and the talent necessary to create jobs; and (4) increase local entrepreneurship. He urged City Council for their support.

In response to Councilman Smith, Mr. Fillman explained on the long-term economic development benefits of networking opportunities for people attending the conference. The networking opportunities will benefit job growth and job creation. In addition to connecting entrepreneurs to skill building, we will be introducing them to the region.

In response to Councilman Pelly, Mr. Adams explained how they are offering scholarships to students.

Councilwoman Wisler hoped that from the relationships built, it will result in good paying jobs and new visitors. She was supportive of the $50,000 in-kind services, but could not support the $40,000 request for a festival that is not open to the public and is not consistent with our other economic development funding.

Councilman Smith noted that even though it is a ticketed even, there is a job fair, tech expo, performance stages, etc. which will be free and open to the public.

Mayor Manheimer noted that this is not a replacement for the Bele Chere festival. She felt the City is taking more of an economic development approach for Moogfest. She was excited to see that Moog is trying to bring together arts and technology, noting we need to harvest a more technology sector. She felt this is an exciting economic development investment.

Councilman Davis felt this is a small amount of investment for the ultimate economic development benefits.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and ordinance and they would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-28. This motion was seconded by Councilman Smith and carried 5-1 vote with Councilwoman Wisler voting "no".

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Councilman Bothwell moved for the adoption of Ordinance No. 4281. This motion was seconded by Councilman Smith and carried on a 5-1 vote with Councilwoman Wisler voting "no".

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C. RESOLUTION NO. 14-29 - RESOLUTION AUTHORIZING THE FISCAL YEAR 2013-14 HOUSING TRUST FUND LOANS TO BEAUCATCHER COMMONS LLC AND GIVENS ESTATES INC.

Summary: The consideration of a resolution authorizing 2013-14 Housing Trust Fund loans to Beaucatcher Commons, LLC (Raleigh & Marietta Lots) and Givens Estates, Inc. (Givens Gerber Park Apartments).

Four applications for 2013-14 Housing Trust Fund financing were received this year. The total amount requested was $925,000. The projected Fiscal Year 2013-14 year-end balance in the Trust Fund available for new projects is $377,000. The applications were presented to the Housing and Community Development Committee (HCD) on January 21st. After review and discussion, the HCD Committee recommended loan funding for two of the applications:

1) Givens Estates, Inc. for the construction of 120 units of rental housing for seniors on Gerber Road in South Asheville, with the loan amount of $230,000 (adding to and amending their $270,000 award from last year); and
2) Beaucatcher Commons, LLC for the construction of six (6) rental units on three contiguous lots on Raleigh and Marietta Streets located in the Shiloh neighborhood in South Asheville, $90,000.

- Two projects were not recommended for funding: Pinnacle Point, a 38 unit family rental housing development proposed in South Asheville by Mountain Housing Opportunities; and Asheland Place, a 30 unit rental development for the "hardest-to-house" persons experiencing chronic homelessness, proposed by Biotat, LLCX. Project Descriptions for the Housing Trust Fund recommended projects are provided below:

Givens Gerber Park Apartments – Givens Estates, Inc. ($230,000)

- New Construction of 120 Senior Rental Units
  - (94 One-Bedroom; 26 Two-Bedroom)
- Total estimated Project Cost: $14,400,518
- Average Cost per Unit = $120,004 ($150.87 / SF)
- NCHFA Tax Credits Not Awarded in 2013; Will Reapply in 2014

Givens Estates has proposed a 120-unit multifamily rental development for low income seniors ages 55 and over in South Asheville on a 6-acre vacant site zoned Highway Business and located on Gerber Road between Hendersonville Road and Sweeten Creek Road. Once the 120 units are completed, 42 units will be considered new units, and 78 units will be considered replacement units for 78 existing HUD 202 senior apartments built in 1979, which are proposed to eventually be taken out of service and demolished due to obsolescence and lack of ADA accessibility. Givens Estates has also indicated that current residents of the existing 78 HUD 202 apartments will either be allowed to transfer their rent subsidies to the new apartments or will be provided vouchers.

The HTF loan and terms recommended are:

- A total of $500,000 in HTF funding is recommended (2013-14 Award: $270,000 + 2014-15 Request: $230,000).

- The loan will have a 20-year term at 2% interest with deferred principal payment, with the annual repayment amount to meet the requirements of the NCHFA 2014 Qualified Allocation Plan (QAP. Any unpaid interest will be due and payable at the end of the 20-year term.

If approved as recommended by the HCD Committee, the HTF repayment amount will be an annual payment based on actual cashflow.

30 of the 120 units will be reserved for tenants earning at or below 30% AMI. The remaining 90 units will be restricted to persons at or below 60% AMI. The project proposal meets the Fund's stated priority in that 78% (94) of the units will be one-bedroom units and the remaining units (26) will be 2-bedroom units.

The HTF per-unit subsidy is $4,167 based on 120 units. The loan request represents 3.5% of the total development costs. The average per-unit development cost is $120,004. With a total of 95,450 square feet of proposed floor space, the project cost per square foot is $150.87.

Pros:

- Substantial financial leverage will be achieved if the project receives a tax credit award.
- Extremely low per-unit HTF subsidy requested.
- Development site within ¼ mile of jobs, services, groceries, and transit.
- Energy efficiency with Energy Star and SystemVision certification.

Con:

- No other financing commitments have been received. The project failed to obtain 2013 tax credits, although it was very competitive relative to other projects.

Raleigh & Marietta Lots – Beaucatcher Commons, LLC ($90,000)

- New Construction of 6 Rental Units
  - 3 Lots; 1 3-BR Rental House & Garage Apartment on Each Lot
- Total Estimated Development Cost = $623,000
- Average Cost per Unit = $103,833 ($127.25 / SF)

Mr. Kirk Booth, principal owner of Beaucatcher Properties, LLC has proposed a 6-unit rental development on 3 contiguous lots located in the Shiloh neighborhood. The proposed units will be infill development in an older established neighborhood with water and sewer access available. Each of the three (3) development lots are currently zoned RS8 and will contain a three-bedroom single family rental home with a one-bedroom accessory apartment over a rear garage. The three-bedroom units will be rented at 80% AMI ($961/month) and the accessory units at 60% AMI ($489/month).

The developer requested a $120,000 loan. The HCD Committee recommends a $90,000 loan, with 50% of the note ($45,000) due as an amortizing loan over 30 years at 4.5% interest (3-bedroom units) and the remaining 50% of the note ($45,000) financed as interest-only at 2.00% annual interest with principal deferred for 20 years (accessory units). The HCD Committee left it to the developer to reduce project costs or find another funding source to make up the $30,000 difference.

The project proposal meets the Fund's stated priority in that 50% of the units will be one-bedroom floor plans. No TRC or P&Z review is required. The developer is ready to begin construction immediately and anticipates that the units could be completed and occupied by October 2015.

The recommended loan represents 14.4% of the total development cost as submitted by the applicant. The average per-unit development cost is $103,833. Based on a total of 4,896 square feet, the project's average cost per square foot is $127.25. The per-unit HTF subsidy is $15,000. The proposed development lots are located within 1/4 mile of a transit line. None of the units will be ADA accessible. The project will not be Energy Star certified but does incorporate many of the desired elements such as energy star appliances, low-e windows, low-flow water system, efficient lighting, and recycled flooring lumber.

Pros:

- Infill development supports strategic planning goals.
- The developer has completed other local projects in a timely manner.
- Developer is pledging affordability for 30 years.
- Units available to serve individuals transitioning from homelessness will be provided.

Con:

- Questions of design quality have been raised by neighbors regarding one of the developer's recent projects. Plans submitted by the developer for this project show a cottage design that appears compatible with the existing structures in the neighborhood.

The current projected year-end balance (as of July 31, 2014) in the Housing Trust Fund is $377,000. The total of the loans recommended by the HCD Committee is $320,000, which leaves a projected unreserved balance in the Trust Fund of $57,000. This should be a sufficient cushion in case Fund revenue does not meet expectations. No negative fiscal impacts associated with City Council approval of these loans is anticipated.

The Housing and Community Development Committee recommends City Council approve a resolution authorizing the following loans subject to the developers meeting all program requirements for loan closing.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-39. This motion was seconded by Councilwoman Wisler and carried unanimously.

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D. BOARDS & COMMISSION

Regarding the City-County African American Heritage Commission, the following individuals applied for the vacancies: Donnell Sloan, Rebecca Bernstein, Phyllis Utley, James E. Lee III, Jan Goffney, Warren G. Smith, Angel Redmond, Sheneika Smith, Sandra Elaine Kilgore, Marvin D. Chambers, Johnnie N. Grant, Annie Burton, DeWayne Barton, Sasha F. Mitchell, Mychal Bacoate, Desmond McAfee, Jesse Junior, Lamar Hylton, Georgia M. Shannon, Alfred J. Whitesides Jr., Daniel Jonas Young, Viola J. Spells and Damita Jo Wilder. After each Council member announced their top three candidates for interviews; it was the consensus of Council to interview the top six as follows: Jan Goffney, Marvin D. Chamber, Johnnie N. Grant, DeWayne Barton, Lamar Hylton and Alfred J. Whitesides Jr..

Regarding the Asheville-Buncombe Historic Resources Commission, the following individuals applied for the vacancy: Stephens Smith Farrell, Tom Hartwell, Keaton Edwards, Jesse James, William S. Eakins, Gary Herndon, Patricia Darcy, Kendra Turner and Geoff Mohney. The Boards & Commissions Committee recommended appointing Kendra Turner. Councilman Pelly moved to appoint Kendra Turner and that motion was seconded by Councilman

Smith. Because another Council member requested an interview of William Eakins, Councilman Pelly withdrew his motion. It was the consensus of City Council to interview William Eakins.

RESOLUTION NO. 14-30 – RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Councilman Davis, member of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Board of Electrical Examiners.

Mr. Harold Garland recently died, thus leaving an unexpired vacancy until July 1, 2015. Councilman Davis spoke highly of Mr. Garland's service as a City employee and then as the Chair to the Board of Electrical Examiners.

The following individual applied for the vacancy: Kenneth DeWayne Frisbee.

On February 11, 2014, it was the consensus of the Boards & Commissions Committee to appoint Kenneth Frisbee.

Councilman Smith moved to appoint Kenneth Frisbee to serve the unexpired term of Mr. Garland, term to expire July 1, 2015, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Lawsuit Report

The City was served with a Complaint on February 7, 2014, from Veronica Crouch vs. the City of Asheville. The nature of the proceeding is a complaint for personal injury from negligence of public transit bus driver. This matter will be handled by an attorney outside the City Attorney's Office.

Closed Session

At 6:42 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville; Wilcox, Mary Ann; and Henderson County and Cane Creek Water and Sewer District. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:23 p.m.

Magdalen Bowlson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – February 25, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. N.C. FIRE CHIEF OF THE YEAR RECOGNITIONS

City Manager Jackson recognized Fire Chief Scott Burnette as being awarded the Career Fire Chief of the Year by the North Carolina Fire Chiefs Association. Greensboro Fire Chief Gregory H. Grayson (and former Asheville Fire Chief) nominated Chief Burnette for this recognition. This is the highest honor the NCFCA can bestow upon a member and speaks to the outstanding professionalism of Chief Burnette as well as the esteem with which he is held by his peers.

Director of Emergency Management Jerry VeHaun was also pleased to recognize the Volunteer Fire Chief of the Year Jeff Justice of the Reems Creek Fire Department.

City Manager Jackson noted Asheville's partnership with Reems Creek Fire Department which allowed our Standard of Cover in the Beaverdam area to increase from 20% to the high 90%.

On behalf of City Council, Mayor Manheimer thanked Chief Burnette and Reems Creek Fire Chief Justice for their professionalism and skill they bring to the City of Asheville and our area.

B. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized several departments/individuals that performed at a high level of professionalism and efficiency during the entire winter storm period in mid-February 2014.

II. CONSENT AGENDA:

At the request of Mayor Manheimer. Consent Agenda Items "D" was removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE CITY COUNCIL RETREAT HELD ON FEBRUARY 7-8, 2014, AND THE REGULAR MEETING HELD ON FEBRUARY 11, 2014

B. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JUNE 28, 2011

Summary: Changes in Commission rules require ABC Boards across the state to adopt a travel policy that mirrors the travel policy of their appointing authority. In order to meet the requirements of Chapter 18B-700, Article 7 (g2), the Asheville ABC Board seeks to continue to use the travel policies of its appointing authority, the City of Asheville. Section g2 states, "The local board shall annually provide the appointing authority's written confirmation of such approval ..." The ABC Board approved the current policies on June 28, 2011. There are no changes to the current policies.

The Asheville ABC Board is requesting formal written confirmation of the approval of the Asheville Board of Alcoholic Control Board Member Travel Policy and the Asheville Board of Alcoholic Control Travel Policy.

C. RESOLUTION NO. 14-32 - RESOLUTION DELEGATING TO THE CITY MANAGER/DESIGNEE THE AUTHORITY TO EXEMPT IN WRITING, PARTICULAR PROJECTS UNDER $50,000 IN ACCORDANCE WITH SECTION 143-34.31 OF ARTICLE 3D OF CHAPTER 143 OF THE NORTH CAROLINA GENERAL STATUTES

Summary: The consideration of resolution delegating to the City Manager/designee, the authority to exempt in writing, particular projects under $50,000, in accordance with Section 143-34.31 of Article 3D of Chapter 143 of the North Carolina General Statutes.

N.C. Gen. Stat. sec. 143-64.31 is often referred to as the "Mini-Brooks Act." It requires that services for architects, engineers, surveyors or construction managers at risk be selected to perform work based on qualifications and not cost. In order to enter into contract with any of these professionals, state and local governments must solicit proposals from qualified professionals. The initial determination of which firm is best qualified must be done without regard to the fee or price.

The law allows for local governments to exempt projects from the provisions of this article for projects where the estimated professional fee is less than $50,000. This exception must be done by the local government body in writing. The local government can delegate this authority to the City Manager or his designee.

The purpose of the exemption is to allow government officials to hire professionals for projects where time and/or resources are limited. Staff recommends delegating this authority to the City Manager in order to expedite projects performed by these professional firms.

Staff is committed to the intent of the Mini-Brooks Act in that only qualified professionals would be contracted to perform work. Furthermore, staff would initially seek informal proposals from local firms for work expected to be less than $50,000. It is the intent of staff to contract with as many local firms as possible in order to achieve diversity in design and cost.

This exemption only includes projects where the professional services fee is under $50,000. All other projects would be procured through request for proposals and/or request for qualifications.

Staff benchmarked other cities, counties and towns in North Carolina to see how they managed this process. There is a variation of how each of these local governments process professional services under $50,000. Of the thirteen who responded, nine seek exemptions to the Mini-Brooks Act. Of those nine, six delegate the exemption authority to the City/County or Town Manager.

Pros:

- Significantly reduce staff resources and time in the procurement of professional services where the professional fee is anticipated to be less than $50,000.

- Provide opportunity to contract with local qualified professionals in a more efficient manner.
- Professional firms would not utilize their time and energy preparing proposals for small fees in which they are not selected.

Con:

- Qualified professional firms may be concerned that the city would contract with a limited number of professionals and without the opportunity to submit qualifications, may not have the opportunity to perform work for the City.

The fiscal impact to the City would be indirect in that staff resources would be spent in the design construction phase of the projects as opposed to the selection of the professional firm.

Staff recommends City Council adopt a resolution delegating to the City Manager/designee, the authority to exempt in writing, particular projects under $50,000, in accordance with Section 143-34.31 of Article 3D of Chapter 143 of the North Carolina General Statutes.

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D. RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING TO ACCEPT A DONATION OF 48 ACRES OF REAL PROPERTY AT 98 DESOTA STREET FROM DUKE ENERGY PROGRESS AND ENTER INTO A CONSTRUCTION AND MAINTENANCE AGREEMENT FOR JOINT STORMWATER IMPROVEMENTS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

E. RESOLUTION NO. 14-34 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT TWO REMNANT PARCELS OF REAL PROPERTY FROM THE N.C. DEPT. OF TRANSPORTATION FOR THE PURPOSE OF ASSEMBLING THE PROPERTY INTO EXISTING RIGHT-OF-WAY AT SWEETEN CREEK INDUSTRIAL PARK

Summary: The consideration of a resolution authorizing the Mayor to accept the conveyance of two parcels of N.C. Dept. of Transportation (NCDOT) remnant property on Sweeten Creek Industrial Park in order to assemble the property into existing City right-of-way.

On January 28, 2014 Council approved a resolution to accept 2.79 acres of remnant property along Sweeten Creek Industrial Park. NCDOT owns a second parcel along Sweeten Creek Industrial Park road and has offered to donate this parcel to the City. This parcel measures 2.09 acres (identified as PIN 9657-33-3015) and is within close proximity to the new GE Aviation facility. The City plans to assemble the property into the existing city right-of-way at Sweeten Creek Industrial Park.

Pros:

- Increases the City's right of way along an industrial corridor.
- Donation from NCDOT

Con:

- Modest additional maintenance costs.

No monetary consideration required for the conveyance. Deed recordation fees will be the responsibility of the City, which should not exceed $100.00.

City staff recommends City Council to adopt a resolution accepting the conveyance of NCDOT remnant property to assemble the property into existing right-of-way.

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F. RESOLUTION NO. 14-35 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH THE N.C. WATER AND WASTEWATER AGENCY RESPONSE NETWORK FOR AN INTRASTATE MUTUAL AID AND ASSISTANCE AGREEMENT BY AND BETWEEN WATER AND WASTEWATER UTILITIES

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with the North Carolina Water and Wastewater Agency Response Network (NCWaterWARN) for an intrastate mutual aid and assistance agreement by and between water and wastewater utilities.

The City of Asheville Water Resources Department wishes to enter into an intrastate mutual aid and assistance agreement by and between water and wastewater utilities. Through this agreement, members coordinate response activities and share resources during emergencies whether localized to the utilities or a declared disaster. The NCWaterWARN has prepared a contract to specify the role of its members, how to request assistance and the reimbursement of costs associated with the response to an emergency. This staff report seeks Council approval for the contract.

By entering into this mutual aid agreement, there is no duty to respond. Members may or may not choose to participate in any specific event. As circumstances develop, the provider may withdraw support after giving a notice of intent to withdraw. Reasonable costs for personnel (portal to portal), support of personnel, equipment and materials, as defined by FEMA or other agency, will be reimbursed by the recipient of the assistance.

A Member of NC WARN may withdraw after providing written notice of the intent to withdraw given to NCWaterWARN. The withdrawal takes place 60 days after NCWaterWARN receives the notice.

There is no cost incurred by entering into this agreement. There may be some incidental costs incurred when responding to a request for assistance, but the majority of expenses will be reimbursed by the recipient of the mutual aid.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a contract with the North Carolina Water and Wastewater Agency Response Network.

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G. RESOLUTION NO. 14-36 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS AWARDED THROUGH THE 2013 BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION

ORDINANCE NO. 4282 - BUDGET AMENDMENT FOR ACCEPTANCE OF 2013 BYRNE JUSTICE ASSISTANCE GRANT

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds awarded through the 2013 Byrne Justice Assistance Grant – Local Solicitation and (2) the accompanying budget amendment, in the amount of $53,016.

The Asheville Police Department has applied for and has been awarded the Byrne JAG 2013 – Local Solicitation. This predetermined amount of funds was based on the Part 1 Uniform

Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Department were allocated $53,016 based on the award matrix, with Asheville receiving $38,844 and Buncombe County receiving $14,172. The distribution of funds has been approved through a signed MOU.

APD plans to purchase in-car video systems to place in patrol cars. The recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases. However, recordings could also be used to aid in resolving allegations of wrongdoing by officers. This technology allows for an even greater level of protection of officers and citizens. The digital cameras provide high quality video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers and City of Asheville. Recordings captured with these cameras could aid in mitigating potential civil liability for the City of Asheville by illustrating in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system create a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Office plans to purchase ATN Night Vision systems. The purpose of this equipment is to enhance officer safety and community safety through the use of technology. This equipment will allow officers to respond to crisis incidents during the hours of darkness or during reduced lighting conditions and operate as effectively as during daylight hours.

The APD will expend $38,844 for the in-car video equipment. The Buncombe County Sheriff's Department will expend $14,172 for the purchase of night vision equipment. This accounts for the total allocation of $53,016 for this Grant.

This is a 100% non-matching grant that will enable the APD to greatly enhance documentation of patrol related activities such as vehicle stops, pursuits, etc. The video evidence will prove to be very valuable in court for both civil and criminal offenses. Additionally, such evidence will be valuable to for internal investigations into officer actions and encounters. This will enhance accountability for officer actions and increase officer and public safety.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.
- Partnership with Buncombe County Sheriff's Office

Con:

- None.

There is no fiscal impact at this time for City Council to approve the resolution accepting this grant award. There will be maintenance and replacement costs for the equipment that will need to be included in future fiscal year budgets.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept grant funds through US Office of Justice Programs; and (2) the associated budget amendment, in the amount of $53,016.

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ORDINANCE BOOK NO. 28 - PAGE 468

H. ORDINANCE NO. 4283 - BUDGET AMENDMENT FOR THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of $1,084.89 to transfer funds from the FY12 North Carolina Department of Commerce allocation budget for the WNC Nature Center, to the FY14 allocation budget.

Each year the State of North Carolina in the Department of Commerce allocates funds to 25 to 30 member museums, science centers and nature centers in North Carolina. The WNC Nature Center is a member of the collaborative. In FY12, the City of Asheville was allocated $92,630 to support capital projects at the WNC Nature Center. Soon after, the City received an additional $1,084.89 as a reversion payback however the funds were not added to the budget at that time.

In order to be authorized to spend the $1,084.89, staff is requesting City Council approve a technical budget amendment to transfer this amount from the FY12 North Carolina Department of Commerce allocation budget for the WNC Nature Center, to the FY14 allocation. Funds will be used to support capital improvements at the Nature Center.

The technical budget amendment is a one-time transfer that will increase the existing budget for the FY14 North Carolina Department of Commerce allocation for facility improvements at the WNC Nature Center. The transfer is funded by a reversion payback associated with an allocation from the North Carolina Department of Commerce received in FY12. There is no impact to the City's General Fund budget.

Staff recommends City Council approve the technical budget amendment authorizing the City Manager to transfer $1,084.89 as a reversion payback for funds associated with the FY12 allocation from the North Carolina Department of Commerce for the WNC Nature Center, to the budget for the FY14 allocation to be used to support improvements at the Nature Center.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTE

D. RESOLUTION NO. 14-33 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A MEMORANDUM OF UNDERSTANDING TO ACCEPT A DONATION OF 48 ACRES OF REAL PROPERTY AT 98 DESOTA STREET FROM DUKE ENERGY PROGRESS AND ENTER INTO A CONSTRUCTION AND MAINTENANCE AGREEMENT FOR JOINT STORMWATER IMPROVEMENTS

Summary: The consideration of a resolution authorizing the Mayor to enter into a Memorandum of Understanding to accept a donation of 48 acres of real property at 98 Desota Street from Duke Energy Progress and enter into a Construction and Maintenance Agreement for joint stormwater improvements.

Duke Energy Progress (formerly known as Progress Energy of the Carolinas, and Carolina Power & Light) has offered to enter into a Memorandum of Understanding with the City for a real property donation and construction agreement. The overall partnership goals of the MOU are:

- Complete a land conveyance of Duke owned property at 98 Desota Street to the City to support the implementation of the French Broad River Greenway, and provide for a transmission line Right-of-Way for Duke.
- Develop joint stormwater facilities to service both the transmission line access road and the greenway.
- Facilitate the regulatory permissions associated with the planning, design, and implementation of the utility and other public infrastructure, such as the greenway, parking and stormwater improvements, associated with the aforementioned property.

Duke owns approximately 48 acres of unimproved land along the French Broad River between the RiverLink Bridge and the French Broad River Park (identified as PIN 9638-92-3484). Duke uses a portion of this property for transmission lines and plans to upgrade and relocate these lines within the parcel footprint. At this time, Duke has expressed interest in donating this parcel to the City, subject to an easement for the transmission line right-of-way.

If accepted, the City would utilize this parcel to connect the planned multi-use path at the New Belgium Brewing site to the existing greenway and park infrastructure at the French Broad River Park. The subject parcel is very steep and mostly riverfront, and an off-road multi-use path is likely the highest and best use for the parcel.

Both the transmission line relocation and the development of a city multi-use path would require the installation of stormwater improvements. Duke will present stormwater improvement plans to the city for approval, and will construct approved improvement during the transmission line rebuild project. Following the land transfer, the City will maintain those improvements, and in turn, Duke will provide a one-time fee for ongoing maintenance.

Given that the parcel is steep in some areas, the city greenway may include the development of retaining walls and other structures. Currently, certain Duke policies prohibit the development of retaining walls and other structures within Duke transmission line right-of-way. Within the terms of the MOU, Duke has agreed to work in good faith to resolve conflicts that may arise between the greenway and transmission line right-of-way policies in a way that promotes and allows for greenway development along this parcel of real property.

As part of the MOU between Duke Energy Progress and the City of Asheville, the City agrees to work in good faith to support the company's effort to locate parcels for utility substation construction and associated transmission lines to support the growing electrical demands within the city.

The proposed MOU outlines the intent of the parties to enter into two contracts -- a Donation Agreement for Real Property and a Construction and Maintenance Agreement for the joint stormwater improvements. The MOU sets forth the responsibilities of each party to fulfill, and timeline for implementation.

Pros:

- Provides for multi-modal transportation along the French Broad River adjacent to the West Asheville Neighborhood and River Arts District
- Donation of land from Duke Energy Progress
- Financial partnership for the joint stormwater improvements and maintenance

Con:

- Timeline for implementation of improvements must be coordinated with the City's budgetary process and CIP funding.

The capital requirements for the project will be defined as an outcome of the architectural and engineering study. The funding for this project will be presented to Council as part of the budgetary process.

City staff recommends City Council to adopt the resolution authorizing the Mayor to enter into a Memorandum of Understanding to accept a donation of real property from Duke Energy Progress and enter into a Construction and Maintenance Agreement for joint stormwater improvements.

Mr. Jason Walls, District Manager of Duke Energy Progress, was excited to be a partner with the City and to work with staff on that part of the river.

City Manager Jackson said that there will still need to be design work and communication with the associated neighborhood and other users.

Councilwoman Wisler thanked Duke Energy Progress for this donation and hoped they will continue their work with major energy users so we don't have to build too many more sub-stations.

Councilman Smith acknowledged the community group that has been involved in this process to date and their willingness to volunteer to get this up and running.

Councilwoman Wisler moved to adopt Resolution No. 14-33. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. UPDATE ON HOMINY CREEK SPILL

Fire Chief Scott Burnette updated City Council on the Hominy Creek spill, located about one mile outside the City limits, on February 14, 2014. He explained the different roles that the different agencies played - City of Asheville Hazardous Materials Regional Response Team; Buncombe County Emergency Management; NC Dept. of Environment and Natural Resources (NC DENR); and the Environmental Protection Agency. NC DENR has advised the City that the contractor completed cleaning the non-porous surfaces, soils, retention pond and downstream booms. NC DENR anticipates the remaining booms will be removed before the weekend.

The next steps will be (1) initial abatement report to be submitted to NC DENR within 30 days; (2) preliminary lab results of three stream samples collected downstream of the site were non-detect for diesel range organics; and (3) on February 24, 2014, a Notice of Violation from the UST Section was issued to Harrison/APAC.

In response to Councilman Davis, Fire Chief Burnette said that he would be happy to make a report to the Public Safety Committee on what the City of Asheville has in place for spill containment to include local regulations and information on whether distance standards exist for large fuel storage near creeks and rivers.

In response to Councilman Pelly, Fire Chief Burnette said that NC DENR's initial reports that out of the 5,000 gallons spilled, 1,500 gallons could have impacted the stream.

When Councilman Smith asked how well equipped are we to respond to a situation like this, Fire Chief Burnette explained that we are much more prepared with equipment and training for those type events than other cities our size.

Mayor Manheimer asked that Fire Chief Burnette's PowerPoint be posted on line and that City Council be e-mailed the link so they may pass it along to interested citizens.

B. QUARTERLY REPORTS

Strategic Operating Plan

Interim Deputy City Manager Mike Morgan provided Council quarterly updates on key strategic initiatives associated with the three focus areas of the City of Asheville's Strategic Plan. Staff has tracked projects using performance indicators and measurements through Fiscal Year 2013-14.

This information is to update City Council on key operational initiatives specific to the Strategic Operating Plan. No action is necessary at this time.

Financial Report

Budget Manager Tony McDowell provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through December, 2013.

Amendments. The General Fund budget presented in this second quarter report reflects the adopted budget of $95,861,764 along with four budget amendments approved by Council. The only budget amendment approved since the first quarter report to Council was the $7,786 amendment to budget the State of North Carolina annual grants to Harvest House and the Senior Opportunity Center. A summary of the budget amendments that were approved as of December 31, 2013, is presented below. None of these amendments involved an appropriation from fund balance.

Adopted Budget	95,861,764
Budget Amendments:	
Technical: Move Changing Together to Grant Fund	(79,060)
Technical: Move Computer Purch. to Capital Fund	(350,000)
Add School Resource Officer	49,842
Senior Op Center/Harvest House Grant	7,786
12/31/2013 Budget	$95,490,332

Revenues. Through December 31, 2013, the City has collected $55,761,424 in General Fund revenue, which represents approximately 58.4% of the total General Fund revenue budget. The percentage of revenue collected compared to budget is almost identical to the previous year's percentage through two quarters. Staff received assessed valuation data from Buncombe County in January that confirmed the FY 2013-14 property tax levy estimates. However, with the change from County to State collection of the motor vehicle tax, revenues from this portion of the tax base are lagging behind estimates. Staff will continue to monitor these collections. Sales tax revenue, which is up 2.8% compared to the same period last fiscal year, is also lagging behind budget. Through two quarters, state utility tax revenue is flat compared to the prior year but on track to reach budget estimates. On a positive note, revenue from Development Service fees continues to trend higher than anticipated and is at 70% of budget. Overall, staff is currently projecting that ***FY 2013-14 General Fund revenue will come in under budget by $399,000 or 0.42%.***

Expenditures. General Fund expenditures through December 31, 2013 total $41,215,333 or 43.2% of the budget, which is slightly under where we were last fiscal year after two quarters. Personnel expenses, the largest component of the General Fund budget, are running under budget through the first two quarters. Expenditures for fuel and fleet maintenance

are also performing better than budget through December. Utility costs are also under budget through December, but likely to increase and be higher than recent years in the second half of the fiscal year due to the colder winter. ***Based on the trends noted above, staff is projecting that expenditures will finish the year under budget by $840,000 (99% of budget) which will more than offset the expected revenue shortfall.***

Fund Balance. The City ended FY 2012-13 with available fund balance of $15.4 million, which equated to 17.6% of FY 2012-13 expenditures. Based on ***current revenue and expenditure projections for FY 2013-14, staff estimates that available fund balance at June 30, 2014, will be $15.9 million or 16.8% of estimated expenditures.***

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF 12.33 ACRES FOR A PROJECT KNOWN AS THE AVALON LOCATED ON SWEETEN CREEK ROAD FROM INDUSTRIAL DISTRICT TO RM-16 MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

ORDINANCE NO. 4284 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY KNOWN AS THE AVALON LOCATED ON SWEETEN CREEK ROAD FROM INDUSTRIAL DISTRICT TO RM-16 MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone 12.33 acres for a project known as The Avalon, located on Sweeten Creek Road, from Industrial District to RM-16 Multi-Family High Density District/Conditional Zoning for the development of 8 multi-family buildings and 1 clubhouse building. This public hearing was opened and continued from the December 10, 2013, meeting. On February 11, 2014, the applicant requested a continuance to this date due to inclement weather.

Ms. Bernstein said that the applicant is requesting review of a conditional zoning request from Industrial to Residential Multi-family High Density (RM-16), in accordance with Section 7-7-8 of the UDO, for the construction of a multi-family apartment complex.

She said that when Council last heard the staff report on the conditional zoning request for The Avalon, a continuation of the public hearing was requested to allow staff the time to do some additional analysis on industrial properties in the city, and this site in particular, after Council concerns were expressed about losing industrially zoned land. Economic Development Director Sam Powers reported the results of that evaluation to the Planning & Economic Development Committee on January 21.

The study looked at zoning adjustments related to Industrial zoned land over the past 10 years, noting that the city has not lost all that much industrial property (excluding the airport) during that timeframe. The report concluded that this site is not considered as having a high potential for industrial development by the Economic Development Commission, and staff recommended proceeding with the rezoning. The Committee indicated general support for the staff conclusions and voted 3-0 to move the application back to the full Council.

Vice-Mayor Hunt gave a brief history of the industrially-zoned land. He said that industrial sites are very few in the County and City and in order to achieve economic development goals, it's important we have sites available for industry to locate. He said that our Economic Development staff and the Economic Development Coalition of Asheville & Buncombe County have renewed their commitment to understanding more about industrial inventory and how we might need to approach that in the future. Staff has determined that from in industrial site inventory, this site could be supported to conditionally zone.

Mr. W. Louis Bissette, attorney representing the developer for the Avalon Project, said that this company is family owned and are based in Gastonia, N.C. The currently have a project underway in Asheville on Mills Gap Road. He agreed with City staff that this is not a high priority site for industrial property. He believed the 192 units are needed in this area and it is shovel ready. He explained that these are work-force oriented apartments.

Mr. William Ratchford, Vice-President of Triangle Realty, reiterated that they are owners and long-term operators of their projects. He explained some of the green features on the site being Energy Star Appliances, low flow water saving fixtures, permeable pavement sections in part of the parking areas, and a community garden. He said that 12 years ago the site was graded and there is a lack of vegetation on the site. They will put in 100 new trees and several hundred bushes.

Councilman Smith noted we are trying to create affordable housing and we have had hundreds of apartment units approved by Council in the last few months and only 14 of them are designated affordable. We do need to improve housing stock, but this looks like we are only creating one kind.

Mr. Ratchford said they are market rate owners. They feel that Asheville does have affordability problems but not just for low income, but throughout the entire group of rental housing. They should open up 224 units with The Palisades next summer. If this project is approved they will add another 416 units to a supply market that will help reduce rents. Their workforce housing rates are for a one-bedroom start at $800; a two-bedroom starts at $1,000; and a three-bedroom starts at $1200-1300. He believes that the market rate apartments will drive the economy and make it better for not just low income apartment units, but for all units.

Councilman Smith was disappointed on the lack of affordability for this project, but he did value the unit stock.

When Councilman Pelly asked if local government has a role to address the situation where 40% of our tenants are paying more than 40% of their income, Mr. Ratchford felt that from the development end, the ability to get through plans and marketing is tough in Asheville, but consistency and knowing what to expect from the beginning is good.

Vice-Mayor Hunt believed that the reforming the Unified Development Ordinance (UDO) and updating our Comprehensive Plan will allow us to better accommodate multi-family development for not only addressing the supply/demand curve, but also infill density. His preference would be to move forward over the next couple of years to reform our UDO and make it a level playing field for more predictability for everyone and also have it geared to incentivize and encourage affordable housing development.

Councilman Smith looked forward to creating that policy framework to improve affordable housing. City Council has to be clearer on what we expect, noting that that conditional zonings are the type zonings that City Council can ask for things to meet their strategic goals.

At 6:22 p.m., Mayor Manheimer asked for public comment, and after no one spoke, she closed the public hearing at 6:22 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4284 to conditionally zone 12.33 acres for a project known as The Avalon, located on Sweeten Creek Road, from Industrial District to RM-16 Multi-Family High Density District/Conditional Zoning,

subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to the issuance of any site development permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The building design, construction materials and orientation on site must comply with the conceptual site plan and building elevations presented with this application. Any deviation from these plans may result in reconsideration of the project by the reviewing boards. This motion was seconded by Councilwoman Wisler and carried on a 5-2 vote, with Councilman Pelly and Councilman Smith voting "no."

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B. PUBLIC HEARING TO CONSIDER CONDITIONALLY ZONING PROPERTY LOCATED AT QUAIL HOLLOW DRIVE AND WESTON ROAD FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT AND INSTITUTIONAL DISTRICT TO RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING

ORDINANCE NO. 4285 - ORDINANCE TO CONDITIONALLY PROPERTY LOCATED AT QUAIL HOLLOW DRIVE AND WESTON ROAD FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT AND INSTITUTIONAL DISTRICT TO RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at Quail Hollow Drive and Weston Road from RS-4 Residential Single-Family Medium Density District and Institutional District to RS-4 Residential Single-Family Medium Density District/Conditional Zoning to create a major subdivision with the extension of the existing roadway to accommodate twelve single-family home lots. This public hearing was advertised on February 14 and 21, 2014.

The project site involves 4.29 acres of land at the terminus of Quail Hollow Drive and with frontage on Weston Road. The project area, which is comprised of a portion of two parcels, is split-zoned RS-4 and Institutional, with the majority of the property in the RS-4 zone. Surrounding properties are Institutional (INST) to the west, INST and RM-16 to the north, INST and RS-4 to the south and RS-4 to the east.

The applicant is proposing to subdivide 4.29 acres from two larger parent parcels to develop a continuation of an adjacent residential development to the north. The proposal shows the creation of 14 separate lots; 12 of which will contain single-family homes and the remaining two (closest to Weston Road) designated for open space. Due to the split-zoning on the property, the applicant requests a conditional zoning to eliminate the Institutional portion, resulting in a single-family development all zoned RS-4. The developers have not indicated any plans for the residual acreage of the parent parcels, located to the south.

Quail Hollow Drive is shown to be extended, terminating in a cul-de-sac to the west and a stub-out turnaround to the southeast. Street lights (5) are shown along the new roadway as well.

Street trees are required along the new road and are shown at a rate of one tree every 40 feet, resulting in 37 trees. Thirty percent of the total acreage is required to be dedicated as tree save area (1.29 acres) and will be planted according to section 7-11-3 of the UDO. Twenty percent of the area (0.86 acres) is designated as open space and is provided in the two lots with frontage along Weston Road.

The request for all RS-4 zoning is appropriate as the bulk of the project area is already under this designation. When creating new lots, it is preferable to avoid a development with split-zoning. Additionally, the proposed subdivision as it is shown is allowed by-right in the existing RS-4 zoning. The conditional zoning application is proposed only to resolve the split-zoning.

The proposal was approved with conditions by the Technical Review Committee on January 6, 2014.

The Planning & Zoning Commission reviewed this request at their meeting on February 5, 2014. Staff supported the rezoning but felt the cul-de-sac should be instead opened to Weston Road. The developer indicated a concern that high speeds and blind curves along Weston Road, as well as other street entrances within close proximity, would make the connection unsafe. Residents of the existing subdivision were present and voiced concern over the lot sizes being smaller than their own and expressed a desire for the connection to Weston Road.

The Commission was supportive of the proposed rezoning/subdivision extension (voting 5-0 in favor); but based on City goals to provide connectivity throughout residential neighborhoods, they requested that the developer provide the connection to Weston Road *if the DOT would determine that the connection can be safely made* since Weston Road is under DOT control and any new driveways would be under their authority to permit, rather than the City. Since that meeting the staff received a determination from DOT stating that they believe the connection to Weston Road would not be safe and therefore, the suggested condition from the Planning & Zoning Commission would not be applicable.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The site is currently undeveloped (wooded) and has an average natural grade of 12.85%. The proposed use to extend Quail Hollow Drive and create 12 single-family home lots should be compatible with the existing topography of the area. No significant mitigation measures are expected to be needed.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   As a continuation of the similar residential neighborhoods to the east, the proposed single-family development is not expected to injure the value of adjoining properties.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   The continuation of Quail Hollow Drive with 12 single-family home lots is compatible with the scale, bulk, coverage, density and character of the area especially to the north, east

and south, which is predominantly single-family residential as well. The residential development to the immediate north, although in the RS-4 zone, was developed with larger lots than this proposal. The parcels to the west are mostly undeveloped and zoned Institutional. Any development on this land would be required to provide a buffer against the residential use.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The project generally conforms to the comprehensive plan and City Council's strategic plan in that the continuation of the existing single-family development preserves and further strengthens the residential neighborhoods in the immediate vicinity, preserves open areas and provides opportunities for housing.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The site is located in an area accessible by vehicle. The nearest transit route is the S3 at Hendersonville and Buck Shoals Road (less than 0.5 miles). Adequate water supply, police protection, waste disposal and similar facilities are verified during the TRC review process.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
Based on a review of the plans for this project, the proposed use should not cause undue traffic congestion or create a traffic hazard. Staff has concerns with the proposed stub on the east side of the development, as if it had access to Weston Road there would be another access to the property for residents and emergency vehicles. Weston Road is; however, under the control of DOT and their letter dated February 7, 2014, states that the connection is not considered as a viable option due to safety concerns and would not be permitted by the Department.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Conditionally zoning the entire property to RS-4 eliminates the split-zoned result of residential lots with an Industrial portion, which can lead to conflicting development standards
- The proposal is a continuation of an existing single-family development and is consistent with the development pattern in the vicinity.
- The proposal as shown is permitted by-right in RS-4 zoning.
- While not prohibited, stubbed cul-de-sac streets are strongly discouraged on local and residential streets because they are seen to disrupt connectivity, safety and access, *however, the DOT controls Weston Road and they do not consider a connection to be a viable option due to safety concerns.*

Staff recommends supporting the request to conditionally zone the proposed major subdivision from RS-4 and Institutional to all RS-4, with the following suggested conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The term of validity for the conditional zoning amendment is contingent on pursuit of the specified development. Without such action, the zoning amendment

can expire as per UDO Sec. 7-7-8(c)(9) and 7-7-8(c)(10). The proposal eliminates a split-zoned situation which would otherwise result in multiple conflicting standards on each single lot.

City staff recommends City Council approve/deny the Conditional Zoning from RS-4 and Institutional to RS-4 and (if approving) subject to the conditions suggested by staff and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation.

Mr. William Lapsley, consulting engineer for the project, said that this is the completion of the original development by the same owner/developer. He said that he met with the NC Dept. of Transportation District Engineer and discussed the possibility of connecting the stub-out to Weston Road. He and the District Engineer felt that the connection should not be made from a safety standpoint.

Mayor Manheimer opened the public hearing at 6:30 p.m. and when no one spoke, she closed the public hearing at 6:30 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4285 to conditionally zone property located at Quail Hollow Drive and Weston Road from RS-4 Residential Single-Family Medium Density District and Institutional District to RS-4 Residential Single-Family Medium Density District/Conditional Zoning for single-family residential restructures, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; and (5) The term of validity for the conditional zoning amendment is contingent on pursuit of the specified development. Without such action, the zoning amendment can expire as per UDO Sec. 7-7-8(c)(9) and 7-7-8(c)(10). This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 28 - PAGE 476

C. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF 101 BRUCE ROAD FROM INSTITUTIONAL DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

ORDINANCE NO. 4286 - ORDINANCE TO REZONE A PORTION OF 101 BRUCE ROAD FROM INSTITUTIONAL DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance to rezone a portion of 101 Bruce Road from Institutional District to Commercial Industrial District. This public hearing was advertised on February 14 and 21, 2014.

The subject property has an area of approximately 5.9 acres, but the zoning change would only affect about 0.4 acres along the southern boundary (roughly 7% of the lot). The majority of the lot is currently occupied with a tractor and equipment sales/rental/service

business, but the portion subject to the rezoning is vacant, with a row of evergreen trees paralleling Sand Hill School Road. The area proposed to be rezoned is a rectangular strip about fifty feet deep, and the land slopes downward away from the road. There are distant mountain views from this point on the property. The lot also has frontage on Highland Center Boulevard and Bruce Road, but these streets are not expected to be significantly affected by the rezoning.

The applicant has requested a standard rezoning from INST (Institutional) district to CI (Commercial Industrial) district, which currently is the zoning for 93% of the parcel, in order to lessen the complexity of having different standards applied to different parts of the lot.

At their February 5, 2014, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

Compatibility Analysis: Because the area subject to a change in zoning is a shallow strip seven times as wide as it is deep, analysis of the surrounding properties is different than it would be for more typical rezonings. A good way to consider the proposed change is simply shifting the boundary between INST and CI zoning south 50 feet.

The uses to the east and west (a single family home zoned RM16 and church zoned INST, respectively) already are adjacent to the CI zoning; the proposal would merely widen the juncture of the districts by 50 feet. To the north, the applicant's property is already zoned CI – designating the entire property with a consistent zoning district would be a benefit.

The Sand Hill-Venable elementary school across the street to the south (zoned INST) would go from having INST zoning across the street, albeit shallow, to CI zoning across the street. This interface ostensibly represents the most significant potential change, but, as will be discussed below, actual impact is less than what might be perceived at first consideration.

The existing zoning appears to date back to the adoption of the UDO in 1997 – before that, there was not a split-zoned situation. For some years, the character of the stretch of Sand Hill School Road between the bridge over Smokey Park Highway and Sand Hill School Road has been almost entirely residential and institutional: a mix of homes and church and school uses.

Staff's supposition is that the strip of INST zoning currently in effect was put in place to preserve uniformly residential and institutional zoning along the corridor. Such splitting of properties has largely come to be considered a zoning practice to be avoided. Other than imposing a lower limit on sign size, and pushing certain developments slightly farther back from the street, the zoning has little practical effect on the development of high-impact uses on the bulk of the lot.

Further, the City's Institutional zoning district allows a variety of non-institutional uses, such as lodging facilities, microbreweries, banks, pharmacies, and health and fitness facilities. As an example, even under the current zoning, a large hotel could theoretically be built within 15 feet of the Sand Hill School Road property line. Interestingly, the parcel's current dominant land use (large equipment sales/service) is not a permitted use in Institutional zoning. The proposed zoning would allow that use, and other uses such as a nightclub, car wash, flea market, or kennel (already allowed on the northern 93% of the lot) to be built slightly closer to the road.

While one might expect that "up-zoning" the stretch along Sand Hill School Road (a state-maintained road) would increase the chances for a driveway using that frontage, both NCDOT and City traffic engineers generally direct developers to place such ingress/egress on the side street (in this case, Highland Center Blvd). Additionally, if a new high traffic use on the lot were expected to substantially increase traffic at that intersection, staff would work with NCDOT and the developer to install appropriate traffic signals – at the developers' expense.

On January 27, 2014, staff contacted the Principal of the Sand Hill-Venable Elementary School by phone and discussed the proposed zoning change, and there was no indication of opposition. On February 17, 2014, staff received a call from the Buncombe County Schools Facilities Director, who also wanted to discuss the rezoning. He stated that their primary concerns were safety and accessibility, and he asked a number of questions, but indicated that he needed to consult with others before he could state any position about the matter.

As of this writing, staff has received no other communications from other citizens.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Rezoning would resolve a split-zoned situation.
- Would facilitate compliance with UDO for property owner, reducing needless obstacles to development without additional risk of detriment to neighborhood.
- Could allow for larger signage on Sand Hill School Road.

The current situation complicates appraisal of the property, imposes inconsistent setbacks and other standards, and generally muddles the status of the land, contrary to recommended zoning practice. Any perceived benefits of the current zoning status, on the other hand, are almost entirely illusory and based on zoning practices no longer followed. Staff feels the proposed rezoning will yield an improvement over the existing arrangement, and strongly recommends approval.

Mayor Manheimer opened the public hearing at 6:34 p.m. and when no one spoke, she closed the public hearing at 6:34 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4286. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 28 – PAGE 480

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-37 - RESOLUTION ADOPTING THE HAYWOOD ROAD VISION PLAN

Urban Planner Alan Glines said that this is the consideration of a resolution adopting the Haywood Road Vision Plan.

The Haywood Road Vision Plan has been developed through an initiative by the West Asheville Business Association (WABA) and interested local residents to improve the corridor and identify revitalization strategies. The first meeting organized by WABA for business and property owners and interested residents was held in 2002. Since the effort was organized by WABA, the initial efforts focused on encouraging new businesses, special events and beautification projects. In 2003, staff from the former *City Development Office* (a sub-unit of the Planning and Development Department) began to coordinate meetings and focus on major challenges and areas of potential for the corridor with the assistance of a dedicated citizen planning committee.

Over time components that defined the future vision became the focus of staff and the committee as the existing zoning, current infrastructure trends and a lack of a cohesive community vision were seen as both a challenge and opportunity.

Over a number of years, progress was made on the plan but then would need to be postponed due to other department priorities or staff obligations. Major milestones in the creation of the plan are as follows:

- 2005 - Prioritized topics of the plan were identified by the planning committee members
- 2006- Preference survey was created and sent to adjacent property owners with notification to the general community; 450 responses received
- 2007 - Large community meeting held to illustrate responses to the survey questions and priorities for developing the plan and identifying strategies to implement
- 2009 - Creation of the Downtown Master Plan required Haywood Road focused meetings to address changes to Central Business District (CBD) zoned properties
- 2010 - UDO changes were adopted to modify the downtown and the west Asheville CBD areas which reignites interest to complete the study for the remainder of the corridor
- 2011 - Prioritized topics were reviewed again and a second preference survey sent out to adjacent property owners with notification to the general community to revisit community priorities; 600 responses received;
- 2012 - Large community meeting held to correlate findings with the draft Vision Plan and to finalize community strategies.
- 2013 - City Council community meeting was conducted in West Asheville: points of the Vision Plan presented again and the form based code process for Haywood Road was introduced to the community; in September the planning charette for Haywood Road Form Code project with Code Studio team was held to address land use, potential growth and roadway issues

The final version of the plan developed through the wide range of community outreach identified six community priority subject areas: Transportation and Streetscape Issues; Historic Preservation; Zoning and Land Use Issues; Economic Development; Safety; and Neighborhood Issues.

Transportation & Streetscape issue highlights include (1) Complete Streets and Streetscape Improvements; (2) transit improvements and a reduction of driveway curb cuts from 36%; and (3) increases use by pedestrians and bikes.

Historic Preservation issues highlights include (1) there are two historic districts in west Asheville; and (2) a form based code can help with historic preservation.

Land Use and Economic issues highlights include (1) consolidate zoning districts through form based code project; (2) community supports new mixed-use development (3) and creation of pedestrian districts with local character and new green space; (4) support for new and expansion of local businesses; (5) maintain variety of businesses and fill in with daily and weekly needs within the corridor; (6) streetscapes affect economic vitality; and (7) parking is a growing challenge.

Safety and Neighborhood issues highlights include (1) drive curb-cuts on corridor are a safety issue - 36% of the length of the roadway; (2) crosswalks and sidewalks with pedestrian

signals needed - also I-240; (3) more pedestrians on the street make the entire community safer; and *4) facility social media and other out of the box ways to communicate with the community.

Each one of these priorities was identified with a list of needs or opportunities for improvement along the corridor. The items identified will be the focus of the City where appropriate and for others may be community driven efforts.

Their community outreach included: consistency with a steering committee; focus group meetings; citizen surveys; large community meetings; and some website presence.

Each one of these priorities was identified with a list of strategies and opportunities for improvement along the corridor. The items identified through the Vision Plan will become the focus of the City where appropriate and for others may become community driven efforts.

Two areas of the plan: *Zoning and Land Use* and *Transportation and Streetscape* are being addressed through the Form Based Code process that is currently underway and will be finalized with the adoption of a new zoning code for sections of the corridor. These topical areas of the Vision Plan are getting a fine level of planning through this process.

Community plans are generally reviewed by the Planning and Zoning Commission and then are adopted or accepted by City Council. During the Planning and Zoning meetings on January 16 the Commission had a discussion about the plan, and five members of the Haywood Road Community attended and expressed their support for the plan. At the February 5th meeting the Commission considered the plan for adoption. A member of the Plan Steering Committee again attended and spoke in support of adoption. The Commission voted 5-0 (with two absent) to recommend adoption of the Vision Plan to the City Council.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors in the city. The Haywood Road Vision Plan is a corridor-based study looking at future development that provides direction for the community's growth and redevelopment. The Comprehensive Plan encourages neighborhood plans developed through community input and feedback. In addition, the Haywood Road Vision Plan fits within City Council's goal for Economic Growth and Financial Stability because the plan seeks to leverage investment in community infrastructure and create strong mixed-use neighborhoods. The plan relied on community input to develop goals for the corridor.

Because staff finds that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, and based on information provided in the staff report, City staff recommends City Council adopt the Haywood Road Vision Plan because it provides direction for the community's future and was developed with community input.

Councilman Davis said this has been a long time to get to this point and felt this was a great process with a lot of community participation.

In response to Councilman Smith, Mr. Glines briefly explained the difference between the Vision Plan and the form based code.

Councilman Smith noted some of the policy considerations in the Vision Plan that City Council should consider as we are doing long-range transit planning. The Plan also has background on Haywood Road that will help with the Charlotte Street corridor. He hoped that the N.C. Dept. of Transportation will lower the large "Pedestrian Crossing" signs. He also felt that the form based code will allow for continued growth and development on Haywood Street while holding onto the preservation of small businesses and housing.

Ms. Alice Oglesby, West Asheville Business Association, spoke in support of the Vision Plan noting that the community supports it as well. She felt that other parts of the community can benefit from this same process in working on their Vision Plan.

Mr. Steve Rasmussen, member of the Steering Committee, agreed that this was an open and transparent process and that the community found a lot of consensus on the three top priorities that the Plan reflects. He urged Council to adopt the Plan.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-37. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 86

B. RESOLUTION NO. 14-38 – RESOLUTION APPOINTING A MEMBER TO THE CITY-COUNTY AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the City-County African American Heritage Commission.

City Council established the City-County African American Heritage Commission on January 14, 2014, and three of the nine members are to be appointed by City Council.

The following individuals applied for the vacancies: Donnell Sloan, Rebecca Bernstein, Phyllis Utley, James E. Lee III, Jan Goffney, Warren G. Smith, Angel Redmond, Sheneika Smith, Sandra Elaine Kilgore, Marvin D. Chambers, Johnnie N. Grant, Annie Burton, DeWayne Barton, Sasha F. Mitchell, Mychal Bacoate, Desmond McAfee, Jesse Junior, Lamar Hylton, Georgia M. Shannon, Alfred J. Whitesides Jr., Daniel Jonas Young, Viola Spells and Damita Jo Wilder.

On February 11, 2014, it was the consensus of the Boards & Commissions Committee to interview Jan Goffney, Marvin D. Chamber, Johnnie N. Grant, DeWayne Barton, Lamar Hylton and Alfred J. Whitesides Jr.. Dr. Hylton and Mr. Barton were unavailable for interview; however, they were going to contact individual Council members outside the interview process.

After City Council spoke highly of all candidates, Jan Goffney received 4 votes; Marvin Chambers received 6 votes, Johnnie Grant received 1 vote, DeWayne Barton received no votes, Lamar Hylton received 7 votes, and Alfred Whitesides received 3 votes. Therefore, Jan Goffney was appointed to serve an initial one-year term; Marvin Chambers was appointed to serve an initial two-year term; and Lamar Hylton was appointed to serve a three-year term. All terms are to begin after the ninth member is appointed and until their successors have been appointed.

Councilwoman Wisler moved to appoint Councilman Pelly as the Council liaison to the Commission. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 87

C. RESOLUTION NO. 14-39 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Marc Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Historic Resources Commission (HRC).

Brian Cook has resigned as a member of the HRC, thus leaving an unexpired term until July 1, 2015.

The following individuals applied for the vacancy: Stephens Smith Farrell, Tom Hartwell, Keaton Edwards, Jesse James, William S. Eakins, Gary Herndon, Patricia Darcy, Kendra Turner and Geoff Mohney.

On February 11, 2014, City Council instructed the City Clerk to arrange an interview for William Eakins, noting that Kendra Turner is known by City Council and it was not necessary to bring her in for an interview.

After Council spoke highly of the candidates, Kendra Turner received 2 votes and William Eakins received 5 votes. Therefore, William Eakins was appointed as a member of the Asheville-Buncombe Historic Resources Commission to serve the unexpired term of Mr. Cook, term to expire July 1, 2015, or until his successor has been appointed.

RESOLUTION BOOK NO. 35 – PAGE 88

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Ken Michalove spoke to Council about his concerns regarding Pack Place and the Asheville Art Museum.

Ms. Jeanie Rosenthal spoke to Council about the dangers of electronic cigarettes.

When Rev. Lisa Landis asked City Council on how she can obtain a prayer for relief, Mayor Manheimer said that she would be contacted by the City Manager's Office with instructions on how to submit a claim for alleged damages.

Mr. Steve Rasmussen strongly urged Council to oppose the 1-26 widening proposal that the N.C. Dept. of Transportation is calling "Section A" - the 8-10 widening of I-26.

Closed Session

At 7:10 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to consider the qualifications, competence, performance, character, fitness, conditions of appointment of an individual public officer or employee. The statutory authorization is contained in G.S. 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to G.S. 160A-168, the Personnel Privacy Act. The statutory authorization is contained in G.S. 143-318.11(a)(1); and (2) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:25 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:25 p.m.

Magdalen Bullison
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – March 18, 2014- 1:00 p.m.
First Floor North Conference Room

Special Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

RESOLUTION NO. 14-40 - RESOLUTION IN MEMORY OF LAUREY MASTERTON

Mayor Manheimer read the resolution in memory of Laurey Masterton, and presented it to Heather and Lucinda Masterton, Laurey's sisters, who were touched that the Mayor and City Council wanted to honor her sister.

Resolution No. 14-40 was adopted by acclamation.

RESOLUTION BOOK NO. 36 - PAGE 89

RESOLUTION NO. 14-41 - RESOLUTION IN MEMORY OF MARTIN L. NESBITT JR.

Mayor Manheimer read the resolution in memory of Martin Nesbitt, and presented it to his son Martin Nesbitt, who was touched that the Mayor and City Council wanted to honor him.

Resolution No. 14-41 was adopted by acclamation.

RESOLUTION BOOK NO. 36 - PAGE 90

RESOLUTION NO. 14-2 - RESOLUTION APPOINTING ROBIN TATUM CURRIN AS CITY ATTORNEY OF THE CITY OF ASHEVILLE AND APPROVING MEMORANDUM OF EMPLOYMENT AGREEMENT

Mayor Manheimer read the resolution appointing Ms. Robin Tatum Currin as City Attorney of the City of Asheville. She then administered the Oath of Office.

On behalf of City Council, Mayor Manheimer thanked Interim City Attorney Martha Walker-McGlohon for her excellent service in filling in during the search process.

Councilman Smith moved for the adoption of Resolution No. 14-42. This motion was seconded by Councilman Smith and carried unanimously.

On behalf of City Council, Councilman Smith thanked Interim City Attorney Martha Walker-McGlohon for her hard work and dedication in filling in during this interim period.

RESOLUTION BOOK NO. 36 - PAGE 91

Worksession on Legislative Program

Mr. Jack Cozort provided to Council information on members of the legislature, for easier communication with them. He said that the Short Session starts on May 14; however a lot of work for the Short Session has already begun.

He reviewed with the Council the following interim study committees of interest (1) House Property Owner Protection Study (H632); (2) House Public Enterprise System and Use of Funds Study (H708); (3) House Land Development Study; and 94) House Unmanned Aircraft Study. The interim committees of interest at work (which can produce bills for the short session (1) Joint Legislative Committee on Local Government; (2) Revenue Study Laws; (3) Joint Legislative Transportation Oversight; (4) Joint Legislative Economic Development and Global Engagement Oversight Committee; (5) Joint Legislative Administrative Procedure Oversight Committee; and (6) Environmental Review Commission. Bills still eligible of note are (1) Design Controls (H150 sitting in Senate Rules); (2) Continuing Regulatory Reform (H677, S112, H94); (3) Rental Inspection Bill (H773); and (4) Electronic Notice (S287).

Mr. Cozort then gave a brief status report on the following specific City of Asheville bills (1) HB 74 - Regulatory Reform Act of 2013 (likely legislation in the short session to amend the part on environmental ordinances; (2) HB 568 - Asheville Deannexation; and (3) HB 150 - Zoning/Design & Aesthetic Controls.

Mr. Cozort then provided City Council with a sample legislative program format from the Town of Cary that included Advocacy Principles, Legislative Agenda, and their Position Statements. He suggested Asheville might wish to approach their legislative agenda in the same format.

After discussion, it was the consensus of Council to have the Governance Committee charged with drafting Advocacy Principles, not for the Short Session due to the timeframe, and to bring it back to the full Council for consideration.

At the suggestion of Councilman Davis, Mayor Manheimer said that there has been preliminary discussions about a joint meeting with the Buncombe County Board of Commissioners and we could add to the list of topics joint planning efforts.

Throughout discussion, the following topics were identified for the Governance Committee to review for position statements for the legislative program: review of last year's Legislative Program prepared by former City Attorney Bob Oast for any possible updates; a detailed position on House Bill 74 (Regulatory Reform Act of 2013) to support the legislation that would restore some environmental controls; in the Revenue Study Laws Committee regarding the privilege license tax issue; coal ash clean-up issue; I-26 funding; concealed carry in parks bill (highlight that we opposed the bill); a position on Senate Bill 287 for Electronic Notices; effort on the part of the Airport Authority to amend the bill that created the independent authority and to require that the City transfer title; and the topless issue.

Vice-Mayor Hunt stressed the importance of engagement and communication with our legislative representatives to help them understand the issues and to hopefully have positive outcomes. When he suggested a point person in the City Manager's Office to help coordinate the legislative engagement and communication with the Council and the legislators, City Manager Jackson said Mr. Alex Carmichael in the City Manager's Office, and Interim Deputy City Manager Mike Morgan have been performing in that role. It was the consensus of Council to instruct City Manager Jackson to have his legislative staff begin a more active role in prompting City Council to engage with our legislative delegation on our legislative program.

Councilwoman Wisler felt it was a good idea to coordinate with other cities and towns in Buncombe County. Mayor Manheimer responded that at the next monthly meeting of the Mayor's in Buncombe County she would raise that issue to see what level of interest there is. She felt it would be important to be able to show them our legislative agenda to see if they had any interest in any of the issues.

It was the consensus of Council that at the Governance Committee's next meeting that they discuss position statements as outlined above and draft a legislative program for Council's full consideration. In addition, they would discuss our delivery of the legislative program and relationship

component to our legislative delegation. She felt that due to our short timeframe until the Short Session, we may only be able to pull together one meeting with our legislators.

At 2:29 p.m., Mayor Manheimer recessed the meeting.

Magdalen Bullington
CITY CLERK

Eldon E Manheimer
MAYOR

Tuesday – March 25, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Boy Scout Marek Graves led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 11, 2014, AS "CLEAN ENERGY FOR US DAY"

Mayor Manheimer read the proclamation proclaiming March 11, 2014, as "Clean Energy for Us" in the City of Asheville. She presented the proclamation to Ms. Katie Bray, Program Director for Clean Energy For Us, and Ms. Heather Rayburn, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

At the request of Councilman Pelly, Consent Agenda Item "B" was removed from the Consent Agenda due to a conflict of interest.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 25, 2014, AND THE SPECIAL MEETING HELD ON MARCH 18, 2014

B. RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE AND SETTING A PUBLIC HEARING ON APRIL 22, 2014

This matter was removed from the Consent Agenda, due to a conflict of interest by Councilman Pelly.

C. RESOLUTION NO. 14-44 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET AND SETTING A PUBLIC HEARING ON APRIL 22, 2014

Summary: The consideration of a resolution of intent to permanently close an unnamed alley off of South Ann Street and set a public hearing on April 22, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, property owner Shalin Patel has requested the City of Asheville to permanently close an unnamed alley off of South Ann Street.

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of the unnamed alley off of South Ann Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent property
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley off of South Ann Street and set the public hearing on April 22, 2014.

When Councilman Smith asked if this site is intended to be developed for a hotel, City Manager Jackson replied probably yes, but no plans have been submitted yet.

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D. RESOLUTION NO. 14-45 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE UNIVERSITY HEIGHTS AND A PORTION OF EDGEWOOD ROAD AND SETTING A PUBLIC HEARING ON APRIL 22, 2014

Summary: The consideration of a resolution of intent to permanently close University Heights and a portion of Edgewood Road and set a public hearing on April 22, 2014.

N.C. Gen. Stat. sec. 160A-296 gives cities the authority to permanently close streets and alleys within their jurisdictions and North Carolina General Statute # 160A-299 outlines the procedure to be followed. The University of North Carolina at Asheville has requested the City of Asheville to permanently close University Heights and a portion of Edgewood Road, both of which are contained within the university's property which is identified as parcel # 9649072895.

During a meeting on May 18, 2012, staff from the University of North Carolina - Asheville (UNC-Asheville) officially requested that these streets be transferred to them for ownership and maintenance activities. City staff's initial concern was the possibility of losing connectivity between W.T. Weaver Boulevard and Hyannis Street. The university responded via e-mail message dated July 14, 2012 that they had no current plans to either gate or close the streets. The University is pursuing the subject action for the following reasons:

- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.
- Enables the use of State funding to improve and maintain the streets.
- Helps the university complete its master plan.

The City and UNC-Asheville staff has worked closely together during the past two years researching various ways to accomplish the subject task and we have concluded that the best way is through the closing procedures outlined in the statutes.

This item was reviewed by the Multimodal Transportation Commission on February 26, 2014, and they recommended approval.

Pros:

- There will be no future compromise of ingress/egress to other property.

- The closure would allow for more efficient use of the existing adjacent property.
- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.

Cons:

- The City cannot prohibit the possibility of gating the streets although the university has stated that it has no current plans to do so.
- Minor loss of revenues from Powell Bill Funds although the revenues typically do not provide the full street maintenance cost.

City staff recommends City Council adopt the resolution of intent to permanently close University Heights and a portion of Edgewood Road and set a public hearing on April 22, 2014. Staff additionally recommends the street closure fee be waived since the City and UNC-Asheville continue to maintain a close partnership relationship.

RESOLUTION BOOK NO. 36 - PAGE 96

E. RESOLUTION NO. 14-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE AGREEMENT WITH LEAF COMMUNITY ARTS FOR REAL PROPERTY AT THE EAST ASHEVILLE CENTER AT 906 TUNNEL ROAD

Summary: The consideration of a resolution authorizing the City Manager to execute a Lease Agreement with LEAF Community Arts for real property at East Asheville Center at 906 Tunnel Road, Asheville, North Carolina.

LEAF Community Arts is a local non-profit arts education program matching artists with youth in schools and communities for hands-on workshops, residencies, interactive performances and mentoring that includes opportunities for youth to engage perform with the artists.

The East Asheville Center at 906 Tunnel Road is approximately 3,402 square feet and is located within a larger complex of City-owned property. The current uses within the complex of this property are: (1) The City of Asheville Fire Department Station 8 at 904 Tunnel Road; and (2) Buncombe County Public Library East Asheville Branch at 902 Tunnel Road.

At this time, the one-year lease between the City and LEAF Community Arts will expire June 30, 2014, and LEAF Community Arts wishes to establish a lease of the property for a five-year term.

The proposed lease terms are as follows:

- Term: Five years
- Rental: $1.00 per year and operate cultural programs using the Easel Rider Mobile Art Lab on behalf of the City
- Tenant responsibilities: Installation of all improvements, per zoning standards
- Utilities: All utilities to be paid by the tenant
- Maintenance: All maintenance to be performed by tenant
- Mutual rights to terminate lease
- Standard provisions of all City leases (e.g. insurance, indemnity, etc.) will also apply

The Notice of Intent to enter into a Lease Agreement with LEAF Community Arts was published on March 14, 2014, in the Asheville Citizen-Times. Ten days have passed since the publication and authorization to execute the Lease Agreement is being requested.

Pros:

- Mission of LEAF Community Arts supports education programs in the arts and culture
- Delivery of cultural arts programs to the community and within City activities
- Community investment in a recreation facility and cultural art programs at low cost to the City

Con:

- None

There is no fiscal impact on the city's annual operating budget. Although it does not increase the city's capital improvement budget, it does enhance the city's resources to maintain and improve public facilities, and to operate community programming.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement with LEAF Community Arts on behalf of the City of Asheville.

When Councilman Smith asked how we might utilize this type of agreement with area non-profits in order to more closely align our strategic goals regarding achievement gap with our community center programming, Assistant Parks & Recreation Director Debbie Ivester said that we have lease agreements or partnership agreements where we have partners come into our facilities that not only lease the building but help us in programming. Big Brothers/Big Sisters brings a variety of services into our centers, especially during the youth programming. Their programming is clearly addressing youth in that academic arena but in a community center setting. We are in the process of building a comprehensive plan over the next 1-3 years.

In response to an earlier question raised by Councilman Pelly, Ms. Ivester noted that LEAF has been leasing the community center for one year and part of that arrangement is two-fold - LEAF continues to offer the space as a community resource similar to when the city was operating it. It's just a matter of contacting LEAF and making those arrangements. It is based on availability so they do continue to offer that as part of the arrangement in the lease agreement.

RESOLUTION BOOK NO. 36 - PAGE 98

F. ORDINANCE NO. 4287 - BUDGET AMENDMENT FOR PARK AVENUE NORTH BRIDGE REHABILITATION PROJECT

Summary: The consideration a budget amendment in the amount of $30,000 from funding available in the Community and Economic Development Capital Improvement Program (EDCI) for the Park Avenue North Bridge Rehabilitation Project.

The Park Avenue North Bridge, located in the River Arts District, is in disrepair. Recent state inspection reports indicate that the bridge needs immediate attention. Staff is requesting a budget amendment in the amount of $30,000 to perform a feasibility analysis of this bridge to evaluate the structural integrity of the bridge and recommend various options to rehabilitate or remove the bridge, along with the costs of these options.

Pro:

- Provide a professional evaluation of structural integrity of the Park Avenue Bridge.

Con:

- None

The project budget for the feasibility study is $30,000. These funds will be allocated from the EDCIP budget and will cover the cost of the feasibility study.

Staff recommends City Council adopt a budget amendment in the amount of $30,000 from funding available in the Community and Economic Development Capital Improvement Program.

ORDINANCE BOOK NO. 29 - PAGE 1

G. RESOLUTION NO. 14-47- RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A NON-MATCHING GRANT FROM THE NORFOLK SOUTHERN FOUNDATION FOR THE REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM 6

ORDINANCE NO. 4288 - BUDGET AMENDMENT FOR THE REGIONAL HAZARDOUS MATERIALS RESPONSE TEAM 6

Summary: The consideration of: 1) a resolution authorizing the City Manager to accept a non-matching gift in the amount of $1,400 from the Norfolk Southern Foundation to be used in a Hazardous Material Response for Regional Response Team 6 Asheville Fire Department; and 2) a budget amendment in the amount of $1,400 to appropriate this gift for spending.

The Norfolk Southern Foundation has made funds available to help offset operational expensive for hazardous materials teams when training or purchasing equipment to enhance a response.

This matter was reviewed by the Public Safety Committee on February 24, 2014, and they unanimously supported it.

Pros:

- The Norfolk Southern Foundation has made funds available to help offset operational expensive for hazardous materials teams when training or purchasing equipment to enhance a response.
- Firefighter and citizen safety will be enhanced.

Con:

- There are no con's associated with this gift, as it is non-matching.

There is no fiscal impact associated with this gift, as it is non-matching.

City staff recommends that City Council accept the non-matching gift from the Norfolk Southern Foundation, to enhance AFD's capabilities to protect Asheville and Western North Carolina, and the associated budget amendment.

RESOLUTION BOOK NO. 36 - PAGE 99
ORDINANCE BOOK NO. 29 - PAGE 3

H. RESOLUTION NO. 14-48 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE A SEALED BID SALE OF ONE PARCEL OF CITY-OWNED PROPERTY LOCATED AT 30 ROCK HILL PLACE

Summary: The consideration of a resolution directing the City Clerk to advertise a sealed bid sale of one parcel of City owned property located at 30 Rock Hill Place.

The City of Asheville held a deferred rehabilitation loan from September 1996 in the amount of $39,000 on the property at 30 Rock Hill Place, Asheville (0.34 acres. PIN 9656-28-0496-00000). This property was foreclosed on by the 1st lien holder and the City of Asheville placed the winning bid at the foreclosure auction on January 7, 2014 in order to protect its investment by acquiring the property in order to resell. The City purchased the property for

$30,612. The City will use a broker to assist in the sales process, at an estimated cost of $1,000. Any profit from the sale of the property would be used to repay the Community Development Block Grant (CDBG) fund which was the original source of funding for the rehabilitation loan. Staff's estimate of the market value is between $45,000 and $60,000. Staff expects that some portion of the original CDBG funds invested in the property will be recovered. Staff is seeking authorization to commence a sealed bid process, as outlined below:

1. Upon approval of this resolution, the City Clerk will publish a notice of sealed bid sale in the Asheville Citizen-Times, identifying the parcel available for sale and all terms and conditions of the sale.
2. During the thirty day notice period, City staff will actively market the parcels with the assistance of the local realtor's network and the regional Multiple Listing Service (MLS).
3. On May 1, 2014 at 3:30 p.m. on the fifth floor of City Hall, City staff will host a public bid opening, and will review all sealed bids received for the parcels.
4. Staff will present highest bids for City Council authorization on May 13, 2014, with Council reserving the right to reject any and all bids.
5. Potential earliest closing date – June 16, 2014.

Staff is seeking to utilize the sealed bid process in an effort to benefit from the thirty day marketing period. For more information on the parcel and conditions of sale, please refer to the notes contained on the parcel map.

Pros:

- The potential sale will be at fair market value as established by the sealed bid process.
- It will return designated CDBG funds to the City for future grant allocations
- It will transfer responsibility for maintenance to the private sector.

Con:

- There is no negative impact.

All net proceeds from the sale of 30 Rock Hill Place will benefit the Community Development Block Grant fund. If the sale produces no profits, no return will be made to CDBG. If the sale results in a loss, the CDBG funds in the property will be forfeited, and the City's purchase expense would be paid from Housing Trust Funds.

Community Development staff recommends adoption of the resolution directing the City Clerk to advertise a sealed bid sale of 30 Rock Hill Place.

RESOLUTION BOOK NO. 36 - PAGE 100

I. RESOLUTION NO. 14-49 - RESOLUTION AMENDING RESOLUTION NO. 13-168 TO CORRECT THE NAME OF CONTRACTORS ASSIGNED TO THE TWO MUDSLIDE ROAD PROJECTS FOLLOWING THE 2013 SUMMER SUBSTANTIAL RAINFALL

Summary: The consideration of a resolution amending Resolution No. 13-168, to correct the name of the contractors assigned to the two mudslide road projects following the 2013 summer substantial rainfall.

City Council ratified and approved the City entering into two construction contracts to repair major road failures within the City following the torrential rainfall during the summer of 2013. Subsequent thereto, the City was approved for Federal FEMA funding for the cost of public infrastructure repairs. In the process of closing out the projects, staff discovered that both the 2013 staff report and resolution incorrectly interchanged the contractors for the two projects. The purpose of this resolution is to correct a public record and to minimize issues with FEMA reimbursement due to the error. As amended, the resolution now reflects: 1) that the contract for

Buchanan & Sons, Inc. of Whittier, N.C. was for the Sunset Drive and Skyview Place repairs in the amount of $267,674; and 2) that the contract for Young & McQueen Grading Company, Inc., of Burnsville, N.C., was for the Spooks Branch Road repairs for $425,450. Additionally, the resolution clarifies that funds may be expended on both projects up to the total project budget.

Pros:

- Corrects a mistake on the original Resolution.

Cons:

- None.

Adoption of this resolution correcting the names of the contractors has no financial impact.

City staff recommends City Council adopt a resolution amending Resolution No. 13-168, to correct the name of the contractors assigned to the two mudslide road projects following the 2013 summer substantial rainfall.

RESOLUTION BOOK NO. 36 - PAGE 101

J. RESOLUTION NO. 14-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE A VAN

ORDINANCE NO. 4289 - BUDGET AMENDMENT TO SET UP BUDGET TO PURCHASE VAN FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease a van; and (2) a budget amendment, in the amount of $53,928, to set the budget to purchase a van for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is $53,928. Federal funds will provide $38,046 covered with grant NC-90-X395; this grant requires a match of $13,082 provided by Henderson County, plus $2,800 for the title and tag. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A State contract is in place and City staff will order the van as soon as the budget is amended.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 74% of the total estimated project cost.

- Henderson County provides 26% of the total estimated project cost plus tag and title's costs.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $53,928, with 74% or $38,046 coming from Federal funds, 26% or $13,082 and tag and title in the amount of $2,800 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one van and the associated budget amendment.

RESOLUTION BOOK NO. 36 - PAGE 102
ORDINANCE BOOK NO. 29 - PAGE 5

K. RESOLUTION NO. 14-51 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH ELLUM ENGINEERING INC. FOR ENGINEERING SERVICES FOR THE CTS WATERLINE EXTENSION CONSTRUCTION ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Ellum Engineering, Inc. for engineering services in the not-to-exceed amount of $155,000 for the CTS Waterline Extension Construction Administration.

The City of Asheville Water Resources Department is seeking the services of a qualified engineering firm to work with staff to provide construction administration services, inspection services, and record drawing development for the project known as the CTS Waterline Extension. The CTS Waterline Extension project will consist of installing new waterlines and services in the Mills Gap Area of Buncombe County. Approximately 120 new meter services, 7,700 Linear Feet of 8-inch and 6,300 Linear Feet of 6-inch waterlines will be installed with fire hydrants, valves, and other related appurtenances. The project will also include installation of approximately 50,000 Linear Feet of private service line and three individual residential booster pump facilities.

The Water Resources Department issued a Request for Qualifications (RFQ) for Engineering Services related to the contract administration of the CTS Waterline Extension Construction Administration. In response to that RFQ, the WRD received four (4) proposals. Companies responding were:

1. Altamont Environmental, Inc. – Asheville, NC
2. Ellum Engineering, Inc. – Fairview, NC
3. McGill Associates – Asheville, NC
4. Vaughn and Melton Consulting Engineers, Inc. – Asheville, NC

A review team, comprised of staff from the City of Asheville Water Resources Department reviewed these proposals and selected the firm Ellum Engineering, Inc.

Cost incurred as a result of these engineering services, up to the maximum amount of $155,000, will be reimbursed to the City of Asheville Water Resources Department from Buncombe County. Funds for immediate payment for the services are available from the City of Asheville Water Resources Department's Capital Improvement Project budget.

Pros:

- The team put together by Ellum Engineering, Inc. has provided Engineering Services on various water system projects for the City of Asheville. Their experience and knowledge of our water system and project sites associated with the project area will minimize staff support and input during the process.
- This project will allow the City of Asheville Water Resources Department to meet the conditions of the Memorandum of Understanding with Buncombe County.

Con:

- Failure to award an engineering services contract would prevent the Water Resources Department from fulfilling the conditions of the Memorandum of Understanding with Buncombe County.

The funding needed for this agreement is currently allocated within the CTS Waterline Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a professional services agreement with Ellum Engineering, Inc. for engineering services in the not-to-exceed amount of $155,000.00 for the CTS Waterline Extension Construction Administration.

RESOLUTION BOOK NO. 36 - PAGE 103

L. RESOLUTION NO. 14-52 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT CURVE STREET TO DUKE ENERGY PROGRESS INC.

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of City-owned property at Curve Street to Duke Energy Progress, Inc. for a residential overhead power line.

The City of Asheville owns real property at PIN 964868587800000 on Curve Street and the parcel is used for right-of-way purposes. Curve Street runs through the center of the parcel, with additional land area on either side of the street. The total parcel measures 0.17 acres. The highest and best use of this parcel is right-of-way, given the placement of the roadway and the limited residual value of the remaining land.

One of the adjacent vacant lots is currently being developed for a single-family residence. Duke Energy Progress, Inc. has requested an easement for an overhead powerline to benefit the adjacent lot. The area of the easement is not currently being utilized by the city, and presents no apparent conflict with future use.

The proposed easement area is approximately 30 feet wide running a length of 36 feet, for a total of 1080 square feet.

Pro:

- The easement is appropriate for the current use of the right-of-way and would not interfere with any relevant future plans.

Con:

- None noted.

Staff recommends that City Council approve a resolution authorizing the City Manager to convey a 1080 square foot easement over a portion of City-owned property at Curve Street to Duke Energy Progress, Inc.

RESOLUTION BOOK NO. 36 - PAGE 104

M. ORDINANCE NO. 4290 - BUDGET AMENDMENT FOR IMPROVEMENTS TO THE WNC VETERANS MEMORIAL IN PACK SQUARE PARK

Summary: The consideration of a budget amendment in the amount of $4,080 for improvements to the WNC Veterans' Memorial located in Pack Square Park.

In 2011, the WNC Veterans' Memorial Board, a non-profit organization, donated the WNC Veterans' Memorial in Pack Square Park to the City. At the same time, the WNC Veterans' Memorial Board established two trust funds held by the Community Foundation of Western North Carolina. Both trust funds are designed to provide resources to support the perpetual upkeep and maintenance of the Memorial.

To date, the City has received $4,080 in contribution from the trust fund. Funds will be used to replace landscape materials and purchase new flags for the Memorial.

Pro:
- Provides funds for improvements WNC Veterans' Memorial located in Pack Square Park.

Con:
- None

A project budget authorizing recurring maintenance and repair to the WNC Veterans' Memorial located in Pack Square Park will be established with approval of this budget amendment. The project budget will authorize expenditures up to $4,080. These expenditures will be fully funded with trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of $4,080 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of $4,080 for maintenance and repair of the WNC Veterans' Memorial located in Pack Square Park.

ORDINANCE BOOK NO. 29 - PAGE 7

N. ORDINANCE NO. 4291 - BUDGET AMENDMENT TO SET UP CAPITAL PROJECT BUDGETS FOR CERTAIN FISCAL YEAR 2014 PARKS AND RECREATION MAINTENANCE ITEMS

Summary: The consideration of a technical budget amendment in the amount of $237,949 to transfer funds from Parks and Recreation's deferred maintenance operating budget to three capital project, the Velodrome Improvements in the amount of $27,000, Carrier Park Restroom Construction in the amount of $22,850, and Montford Recreation Center Basketball Floor for $188,099.

Parks and Recreation's deferred maintenance cost center in the General Fund is used for minor repairs and improvements for parks and recreation facilities. However, there were several items budgeted there in the current fiscal year that relate to large projects that will become fixed assets in the future. These items include: the design, easement acquisition, and surveying costs of $27,000 for the future improvement of the Velodrome; design costs of the $22,850 related to the future construction of restrooms at Carrier Park; and basketball floor design and construction at the Montford Recreation Center for $188,099.

In order to properly account for these future fixed assets, staff recommends that the budgets for these items being move from the General Fund to the General Capital Projects Fund. Therefore, staff is requesting City Council to approve a technical budget amendment to transfer $237,949 from the Parks deferred maintenance budget in the General Fund to three individual capital projects in the General Capital Project Fund.

Pros:

- This action will allow each capital project to reflect all the expenditures related to the construction and design related to it.

Cons:

- None

The technical budget is a one-time transfer that will increase the budget in the individual capital projects, while decreasing budget in the Parks and Recreation Deferred Maintenance budget.

Staff recommends City Council approve the technical budget amendment authorizing the City Manager to transfer $237,949 from the Parks and Recreation's deferred maintenance operating budget to the Velodrome Improvements, Carrier Park Restroom Construction, and the Montford Recreation Center Basketball Floor capital projects.

ORDINANCE BOOK NO. 29 - PAGE 9

O. ORDINANCE NO. 4292 - BUDGET AMENDMENT TO ADDRESS FEDERAL EMERGENCY MANAGEMENT AGENCY'S REIMBURSEMENTS TO COVER THE COST OF SEVERE STORMS THAT OCCURRED IN JULY 2013

Summary: The consideration of a budget amendment in the amount of $2,369,143.30 to: 1) budget in the Special Revenue Fund $2,366,706.81, in anticipated reimbursements from the Federal Emergency Management Agency and N.C. Dept. of Public Safety for the declared disaster identified as FEMA–4146-DR-NC; and 2) move $63,225.71 in budget from the General Fund and the Stormwater Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

During the period of July 3-13, 2013, Western North Carolina including Buncombe County and the City of Asheville experienced severe storms leading to flooding, landslides, and mudslides.

On September 25, 2013, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal disaster aid has been made available to the State of North Carolina and ordered federal aid to supplement state and local efforts in the areas affected by severe storms, flooding, landslides, and mudslides during the period of July 3-13, 2013.

On October 11, 2013, staff met with the N.C. Division of Public Safety (NCDPS) and FEMA, and concluded that the City of Asheville would be eligible for financial assistance under declaration number FEMA-4146-DR-NC.

The damages to City infrastructure include:

1. Gashes Creek Rd. Dam Debris (K1426) – Torrential rains during the event caused heavy debris to flow down the Swannanoa River to pile up at the Gashes Creek Rd. Dam. Debris totaled 280 yards of vegetative debris and 200 tons of mixed debris. City crews

completed the work at a cost of $29,313.04. Work complete and 100% of reimbursement received.

2. City-Wide Culvert Debris (S1421) – Torrential rains and heavy overland flows during the event caused mixed debris to be deposited in storm drains and in culverts throughout the City of Asheville. Mixed debris totaled 294 cubic yards. City crews completed the work at a cost of $38,007.45, of which $34,476.22 was received as reimbursement.
3. City-Wide Debris (K1428) – Torrential rains and heavy overland flows caused sediment and rock to be deposited onto City roadways and parks. Debris totaled 192 cubic yards. City crews completed the work at a cost of $41,869.12, of which $41,798.74 was received as reimbursement.
4. Asheville Fire Department Emergency Protective (K1427) – City of Asheville Firefighters barricaded roadways that were flooded, blocked with debris and had power lines down; performed water rescues and pumped out flooded basements at a total cost of $3,499.66. 100% Reimbursement received.
5. Bent Tree Rd. Repair (1423) – Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 75-ft-long x 20-ft-high x 5-ft-wide. Retaining wall plans are complete, road design is underway, and the contract is currently being reviewed. $28,116.65 of the total estimated cost of $648,806.15 has been received as reimbursement for expenses to date.
6. Sunset Drive Repair (K1422) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 110-ft-long x 20-ft-high x 5-ft-wide. Retaining wall plans are 95% complete. Home condemnation will likely cause a delay in beginning construction. $7,500 Of the total estimated cost of $562,326.95 has been received as reimbursement for expenses to date.
7. Stormwater Infrastructure Repair, Multiple Sites (S1420) – 8 Of 11 sites have been repaired with $176,380.20 of the estimated $347,684.24 reimbursement received.
8. Spooks Branch Rd. (K1424) – Due to the heavy rains from 7/3/13 through 7/13/13 embankments at three sites were damaged on Spooks Branch Road. Surface runoff from the roadway and flooding of Spooks branch caused embankments to slip and embankments to have shear cracking. City crews and contract workers completed the work at a cost of $278,255.93 which is to be fully reimbursed. $208,692.00 has been received to date.
9. City-Wide Street Repair (K1429) – Seven roadways suffered minor damage and have been repaired by City crews at a cost of $46,192.64. Work complete and 100% reimbursement received.
10. Skyview Place (K1425) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The hillside slid onto Sunset Drive below, which caused two roadways to be affected. Work has been completed at a total cost of $373,188.12, of which $311,127.53 is reimbursable. $233,345.60 has been received as reimbursement to date.

This budget amendment is necessary to properly allocate the disaster aid reimbursements to the correct project expenses, and to replenish City funds that have already been spent in the General Fund. The balance not covered by FEMA, estimated at $63,225.71 will come from the City's General Fund ($59,694.48) and Stormwater Fund ($3,531.23).

Pros:

- Recovery of costs associated with declared disaster.
- This will allow the City to pay contractors for work yet to be completed.

Cons:

- Without transfer of funds to the identified accounts, infrastructure will further deteriorate.
- Failure to approve the amendment will prevent completion of the unfunded projects.

Funds received will be reimbursement for General Fund and Stormwater Fund expenditures. This will relieve budget to allow additional projects to be completed. The $65,662.20 in non-reimbursable expenses in the General Fund and Stormwater Fund will be covered within the existing budgets in those two funds.

City staff recommends City Council adopt the budget amendment in the amount of $2,366,706.81, to: 1) budget in the Special Revenue Fund $2,303,481.10 in anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA–4146-DR-NC; and 2) move $63,225.71 in budget from the General Fund and the Stormwater Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

ORDINANCE BOOK NO. 29 - PAGE 11

P. ORDINANCE NO. 4293 - BUDGET AMENDMENT TO ACCEPT DONATION FROM NESTLE PURINA PET CARE COMPANY FOR IMPROVEMENTS TO THE DOG PARK LOCATED AT FRENCH BROAD RIVER PARK

Summary: The consideration of a budget amendment in the amount of $25,000 for improvements to the dog park located at French Broad River Park.

The City of Asheville in the Parks and Recreation Department has received a $25,000 contribution from the Nestle Purina Pet Care Company to support improvements at the dog park located in the French Broad River Park.

Each year Purina designates a dog-friendly city, and selected Asheville as the dog-friendly city USA 2014. As part of the designation, Purina made a contribution to the City to support a public service that benefits Asheville area dogs and their owners. Funds will be used to make improvements to the dog park located in French Broad River Park which will relocate and renovate the main entrance to the dog park, reconfigure the large dog and small dog lots, and add new signage and mulch.

Pro:
- Provides funds to for improvements in the dog park located in French Broad River Park.

Con:
- None

A project budget authorizing one-time improvements to make improvements to the dog park at French Broad River Park will be established with approval of this budget amendment. The project budget will authorize expenditures up to $25,000. These expenditures will be fully funded with a contribution from the Nestle Purina Pet Care Company in the amount of $25,000 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Nestle Purina Pet Care Company in the amount of $25,000 for improvements to the dog park at French Broad River Park.

ORDINANCE BOOK NO. 29 - PAGE 15

Q. ORDINANCE NO. 4294 - BUDGET AMENDMENT TO ACCEPT DONATION FROM FRIENDS OF WNC NATURE CENTER FOR A PICNIC PAVILION AND RESTROOM AT THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of $28,170 for the design and construction of the picnic pavilion and restroom at the WNC Nature Center.

The City of Asheville in the Parks and Recreation Department has received a $28,170 contribution from the Friends of the WNC Nature Center to support the design and construction of a picnic pavilion and restroom at the WNC Nature Center. The picnic pavilion and restroom continues to build out the play plaza that opened in 2012 with the construction of the Arachnid Adventure Playground.

The Friends of the WNC Nature Center, a 501c3 non-profit charity, is a community group of individuals, businesses and grantors who together support the WNC Nature Center with funding to provide an enriching and educational experience for the Center's visitors.

Pros:
- Provides funds to support capital improvements at the WNC Nature Center.
- Provides funds to enhance special projects and guest services at the WNC Nature Center.
- Provides funds to assist in fulfilling standards and maintaining WNC Nature Center accreditation with the Association of Zoos and Aquariums.

Con:
- None

A project budget authorizing one-time improvements to design and construct the picnic pavilion and restroom will be established with approval of this budget amendment. The project budget will authorize expenditures up to $28,170. These expenditures will be fully funded with a contribution from the Friends of the Nature Center in the amount of $28,170 that has been received; thus, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Friends of the WNC Nature Center in the amount of $28,170 for a picnic pavilion and restroom at the WNC Nature Center.

ORDINANCE BOOK NO. 29 - PAGE 17

R. ORDINANCE NO. 4295 - BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR BUILDING MAINTENANCE AND TRAFFIC SAFETY PROJECTS THAT WAS HELD IN CONTINGENCY AT THE END OF FISCAL YEAR 2012-13

Summary: The consideration of a budget amendment, in the amount of $300,453, from unassigned General Fund fund balance to appropriate funding for building maintenance and traffic safety projects that was held in contingency at the end of Fiscal Year (FY) 2012-13.

In May 2013, the North Carolina General Assembly passed legislation to transfer Asheville's water system to an independent authority, an action that could potentially cost Asheville's General Fund $1.9 million due to the loss of the water system's contribution to shared central services. The Asheville City Council unanimously voted to legally challenge this legislation. Because the length and outcome of the legal case was unknown at that point, and the City was nearing the end of the FY 2013-14 budget process, staff recommended and City Council endorsed a plan to hold $1.9 million in contingency. This contingency plan included delaying and deferring projects from both FY 2012-13 and FY 2013-14.

Based on the current timeline for court action on the City's lawsuit, it is anticipated that the City will continue to own and operate the water system through the remainder of FY 2013-14. For this reason, staff is recommending that the funding for the projects that were delayed be returned to departmental budgets. The portion of the funding held from FY 2012-

13 will need to be restored via budget amendment due to the fact that the annual spending authorization for these projects lapsed on June 30, 2013. The budget amendment will appropriate from General Fund unassigned fund balance a total of $300,453 for building maintenance and traffic safety projects that were deferred in FY 2012-13. The amount appropriated for building maintenance is $230,453 and the amount for traffic safety projects is $70,000.

Pro:

- Restored funding for high priority building maintenance and traffic safety projects that was deferred in FY 2012-13.

Con:

- Requires an appropriation from unassigned fund balance.

This budget amendment includes the appropriation of $300,453 from unassigned fund balance in the General Fund. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of $15.48 million, which was approximately $2.3 million above the City's 15% policy target. To date this fiscal year, Council has approved the use of $205,000 in unassigned fund balance from the General Fund. With this additional $300,453 fund balance appropriation for the budget amendment, the City will have appropriated a total of $505,453 from unassigned fund balance in the current fiscal year. Unassigned fund balance will still be approximately $1.8 million above the 15% policy target.

City staff recommends City Council adopt a budget amendment, in the amount of $300,453, from unassigned General Fund fund balance to appropriate funding for building maintenance and traffic safety projects that was held in contingency at the end of Fiscal Year (FY) 2012-13.

ORDINANCE BOOK NO. 29 - PAGE 19

S. ORDINANCE NO. 4296 - BUDGET AMENDMENT TO ACCEPT ENERGY EFFICIENCY REBATES FROM DUKE ENERGY PROGRESS

Summary: The consideration of a budget amendment, in the amount of $11,229, from Duke Energy Progress for energy efficiency rebates.

The funds received are from Duke Energy Progress for the ongoing energy efficiency retrofits across the city, such as lighting improvement, and will be used to augment the Green Capital Improvement Plan, and also to provide resources for the Chief's Energy Challenge – an Asheville Fire Department initiative to reduce energy usage at fire stations that Sustainability is assisting with.

The $11,229 will be used as revenue to further fund energy programming.

City staff recommends City Council accept $11,229 from Duke Energy Progress for energy efficiency rebates.

ORDINANCE BOOK NO. 29 - PAGE 21

T. ORDINANCE NO. 4297 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF NORTH CAROLINA STATE DRUG SEIZURE FUNDS FOR ELECTRONIC MONITORING, SURVEILLANCE EQUIPMENT AND FORENSIC SOFTWARE FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment, in the amount of $28,000 to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of electronic

monitoring and surveillance equipment and forensic software to aid in criminal investigations of motor vehicle theft, vehicle breaking and entering thefts, and other crimes investigated by the Asheville Police Department.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

The City of Asheville Police Department has received $28,000 in North Carolina State drug seizure funding. This amendment will authorize the use of that funding to fully fund the purchase of electronic monitoring and surveillance equipment and forensic software not covered by the APD operating budget. This equipment is related to vehicle theft and cellular device data recovery.

Pros:

- North Carolina State drug seizure revenue used to purchase electronic monitoring and surveillance equipment and forensic software at no cost to city taxpayers.

Cons:

- None

The increase of $28,000 for purchasing electronic monitoring and surveillance equipment and forensic software. Accepting and allocating these funds is a financial benefit to the APD allowing us to better equip our employees. There is no immediate impact to the General Fund budget. There will be minimal future maintenance costs ($500-$1,000).

City staff recommends City Council adopt a budget amendment in the amount of $28,000 authorizing the use of North Carolina State Drug Seizure Funds to purchase electronic monitoring and surveillance equipment and forensic software for the Asheville Police Department.

ORDINANCE BOOK NO. 29 - PAGE 23

U. ORDINANCE NO. 4298 - BUDGET AMENDMENT FOR OUTSIDE LEGAL SERVICES

Summary: The consideration of a budget amendment in the amount of $95,000 from unassigned fund balance to appropriate funding for outside legal services that have exceeded the initial budget.

The City Attorney Office's adopted FY 2013-14 budget included $30,000 in funding for outside legal services. In a typical year, this level of funding provides adequate resources to meet the City's outside legal counsel expenses. In the current fiscal year, however, the City has had to engage additional outside legal counsel due to staff turnover in the City Attorney's Office and a higher than normal case load. As a result, expenses for outside legal services have exceeded the adopted budget. Staff estimates that an additional $95,000 in budget is needed to meet outside legal expenses for the current fiscal year. The budget amendment appropriates $95,000 from unassigned fund balance to meet this need.

Pro:

- Provides budget authorization for FY 2013-14 outside legal expenses.

Con:

- Requires an appropriation from unassigned fund balance.

This budget amendment includes the appropriation of $95,000 from unassigned fund balance in the General Fund. As reported to City Council during the recent audit presentation, the City ended FY 2012-13 with an unassigned General Fund fund balance of $15.48 million, which was approximately $2.3 million above the City's 15% policy target. To date this fiscal year, Council has approved the use of $205,000 in unassigned fund balance from the General Fund. With this additional $95,000 fund balance appropriation for the budget amendment and the $300,453 fund balance appropriation associated with a separate budget amendment on this same meeting agenda, the City will have appropriated a total of $600,453 from unassigned fund balance in the current fiscal year. Unassigned fund balance will still be approximately $1.7 million above the 15% policy target.

City staff recommends City Council approve the budget amendment in the amount of $95,000 from unassigned fund balance to appropriate funding for outside legal services that have exceeded the initial budget.

ORDINANCE BOOK NO. 29 - PAGE 25

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION NO. 14-43 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE AND SETTING A PUBLIC HEARING ON APRIL 22, 2014

At the request of Councilman Pelly, Vice-Mayor Hunt moved to recuse Councilman Pelly from participating in this matter due to a conflict of interest. This motion as seconded by Councilwoman Wisler and carried unanimously.

Summary: The consideration of a resolution of intent to permanently close a portion of Asheland Avenue and setting a public hearing on April 22, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, 86 Asheland, LLC have requested the City of Asheville to permanently close a portion of Asheland Avenue

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of a portion of Asheland Avenue.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Asheland Avenue and set the public hearing on April 22, 2014.

Councilwoman moved for the adoption of Resolution No. 14-43. This motion was seconded by Councilman Bothwell and carried unanimously (with Councilman Pelly being recused).

RESOLUTION BOOK NO. 36 - PAGE 92

III. PRESENTATIONS & REPORTS:

A. AMERICAN WATERWORKS ASSOCIATION VALUE OF WATER CAMPAIGN

Director of Water Resources Steve Shoaf said that the American Water Works Association (AWWA) has launched a "Value of Water" campaign. The purpose of the campaign is to increase people's awareness of the ways that water impacts their lives. The City of Asheville Water Resources Department will be engaging AWWA materials to help further the understanding of the importance of water to our community.

The AWWA has promoted several awareness campaigns. Two that were recently promoted were "Water is Life" and "Only Tap Water Delivers". The new campaign is intended to illustrate the "Value of Water" by linking the importance of water to some very common uses.

Water industry professionals worldwide are paying close attention to the effects of climate change. Topics frequently associated with the impact of climate change are water shortage and drought. Recently, large areas of the United States have experienced drought. Regardless of whether you ascribe to the arguments related to global warming and climate change, the importance of preparing for water supply shortages is recognized by all water systems.

Past decisions by community leaders have prepared the City of Asheville to meet the challenges to provide safe, reliable water. The City of Asheville Water Resources Department has taken several steps to prepare for water shortages and drought. The Department engaged consultants to assist in developing a Water Shortage Response Plan that provides operational guidance based on the status of our water supply. The Department is currently engaged in an initiative to identify causes of water loss and conduct annual water audits to quantify and benchmark our Non-revenue Water. Our ISO 14001 certification is also aimed at protecting the environment and precious resources like water.

The Asheville community is engaged in conserving and protecting our resources including water. The "Value of Water" campaign is intended to reinforce the community's link to water as it relates to our quality of life and the economic well-being of our citizens. As a reminder of this link, I have provided you with a coffee mug with the slogan "No Water No Coffee". The Water Resources Department will be distributing mugs in City Hall in hopes that employees and visitors will see the connection of water and the quality of their life.

At present, there is no fiscal impact. The AWWA awareness campaign is beneficial for water systems throughout North America.

This staff report is for informational purposes. No action is required.

IV. PUBLIC HEARINGS: None

V. UNFINISHED BUSINESS:

A. MOTION APPROVING A REQUEST FOR QUALIFICATIONS/REQUEST FOR PROPOSALS PROCESS FOR CITY-OWNED PROPERTY AT 68-76 HAYWOOD STREET

Economic Development Director Sam Powers said that this is a review review of city owned property located at 68-76 Haywood Street and PED Committee recommendation for redevelopment for economic development purposes.

This staff report offers a brief history of the site and a review of the previous RFQ/RFP process utilized for the site. At their February 18, 2014, meeting, PED Committee considered the disposition methods available to local governments in North Carolina, considered options available for the site, and recommended an economic development use of the property through a negotiated sale with an RFQ/RFP process for the subject property.

1. **Background**. The subject property consists of approximately 3/4 of an acre located on the southern side of the intersection of Haywood Street and Page Avenue in downtown Asheville. The U.S. Cellular Center, Vanderbilt Apartments, and Pack Memorial Library are across Haywood Street to the east. Property owned by the Catholic Church, currently vacant, is located immediately across Page Avenue to the North, slightly beyond that, and across Haywood Street, as it curves to the west is St. Lawrence Basilica. The Battery Park Apartments are across Page Avenue to the west. Immediately adjacent to the South are building in various commercial and office uses. The Grove Arcade is located to the south and west. The property is traversed by Battery Park Alley, running north to south.

   The City acquired this property in several transactions occurring during 2001 to 2004 in connection with a parking facility that was planned but not built. The property was to be used initially for staging for the parking deck construction. Upon completion of the parking deck, the property was to be developed for commercial or mixed use purposes.

2. **Previous Process**. In 2005-06, City Council asked staff to undertake a review of all city owned property that could be considered for redevelopment to help achieve Council strategic goals, including creation of workforce and affordable housing, higher and better uses of property, returning public property to the tax base, quality job creation, private capital investment, and development of public-private partnerships. After an extensive staff and Council review, the list of properties was narrowed to three sites, all of which were considered "low-hanging fruit" with fewer impediments to redevelopment. The 68-76 Haywood Street site, along with the Parks Maintenance site on Hilliard Avenue, and the Eagle-Market Street sites were the three sites selected. The City also retained a national real estate consulting firm to conduct an overview of the market conditions and to provide recommendations on appropriate development opportunities for each site.

   In 2007 – 2008, the City undertook a two-part process; an RFQ process to prequalify potential developers, and after the prequalified developers were selected, an RFP which solicited proposals from developers for the development of the subject property. In February of 2008, the City selected the proposal submitted by McKibbon Hotel Group ("MHG") for a 140 room hotel as the one with which it wished to proceed. The proposal was revised to delete public parking at the request of adjacent property owners and City Council and resubmitted in September of 2008.

   The timeline from 2009-2011 included numerous interactions with PED, City Boards and Commissions, RENCI, and the public during the development for the Downtown Master Plan. There was also mutual agreement between City Council and McKibbon Hotel Group to prioritize development efforts on a public/private partnership to construct a city parking deck and private hotel project at 51 Biltmore Avenue, which had been identified in the city's parking study as a top location for development of public parking, but which had been

previously unavailable for redevelopment. There was mutual agreement that 68-76 Haywood Street would proceed after 51 Biltmore was complete.

In December 2011 the City received an unsolicited offer to purchase the subject property from the Catholic Diocese of Charlotte. The City spent the next several month reviewing the process, and in August 2012 confirmed the city's position and entered into an agreement with MHG to purchase the property and undertake a due diligence period prior to execution of the option. During this period, a lawsuit was filed against the MHG and City. The lawsuit was later withdrawn by the plaintiffs, but MHG has maintained the right to continue the proceedings to recover damages they consider incurred as a result of the suit. MHG in late 2013 notified the city, as allowed in the purchase agreement, that they would not purchase the site.

3. **Disposition Process.** North Carolina General Statutes control the procedures for selling city-owned property, which make several competitive methods of sale available to cities, as well as negotiated sales for certain public purposes. Public methods of sale include upset bids, sealed bids and public auctions. The City of Asheville has most often utilized the upset bid method, although most of those sales have been for small parcels of property. A brief summary of the methods is as follows:
   a. *Public Auction* - After advertisement at least 30 days prior to the sale, a public auction may be conducted. City Council may accept or reject the highest offer within 30 days after the sale.
   b. *Sealed Bid* - The property is advertised for sale not less than 30 days before a scheduled bid opening, a bid deposit of not less than five percent is required, and the highest responsible bid must be accepted unless all bids are rejected.
   c. *Upset Bids* - The process begins when a bid is received whether unsolicited, the result of negotiations or in response to a solicitation for bids. If City Council proposes to accept the bid, the bid is advertised for upset bids. For a period of 10 days after the advertisement, a sealed upset bid may be submitted. If at the end of the 10 days, an upset bid is received, the new bid becomes the current high bid and the process is repeated. This continues until no upset bids are received. A bid deposit of not less than 5 percent is required. Once a final qualifying offer is received, Council must either accept or reject it.
   d. *Economic Development Property* - The statute pursuant to which the City proposed to sell the Subject Property to MHG was N.C.G.S. 158-7.1, which authorizes the sale of property by private negotiation and sale for economic development purposes. In order to dispose of property pursuant to this provision, the City must first hold a public hearing with advertised public notice.
      i) *Consideration/Fair Market Value* - Another requirement of the statute is that the consideration for the property cannot be less than the fair market value, subject to the conditions placed on the property. An appraisal prepared by Francis Naeger, MAI, dated March 9, 2012, established the value of the property at $2,526,000. This appraisal was performed with the following assumptions: (1) The existing parking garage (68 Haywood Street), restaurant building (76 Haywood Street), and office building (33 Page Avenue) have been demolished and removed, (2) The public alleyway located in between the four separate parcels has been relocated to the southern border of the parcels (exiting onto Page Street) to allow for a contiguous site, and (3) The development potential of the property is subject to certain limitations as to the use of the property and the height of the new structures. MHG had offered $2,526,000 for the Subject Property, subject to a capped reimbursement from the City for the expense of the demolition and removal work that the appraisal assumes has been done. A new appraisal was performed in October 2012 by Kevin Rimbault, MAI of the Marwin Group. This appraisal was subject to the same set of assumptions, and suggested a fair market value of $2,600,000.
      ii) *Economic Development Purpose* - Another requirement of the statute is that the conveyance of the property must be consistent with the economic development

purposes of the statute, which specifically include commercial and business uses, or otherwise in the public interest. There are some specifics in the statutes that must be met.

Economic development/planning considerations.
Consistency with economic plans. Development of the Subject Property is consistent with the City's economic development plans and the economic development purposes of the statute.

City's 2025 Plan states (p.71) that promotion of infill development ...is absolutely essential in addressing the tax equity, tax base enhancement, and Smart Growth development goals of the City.

Goal VIII of the Economic Development Chapter of the City 2025 Plan (p. 203): Create an inventory of property suitable for development or redevelopment for targeted industrial and commercial uses and implement a program to encourage development or conversion to these uses.

City Council in Nov 2006 agreed to make clearly known and that responders clearly understand that their opportunity to obtain City-owned property for development is dependant on their prior experience and success in meeting similar goals in other situations:

- Consistency with City Plans or policies, including Smart Growth and environmentally friendly/green building development practices
- Place-making design that complements our unique downtown business and residential communities and takes constructive pubic input into consideration
- Provision of strategically sited public parking
- Ability to accommodate all modes of transportation
- Potential for significant tax base enhancement
- Potential to promote new or revitalized entertainment venues

Downtown Master Plan.
The Downtown Master Plan indicates a need for new development downtown, stating (p. 19) that "...excellent compatible infill projects within the historic fabric must be a high priority," and that "there is a need for a new focus on larger, more complex projects targeted to sites in the traditional Downtown...". The Plan places this site in the "Traditional Downtown District." It states (p. 68) that in this area "thoughtfully designed new buildings are appropriate..." and that "continued investment in existing and new buildings is necessary for the District to continue to thrive." It further states that "Adding appropriate new development on Haywood can help existing properties - historic or not – gain value." This area is a designated "Intermediate Height Zone", which would allow a 12-13 story building on the site. All projects proposed in the downtown area also have a number of architectural requirements to improve the compatibility of new projects with the existing building fabric. These requirements include windows and doors along street frontages, a building stepback at between two and four stories and for taller structures a reduction in the scale of the building tower to assure light and air, improve views and limit shadows.

The site is near a designated "gateway" point – indicated on the page 67 map as being at the intersection of Haywood and O.Henry and the off and on ramps to 240. The Parks and Greenways map in the Appendix (S3-29) notes a recommended park for the tip of that intersection, across from the Basilica (north of the recommended redevelopment site). At some point in time a reconsideration of the street alignments in that area, developed in cooperation

with all landowners, could result in more graceful intersections, pedestrian amenities, and the potential for the type of "pocket park" envisioned on the Parks and Greenways map.

(iii) *Conditions/Development Agreement.* Council may direct that certain conditions be placed on the property intended to ensure that development there meets the economic development purposes for which it is being sold. These could include some broad design criteria. The contract to be signed by the parties could include a development agreement whereby the purchaser would prepare and submit a development schedule, to include the process for performing due diligence work, getting zoning and building approvals, and obtaining financing.

(iv) *Other Issues.* Depending of the size of any development, a project might or might not come to city council for approval. Nevertheless, the City owns the property, and may exercise design control through restrictions or covenants in connection with the sale of the property.

- *Design Control* - There are two main vehicles for doing this: (a) deed restrictions; and (b) contractual provisions. Deed restrictions should include conditions, such as the use of the property and broad dimensional restrictions, that are not likely to change, and may be necessary to ensure that the property is used for the purposes for which it is sold. The contract for the purchase and sale of the property covers such basic terms as price, description, and due diligence requirements. It will also specify a design preparation and review process - - following the UDO - - that will result in an approved final design for the project. The final design approval will be incorporated into a development agreement for the property. The property will then be conveyed for development in accordance with the agreement.
- *Financial Assurance* - It is difficult and prohibitively expensive to procure a guarantee of completion in a project of a large size and nature. Commercially reasonable practices include (a) obtaining a list of similar completed projects (b) a requirement for a commitment for financing from a recognized financial institution prior to closing; (c) evidence of satisfaction of financing conditions; (d) a requirement that construction be started by a certain date and completed by a certain date; (e) regular construction progress reports; (f) a right to repurchase the property if the project stalls or is abandoned; (g) a bond for removal or demolition of incomplete improvements, if necessary. It would be appropriate to include some combination of these provisions in a development agreement.
- *Damage to Surrounding Buildings* - The subject property is near or adjacent to several historically significant and structurally sensitive buildings, notably St. Lawrence Basilica, the Grove Arcade, and the Battery Park Hotel, all of which are on the National Register of Historic Places. A development agreement could include a requirement for seismic monitoring.

When the City began the City-owned property redevelopment process it retained a real estate research consulting firm (RERC) to conduct an assessment of the market potential for the sites being considered for redevelopment. RERC's research focused on residential and commercial development including retail, office, hotel/hospitality, and multifamily residential product uses. While a detailed market analysis was not performed for each of the sites, RERC's work was intended to generally test the market support for redevelopment concepts based on prevailing market conditions. The purpose of this analysis was to provide an overview of the identified market sufficient to distinguish land uses and development program implications for the subject sites and to support the development of a real estate asset management strategy that made economic sense, reflecting the prevailing market environment and general economic conditions. The site analysis for 68-76 Haywood Street property suggested (but didn't limit)

market appropriate use for an upscale hotel (150 rooms), retail/limited office (10,000 SF), and structured parking.

The Downtown Master Plan, which included months of intense pubic input, identified the subject site as appropriate for thoughtful, dense development. The property has repeatedly been shown through independent appraisals to have significant fair market value. The removal of distressed buildings from the site removed one of the constraints for a potential purchaser of the property. Land assembly can be the most prohibitive component of urban development projects, and the offering of City owned property reduces risk of the developer and should promote increased response.

At their meeting on March 7th, the Downtown Commission received an update from staff on the PED recommendation, timeline and anticipated discussions regarding the process options for the site. The Commission unanimously passed a resolution, based on their purposes and powers as stated in Section 2-77 regarding advising City Council on downtown development, requesting that they be involved in the process of creating the RFP.

The most recent independent appraisal placed Fair Market Value of the property at $2.6 Million. As part of the process, an updated independent appraisal would establish FMV. Additional substantial real estate and property taxes should be generated from development at the property.

At the February 18th PED Committee meeting staff sought PED direction for an appropriate process to achieve Council goals. PED considered two primary options based on the disposition methods available for local governments. The two options considered were:

(1) Negotiated Offer and Upset Bid - If the primary goal of Council is to return the property to the private sector, have limited conditions on the sale, generate substantial income from the disposition which would be used to further community and economic development goals, staff recommends marketing the property for an upset bid sale. Prior to advertising the property for sale, Council would establish the terms of sale (e.g. minimum price, amount for deposit, conditions of sale, timeline for closing). In accordance with the general statutes, this method of sale is designed to yield the highest and best return on the property, and as such a local government may not restrict by deed the uses to be made of the property if the restrictions will depress the price offered for the property. A notice representing the terms of sale would be published online and in the local newspaper. Council may direct staff to contract with a private real estate broker to perform marketing services and negotiate offers for the property. Any formal qualifying offer that meets the terms of sale would initiate an upset bid process, with the final bid being subject to Council approval. Council retains the right to withdraw the property from sale at any time and reject any and all bids that were not in the city's best interest.

(2) Request for Qualifications and Private Sale through Economic Development statute – If the primary goal of Council utilize the property to promote a greater Economic Development purpose, generate fair market value for the property and have greater input over the commercial/business use, then Council may elect to sell the property under the Economic Development Statute. This process requires that the property be sold at Fair Market Value and other requirements as previously discussed. A common method to solicit interest in purchasing property via this process is through a Request for Qualifications/Request for Proposals process. Once qualifications have been reviewed, a subset of fully qualified developers may be invited to submit a proposal for development within the context of the economic development purpose. The proposals would be evaluated and an offer would be negotiated with the developer deemed most responsive to RFP. When the offer is ready to be presented to Council, a public hearing is held on the conveyance. After the hearing is complete, Council may proceed with the transaction.

After discussion at the PED meeting, and public input from attendees at the meeting, PED voted 3-0 to recommend to City Council that the City Manager be authorized to proceed with development of an RFQ/RFP process for disposition of the property. Staff recommends confirmation of the PED recommendation for an RFQ/RFP process for this property.

Mr. Powers stated that the Downtown Commission adopted the following resolution at their March 14, 2014, meeting: "Whereas, the Downtown Commission met on Friday, March 14, 2014; and Whereas, the discussion of the disposal of buildings known as the Handi-Park and Flying Frog and the process for future development on this site was discussed; and Whereas, the Commission expressed their interest in being involved to the extent described in their purposes and powers of organization (Section 2-77), in the future decisions for the property. Therefore; the Commission voted that should City Council move ahead with the sale of the property, that the Downtown Commission should be involved in the process to develop the request for qualifications/ proposals (RFQ/P) for the property based on the design guidelines for downtown and the purposes and powers assigned to the Downtown Commission."

In response to Councilman Bothwell, Mr. Powers said that there has been no study regarding the comparable tax value of a park vs. adjacent residential parcels.

Mr. Powers responded to Councilwoman Wisler when she asked about how the RFQ/RFP process would work, noting that there will be a number of steps involved, but that staff would follow the process they undertook before for this property with an updated market assessment and an updated appraisal. At the RFQ stage, he felt we would want to involve groups, like the Downtown Commission who would be appropriate in some of the stakeholder meetings and public information sessions, and possibly use the Downtown Commission to review the statements of qualification and looking at the criteria that would be used to pre-qualify firms.

When Councilman Pelly asked if we would limit our RFP to non-hotel proposals, Mr. Powers said that after the market assessment is updated, that would determine whether additional hospitality might or not be an appropriate use on that site.

Councilman Smith said that since we have in place a policy regarding requirements in our economic incentives, he would be interested in learning more about how a similar requirement would look in this sort of arrangement.

Vice-Mayor Hunt moved proceed with an RFQ/RFP process for the City-owned property at 68-76 Haywood Street, with the following preferences (allowable under the law) to help our development partners understand the specifics of what the City leadership is interested in: (1) that the development must support the goals of the Downtown Master Plan; (2) that the project preferably be developed for expanding the tax base; (3) that the street level of the project incorporate uses that adds a vibrancy and public activity on the streets; (4) that the development move forward in the near term and that we avoid partnering with a developer that would acquire the property with a view that they may develop it multiple years down the road; (5) that the development would compliment the use of the U.S. Cellular Center; (6) that the development would protect and respect the Basilica and the Basilica's architecture; and (7) that the development favor the creation, along with the development of a publicly-accessible plaza, and that in order to achieve the plaza, that a public-private partnership be pursued to make that economically feasible. This motion was seconded by Councilman Smith.

Councilman Bothwell felt that inclusion of some type of plaza for this space is a good ideas. He felt that Council should set a referendum for November on whether voters want a city park on this property.

In response to Councilwoman Wisler, it was the consensus of Council to have the RFQ be brought back to City Council for final approval.

Mr. Henry M. Harris felt that the property should be some type of park as it is a valuable piece of public space.

Ms. Rebecca Hecht, member of the Downtown Commission, urged City Council to pause until they have a broader conversation about this property, noting that she felt a hotel is not the highest use of the property. If the property is sold, she would like to see the money go into workforce housing or back into the Parking Enterprise Fund.

Mr. Timothy Sadler wanted to see something family-oriented on that property.

Mr. Jonathan Wainscott urged Council to consider replacing the $2 Million investment into the Asheville Art Museum and donating this property instead.

The motion made by Vice-Mayor Hunt and seconded by Councilman Smith carried on a 6-1 vote, with Councilman Bothwell voting "no."

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-53 - RESOLUTION ADOPTING REVISIONS TO THE TRAFFIC CALMING POLICY AND ADOPTION OF AN ACTION PLAN FOR THE CURRENT FISCAL YEAR'S REGULAR CAPITAL IMPROVEMENT PLAN FOR TRAFFIC CALMING PROJECTS

Interim Public Works Director Ken Putnam said that this is the consideration of a resolution revising the Traffic Calming Policy and adopting an action plan for the current fiscal year's regular Capital Improvement Plan for traffic calming projects.

Staff from various internal departments has been meeting on a regular basis to discuss and suggest changes to the Traffic Calming Policy in anticipation that construction funding would be restored in the future. In the adopted budget for FY 2013-14, $100,000 has been approved to begin to address the "backlog" of traffic calming projects.

Staff initially provided the subject information to the Public Safety Committee on June 24, 2013, with a recommendation that the committee accept the staff report and instruct staff to continue to meet with affected stakeholders and then come back to the Public Safety Committee. Staff has met with the Asheville Police Department (the Community Resource Officers), the Neighborhood Advisory Committee, and the Bicycle and Pedestrian Task Force sub-committee and has received valuable input that has been incorporated into the recommended changes.

The Traffic Calming Policy was approved by City Council on February 22, 2000, (Resolution # 00-39). It is important to note that the policy only addresses residential local and collector-type streets. Throughout the early years, projects were completed that resulted in the installation of traffic calming devices on several city-maintained streets. In addition, several projects have been completed involving private funding sources including conditions placed on developer led projects. Public funding has not been available since about FY 2006-07.

Since public funding has not been available for several years the suggested changes are primarily intended to maximize the funds as staff works through the "backlog" list. These changes include the following items:

- **The only traffic calming devices that will be considered include speed humps, speed cushions, and/or other low-cost treatments that might be developed.** During March 2008, City Council discussed traffic calming (a major traffic calming project was underway at the time) and suggested that due to limited financial resources and the overall controversial nature of traffic calming, it might be better to concentrate on lower cost treatments. That way more money could be used for the actual construction phase

instead of the design phase. All projects will still be designed and constructed following established engineering guidelines and policies such as the Institute of Transportation Engineers (ITE) recommended practice for the Design and Application of Speed Humps and Speed Tables and the city's engineering standards and drawings. Most stakeholders agreed with this approach especially in addressing the existing backlog of potential projects. Staff recommends this change.

- **Eliminate the 40% petition and substitute a structured neighborhood awareness campaign and education process that would last for a minimum period of six months.** Much effort is required by staff and the affected stakeholders to fully implement a traffic-calming project including involving the neighborhood in a public meeting process to help with the actual design. The subject change would provide a more positive approach towards that effort by encouraging an actual shift in driving habits and patterns. Simply signing a petition typically does not affect driving habits and patterns. In addition, the awareness campaign and educational process should solidify a community because they will be working together towards a common goal. Stakeholders expressed concern about the effectiveness of this type of program since many of the drivers live outside of a specific neighborhood. Staff recommends this change for all new projects (projects that are not included on the "backlog" list as of June 30, 2013).

- **Allow projects to be constructed with partial private funding that would be matched with public funding.** Currently, projects are either funded with 100% public or private funds. The change would enable communities to provide partial funding as an additional option. Stakeholders expressed concern that affluent communities would have an advantage over non-affluent communities. Staff recommends this change in order to provide more flexibility and to be able to "stretch" the available public funding.

- **Traffic calming devices will not be installed on city-maintained streets that are in areas of the city that the Asheville Fire Department Standard of Cover Performance is less than 90%.** It is critical for the city to maintain an adequate standard of cover performance for fire and medical emergency response and in areas where that -- performance would be negatively affected, traffic calming devices should not be installed. Staff recommends this change.

- **Allocate a maximum of 3% of the annual construction funds to be used for the neighborhood awareness campaigns and education processes as well as offsetting some of the operating budgets cost for low-cost alternatives prior to a traffic calming project (for example, signs, pavement markings, and pavement markers).** The city would provide the materials for a community to participate in the neighborhood awareness campaign and education process in order to maintain structure and consistency. The monies would be used for pamphlets, pledge cards, window stickers, etc. and appropriate signs. Stakeholders expressed mixed concerns with the subject change ranging from "it is worth trying it out" to "it would have very little impact on driver behavior". Staff recommends this change beginning in FY 2014-15 with the idea that it could be tested on one or two new projects (projects that are not included on the "backlog" list as of June 30, 2013).

Staff has developed the following action plan and is prepared to move forward once approved by City Council:

- City Council will consider the recommended changes to the traffic calming policy and the action plan on March 11, 2014.
- Staff will hold internal department meetings during March to be sure that the top five to seven potential projects on the "backlog" list do not have any major issues (all projects on the "backlog" list have been analyzed and are listed in priority based on the established "point" system).

- Staff will define the actual petition areas and prepare the maps and petition forms for the top five to seven potential projects for the 60% petition process during March and April.
- Staff will meet with the appropriate neighborhood groups for the top five to seven potential projects to review the proposed projects and to instruct them on the 60% petition process during March and April (the neighborhood groups will be responsible to obtain the appropriate signatures). It should be pointed out that since the "backlog" list is quite old, interest in traffic calming on some of the streets might have declined due to a variety of reasons. Staff will make every reasonable effort to work with the affected stakeholders including helping them to establish neighborhood groups before dropping a street from the "backlog" list.
- The contract and construction phase will occur during May and June and it is anticipated that $100,000 will be obligated towards the top five to seven potential projects. At this time, it is uncertain if a single contract will be awarded or if multiple contracts will be awarded. In addition, staff does not anticipate that all of the work will be completed by June 30, 2014 (for the current fiscal year only) but that in future years, the work will be started and completed within the specific fiscal year. One of the unknowns is the 60% petition process and how long it might take to complete it. The top two streets on the "backlog" list (Bear Creek Road and Riverview Drive) will help staff determine how successful the overall process will be since they both have established neighborhood groups that are ready to move forward. Throughout the process, staff will constantly seek input from these neighborhood groups to determine what, if any, improvements should be made for the future projects.
- Staff will develop a structured neighborhood awareness campaign and education process including the appropriate materials during the first half of FY 2014-15 including input from the Asheville Police Department (the Community Resource Officers), the Neighborhood Advisory Committee, and the Bicycle and Pedestrian Task Force sub-committee.

This action was reviewed by the Public Safety Committee on June 24, 2013, and January 27, 2014, and it has received the committee's endorsement. One committee member asked that the requirement for the 60% petition (petition required before moving to the construction phase) be lowered to 50% + 1. The committee agreed to forward this suggestion to City Council for review and consideration. It is very reasonable to conclude that traffic calming can be a controversial issue within a community. Typically, there are citizens who strongly favor traffic calming devices as well as citizens who strongly oppose them. As a result, most traffic calming policies that staff is aware of include a petition process with a higher threshold of support in order to demonstrate consensus for a specific project. Remember, the petition process only includes the actual properties that are directly affected for a specific project. When City Council approved the Traffic Calming Policy during February 2000, they lowered the recommended threshold of 70% to 60%.

The fiscal impact for FY 2013-14 is $100,000 and the funds are included in the current budget. The fiscal impact for the neighborhood awareness campaign and education process and the low-cost alternatives beginning in FY 2014-15 is estimated to be about $3,000 +/- per year based on an annual CIP total of $100,000 (for traffic calming projects).

Staff recommends that City Council approve a resolution revising the Traffic Calming Policy and instructing staff to move forward with the action plan that is included as an attachment to the resolution. In addition, staff asks that City Council consider the request from the Public Safety Committee regarding the 60% petition requirement.

Mr. Rich Lee, west Asheville resident, felt that this traffic calming revision is long overdue, and thanked Council for making the process quick and easy and sustainable.

Councilman Pelly thanked staff for bringing these revisions forward. He was pleased that we are going to integrate a neighborhood awareness campaign and allow partial funding to help them.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-53. This motion was seconded by Councilman Pelly and carried unanimously.

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B. RESOLUTION NO. 14-54 - RESOLUTION REGARDING I-26 CONNECTOR

Councilman Davis recognized and thanked the members of the committee that worked with him on pulling together consensus on this resolution: Vice-Mayor Hunt, County Commissioner Joe Belcher, County Commission Holly Jones, County Commissioner Brownie Newman, Julie Mayfield from the WNC Alliance, and several representatives from the N.C. Dept. of Transportation (NCDOT). He noted that the I-26 funding has not done well in the past as we were competing with loop funding. That changed last year and we now feel that this resolution benefits our community in a number of ways. He did note that Alternate 3c is not a perfect alternative, but it's the one that comes closest to getting funding and getting the job done. Backing the route is not a final decision, but would improve the chances of getting the road built soon. He noted that the Buncombe County Commissioners adopted this resolution last week.

Vice-Mayor Hunt noted that in December City Council adopted amendments to the City's Greenway Master Plan largely to make sure that certain elements of connectivity would be acknowledged by the NCDOT as the project moved forward. He said the resolution addresses the need to identify a funding amount for the competitive funding formula and that the project is still very much a work in progress.

Vice-Mayor Hunt then read the resolution as follows: "Whereas, traffic congestion and safety are increasing problems along 1-240 and I-26 through Asheville, a critical route for regional commerce and tourism; and WHEREAS, local and regional residents, visitors, interstate travelers and commercial freight haulers rely on this route in ever increasing numbers; and WHEREAS, improvements to the I-240 and I-26 corridor should be minimally disruptive to the local community and should enhance the quality of life for residents and visitors wherever possible; and WHEREAS, North Carolina Department of Transportation (NCDOT) in its planning of TIP Project I-2513 (the project), has indicated preliminary commitment to alternatives that, compared to earlier proposals, reduce relocation of homes and businesses, reduce sound impact through better deployment of sound walls and provide critically needed bicycle, pedestrian and neighborhood connectivity infrastructure consistent with local government master plans; and WHEREAS, the NCDOT and the Federal Highway Administration have expressed openness to consider design alternatives that reduce scale and cost of the project, including the number of lanes required, should upcoming traffic demand studies warrant and justify reductions; and WHEREAS, in the event that the selected design alternative does not include modifications to the I-240 infrastructure on the east side of the French Broad River to support urban redevelopment, improved connection of neighborhoods, and improvements to local traffic patterns; local governments will evaluate a separate future project through the French Broad River Metropolitan Planning Organization (FBRMPO) to address those concerns; and WHEREAS, various detailed alternatives for design and implementation of the project are to be fully evaluated and provided to decision makers for formal consideration as required under the National Environmental Policy Act in the Environmental Impact Statement in the coming months; and local leaders, working rough the FBRMPO, can only then provide their final endorsement of any alternative; and WHEREAS, the City of Asheville, in its five-year capital improvement plan, has designated $1 million in co-funding for the project to support critically needed community-connectivity features; and WHEREAS, members of the community have expressed their strong preference that the project soon be funded and constructed in a way that solves current congestion and safety problems while mitigating negative project impacts and addressing community needs; and WHEREAS,

NCDOT is conducting preliminary cost benefit evaluations of similar projects statewide under the Strategic Prioritization Process to establish specifically which projects will be eligible for near-term funding of design and construction under the recently adopted Strategic Mobility Formula. THEREFORE BE IT RESOLVED by the Board of Commissioners for the County of Buncombe and the City Council of the City of Asheville, as follows: That the Board of Commissioners for the County of Buncombe and the Asheville City Council, along with the FBRMPO, hereby recommend that for the purpose of the upcoming scoring and ranking process, NCDOT use the estimated cost of $230 million associated with the preliminary 3c alignment alternative for the B section of the project; and, in preparation of the draft Environmental Impact Statement for the project, NCDOT clearly include elements that will address community needs for sound barriers and bicycle, pedestrian and neighborhood connections, including location, design, and the funding methodology of associated infrastructure elements.

Mr. Ricky Tipton, the NCDOT Division Construction Engineer, provided the timeline for the I-26 Connector as follows: (1) open house meeting in spring of 2014; New Draft Environmental Impact Statement - winter of 2015; (3) Public hearing - spring 2015; (4) Right of Way (section A) - late 2018 (10-year work plan); and (5) construction letting (Section A) - late 2020 (10-year work plan). He then showed a map of the differences of Alternate 3 vs. Alternate 3c. From Alternate 3 to Alternate 3c, residential relocations are down from 46 to 19 and the business relocations are about the same. The total cost for Alternate 3c is $230,000,000, and the total cost for Alternate 3 was $250,864,000.

In response to Councilman Bothwell, Mr. Tipton felt that Alternate 3c will have an impact to reduce the congestion westbound on the Bowen Bridge.

Councilman Davis felt it was significant to know that the NCDOT has been interested in helping us with the greenway pieces and that the City has set aside Capital Improvement Project funds to make those greenways and connectivity pieces come together. The City is stepping forward with actual dollars to help.

Mr. Tom Leavesley, business owner in Asheville, encouraged City Council to move this project forward.

Mr. Mike Bertrum, representing the Asheville Board of Realtors, said that any project that will offer more safety for motorists is a good thing. He felt that with a known plan, then people will know what real estate will be affected.

Mr. Rich Lee, west Asheville resident and member of I-26 Connect Us Project, felt it was premature to endorse an alternative prior to the Environmental Impact Statement. He felt that endorsing the least expensive alternative creates a risk that the community will be locked into that alternative.

Mr. Alan McGuinn, representing the Asheville Design Center, provided Council with a statement regarding the I-26 resolution. In summary, they "are concerned that the new formula for ranking statewide projects favors the least expensive alternative over other important design requirements that will impact our community for years to come. Alternatives for the project should be based on fulfilling programmatic requirements first, then the project can be refined to address budgetary constraints." They suggested withholding any recommendations prior to the completion of the Environmental Impact Statement.

Mr. Tom Muncy encouraged Council to adopt the resolution.

Mr. Nathaniel Cannady supported the resolution.

Mr. Matthew Burril felt it was time to get this project moving forward.

When Councilman Smith asked how the drawings will be shared with the public, Mr. Tipton said that the maps are on-line and that they will have very large detailed printed maps available at the public hearing.

Councilman Smith said that given the fact that no one wants a furtherance of the injustices done during urban renewal, he hoped that the NCDOT would incorporate the Burton Street Neighborhood Plan into future design characteristics of the construction and work with the community on the forced relocation process. Mr. Tipton responded how the NCDOT purchases right-of-way necessary to move forward with a project. They will offer a fair market value and then try to reach a negotiated agreement, noting that typically they settle in the high 90% of all their right-of-way takes through negotiation. For relocations, they look for comparable housing close to the area as possible and if there is not comparable housing within the same price range, there is assistance to help bridge the gap.

Vice-Mayor Hunt reiterated that the amount in the resolution is only for the purpose of ranking projects state-wide. After the draft Environmental Impact Statement is complete there will be another more fine-tuned number for each alternatives. He said we are not locking ourselves into some threshold dollar amount. Mr. Tipton agreed in that this is an estimate based on the knowledge we have today.

Councilman Bothwell agreed that everyone worked in good faith to move this project forward, however; he felt we are being told to opt for a much less expensive project, pointing out that this plan is a highway through Asheville, but it doesn't really address the issues Asheville has been seeking to address since 1992. There are social justice issues. This will also prevent making Patton Avenue into the boulevard that the Asheville Design Center envisioned. He felt that Asheville is not getting much from this project. He was resigned that this is what will probably go forward, but he didn't think it was the right thing for Asheville.

Mayor Manheimer talked to the N.C. Secretary of Transportation and highlighted the upcoming vote and the importance of this project to our community, but to also emphasize to him that one of the important components to Asheville that is included in this project is the bike/ped component and that our resolution would include language about that. She stated that the N.C. Secretary of State supported multimodal transportation, and was encouraged by his support for a more modern view of transportation.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-54. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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C. RESOLUTION NO. 14-55 - RESOLUTION ADOPTING A POLICY FOR NAMING CITY OF ASHEVILLE STRUCTURES

Fire Chief Scott Burnette said that this is the consideration of a resolution adopting a policy for naming City of Asheville structures for employees who die while carrying out their duties for the City of Asheville

The City of Asheville does not currently have a written policy for naming a publicly owned property in honor of those that have served. There are numerous properties owned by the City of Asheville that do have this distinction. Examples are; 300 Merrimon Ave is now named the Harley E. Shuford Building, 161 South Charlotte is named the William F. Wolcott Jr. Building, and there are several parks and ball fields named to honor those that have served.

On February 24, 2014, the City Council Public Safety Committee reviewed this request and unanimously supported it.

Development of the policy would be of minimal fiscal impact. Fiscal impact of the actual naming would be determined on a case by case basis and would be included within each individual request to name a City of Asheville owned facility.

Staff recommends that City Council adopt a policy for naming City of Asheville structures for employees who die while carrying out their duties for the City of Asheville

Councilman Davis said that this is only a guideline reserved for extraordinary occasions, like loss of life on duty.

Vice-Mayor Hunt moved to adopt the policy with the following deletion: "The suggestion shall be in writing, and if the suggestion is from a member of the public, it must be supported by thirty (30) or more registered voters of the City, as evidenced by their signatures on the request. Upon receipt of a naming request or upon a consensus of the Council to name a particular property or portion thereof, the Council shall make an announcement at a schedule public hearing. So as to provide for an opportunity to receive input from appropriate sources, the Council will delay making a decision until the next regularly scheduled meeting, at the earliest." He felt that the language reads that any 30 people want to name public property after anyone, that they can bring that forward and that Council must vote on it. He felt it would be better to simply say that "Any proposal from the public or otherwise, can bring their request forward to either the Mayor or City Manager or any three members of Council, as is the normal process for placing items on the agenda." This motion was seconded by Councilman Smith.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

The motion made by Vice-Mayor Hunt and seconded by Councilman Smith carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Manheimer noted that at Council's special meeting on March 18, 2014, City Council adopted (1) a resolution in memory of Senator Martin L. Nesbitt Jr., and (2) a resolution in memory of Laurey Masterton.

Mr. Timothy Sadler felt that Asheville should be a leader in customer service in the Development Services Center and encouraged customer service training for the staff in that Department.

Closed Session

At 7:19 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:22 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:22 p.m.

Magdalen Burleson
CITY CLERK

Esther Manheimer
MAYOR

Tuesday – April 8, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 2014 AS "CHILD ABUSE PREVENTION MONTH"

Mayor Manheimer read the proclamation proclaiming April, 2014, as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Mr. Bill McGuire, Director/CEO of Child Abuse Prevention Services Inc., who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING APRIL AS "PARKINSON'S DISEASE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming April, 2014, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Nancy and Jim Hall, and others, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING APRIL 2014 AS "FAIR HOUSING MONTH"

Councilman Smith read the proclamation proclaiming April, 2014, as "Fair Housing Month" in the City of Asheville. He presented the proclamation to Ms. Lucia Daugherty, new Executive Director of the A-B Community Relations Council; Ms. Cassidy Moore, Fair Housing Outreach Coordinator; and Mr. Benjamin T. Many, Attorney with Pisgah Legal Services, who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING APRIL 6-12, 2014, AS "WEEK OF THE YOUNG CHILD"

Councilman Pelly read the proclamation proclaiming the week of April 6-12, 2014, as "Week of the Young Child" in the City of Asheville. He presented the proclamation to Ms. Amy Barry, Executive Director of Smart Start of Buncombe County, who briefed City Council on some activities taking place during the week.

E. PROCLAMATION PROCLAIMING APRIL 6-12, 2014, AS "NATIONAL VOLUNTEER WEEK"

Councilwoman Wisler read the proclamation proclaiming the week of April 6-12, 2014, as "National Volunteer Week" in the City of Asheville. She presented the proclamation to Mr.

Charles Lee, Hands On staff member, who briefed City Council on some activities taking place during the week.

F. RECOGNITION OF THE SISTER CITY DELEGATION FROM OSOGBO, NIGERIA, AND PROCLAMATION PROCLAIMING APRIL 8, 2014, AS "ASHEVILLE SISTER CITY - OSOGBO, NIGERIA DAY"

Mayor Manheimer and Vice-Mayor Hunt recognized the Sister City delegation from Osogbo, Nigeria, and read the proclamation proclaiming April 8, 2014, as "Asheville Sister City - Osogbo, Nigeria Day" in the City of Asheville. They presented the proclamation to Mr. Russ Martin and the Sister City delegation, who presented gifts to Mayor Manheimer.

II. CONSENT AGENDA:

At the request of Mayor Manheimer, Consent Agenda Item "E" was removed from the Consent Agenda due to a conflict of interest.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 25, 2014

B. RESOLUTION NO. 14-56 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE EARTH DAY ON APRIL 19, 2014

RESOLUTION NO. 14-57 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT MOOGFEST ON APRIL 25-27, 2014

RESOLUTION NO. 14-58 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT DOWNTOWN AFTER FIVE ON MAY 16, JUNE 20, JULY 18, AUGUST 15 AND SEPTEMBER 19, 2014

RESOLUTION NO. 14-59 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL ON MAY 31, 2014

RESOLUTION NO. 14-60 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE HALF MARATHON & 10K ON JUNE 7, 2014

RESOLUTION NO. 14-61 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BIG LOVE FEST ON AUGUST 24, 2014

RESOLUTION NO. 14-62 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL ON SEPTEMBER 20, 2014

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Asheville Earth Day on April 19, 2014; Moogfest on April 25-27, 2014; Downtown After 5 on May 16, June 20, July 18, August 15, and September 19, 2014; the Beer City Festival on May 31, 2014; the Asheville Half Marathon & 10K on June 7, 2014; the Big Love Fest on August 24, 2014; and the Brewgrass Festival at Memorial Stadium on September 20, 2014.

- Wild South has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Asheville Earth Day and at Moogfest and allow for consumption at these events.

  Asheville Earth Day will be held on Saturday, April 19, 2014, from 1:00 p.m. – 10:30 p.m. on Lexington Avenue between the intersections of Hiawassee and the I-240 underpass, extending within the metered parking lot located at the I-240 underpass, as per the event area limits referenced on the accompanying site map.

  Moogfest will be held on Friday, April 25 from 3:00 p.m. – 10:00 p.m., Saturday, April 26 from 12:00 p.m. – 10:00 p.m., and Sunday, April 27, 2014 from 12:00 p.m. – 6:00 p.m. on Lexington Avenue between the intersections of Hiawassee and Starnes, extending within the metered parking lot located at the I-240 underpass and portion of Cherry Street surface parking, as per the event area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Downtown After 5 and allow for consumption at this event.

  Downtown After 5 will be held on Fridays, May 16, June 20, July 18, August 15 and September 19, 2014 from 5:00 p.m. – 10:00 p.m. on Lexington Avenue between the intersections of Hiawassee and the I-240 underpass, extending within the metered parking lot located at the I-240 underpass, as per the event area limits referenced on the accompanying site map.

- Big Brothers Big Sisters of WNC has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at the Beer City Festival and the Brewgrass Festival and allow for consumption at these events.

  The Beer City Festival will be held on Saturday, May 31, 2014 from 1:00 p.m. –7:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Spruce Street between the intersections of South Pack Square & College Street, and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

  The Brewgrass Festival will be held on Saturday, September 20, 2014 from 12:00 p.m. – 8:00 p.m. within the boundaries of Memorial Stadium including a fenced extension of the premises as per the area limits referenced on the accompanying site map.

- The Asheville Track Club has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at the Asheville Half Marathon & 10K post event and allow for consumption at this event.

  The Asheville Half Marathon & 10K post event will be held on Saturday, June 7, 2014, from 8:00 a.m. – 1:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- The Southern Appalachian Highlands Conservancy has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at The Big Love Fest and allow for consumption at this event.

  The Big Love Fest will be held on Sunday, August 24, 2014, from 12:00 p.m. – 8:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Reuter Terrace, Vance Median and Raised Lawn areas including South Spruce Street between the

intersections of South Pack Square and College Street, North Pack Square between the intersections of Biltmore Avenue and South Pack Square, South Pack Square between the intersections of Biltmore Avenue and South Market Street and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Wild South, the Asheville Downtown Association, Big Brothers Big Sisters of WNC, the Asheville Track Club, and the Southern Appalachian Highlands Conservancy.

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Asheville Earth Day, Moogfest, Downtown After 5, the Beer City Festival, the Brewgrass Festival, the Asheville Half Marathon & 10K, and the Big Love Fest.

RESOLUTION NO. 14-56 - RESOLUTION BOOK NO. 26 - PAGE 111
RESOLUTION NO. 14-57 - RESOLUTION BOOK NO. 26 - PAGE 114
RESOLUTION NO. 14-58 - RESOLUTION BOOK NO. 26 - PAGE 117
RESOLUTION NO. 14-59 - RESOLUTION BOOK NO. 26 - PAGE 120
RESOLUTION NO. 14-60 - RESOLUTION BOOK NO. 26 - PAGE 123
RESOLUTION NO. 14-61 - RESOLUTION BOOK NO. 26 - PAGE 126
RESOLUTION NO. 14-62 - RESOLUTION BOOK NO. 26 - PAGE 129

C. RESOLUTION NO. 14-63 - RESOLUTION TO REALLOCATE UNSPENT EMERGENCY SOLUTIONS GRANT FUNDS TO HOMEWARD BOUND FOR RAPID REHOUSING

Summary: The consideration of a resolution reallocating $10,221 of unspent Fiscal Year 2012-13 Emergency Solutions Grant (ESG) funds to Homeward Bound for Rapid Rehousing.

$10,221 of the Fiscal Year 2012-13 Emergency Solutions Grant funds granted to the City of Asheville was unspent by the September 30, 2013, grant year end. The State of North Carolina is making these funds available to our Continuum of Care with these stipulations:

1. Funds can only be awarded to organizations in our CoC that have a 2013-14 contract for NC ESG funds, either through a direct contract with the State or through a fiscal sponsor.
2. Funds can be spent only on rapid re-housing activities.
3. Organizations must be able to spend the reallocated funds by June 30, 2014

These unspent funds came from a combination the Asheville-Buncombe Community Christian Ministries allocation for Rapid Rehousing and the City of Asheville's HMIS allocation. Homeward Bound of WNC was the only other agency contracted for Rapid Rehousing funds in Fiscal Year 2012-13 and spent down their allocation by September 30, 2013. It is recommended that the full $10,221 be re-allocated to Homeward Bound of WNC for Rapid Rehousing.

Pro:

- Existing Rapid Rehousing funds have all been projected out through the end of the ESG grant year, September 30, 2014. This re-allocation allows for at least 7 additional households to be served.

Con:

- None

The proposed activity is a reallocation of funds already awarded. The purpose for which the funds were originally allocated will be met through a different funding source. No general funds are required to meet the original allocation purpose.

City staff recommends City Council accept the Housing and Community Development Committee recommendation for re-allocating the $10,221 Fiscal Year 2012-13 balance of Emergency Solutions Grant funds to Homeward Bound for Rapid Rehousing.

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D. RESOLUTION NO. 14-64 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT PRIVATE DONATIONS FROM THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA INC. FOR THE ASHEVILLE POLICE DEPARTMENT

ORDINANCE NO. 4299 - BUDGET AMENDMENT TO ACCEPT DONATIONS FROM THE COMMUNITY FOUNDATION OF WESTERN NORTH CAROLINA INC.

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds donated by The Community Foundation of Western North Carolina, Inc.; and (2) a budget amendment in the amount of $215 to appropriate these funds into the City's Special Revenue Fund budget.

The Asheville Police Department (APD) Public Housing Unit applied and received a grant through the Rotary Club of Asheville to establish the "Shop with a Cop" project. The grant was awarded and the Department has received $215 in funds. In order for APD to be able to spend these funds, Council must first approve a budget amendment authorizing use of those funds in the City's Special Revenue fund. The APD has requested that these funds be applied to the APD Private Donations project account to assist with the "Shop with a Cop" project. The APD wishes to acknowledge the generosity, and express gratitude for this support of the Asheville Police Department by the Rotary Club of Asheville.

Pros:

- Acceptance of gift from The Community Foundation of Western North Carolina, Inc.
- Support of the APD "Shop with a Cop" project
- Enhanced community outreach opportunities

Con:

- None

Appropriating these donations in the Special Revenue Fund has no fiscal impact on the City's General Fund Budget.

City staff recommends City Council approve: (1) a resolution authorizing the City Manager to accept funds donated by the aforementioned organization; and (2) a budget amendment in the amount of $215.00 to appropriate these funds into the City's Special Revenue Fund budget.

RESOLUTION BOOK NO. 36 - PAGE 133
ORDINANCE BOOK NO. 29 - PAGE 27

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE APPROPRIATE INSTRUMENTS TO ABANDON A WATERLINE AND EASEMENT LOCATED AT WEST EUCLID PARKWAY AND ST. CHARLES

PLACE, ASHEVILLE, N.C.

This matter was removed from the Consent Agenda due to a conflict of interest by Mayor Manheimer.

F. ORDINANCE NO. 4300 - BUDGET AMENDMENT FOR THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment, in the amount of $430,000 from US Cellular Center Operating Revenue, to increase the US Cellular Center Fund budget to reflect updated Fiscal Year 2013-14 revenue and expenditure projections.

The US Cellular Center event load in FY 2013-14 has been higher than initially forecasted during last year's budget process. Both revenues and expenses are now on pace to exceed budget. In order to fund anticipated expenses over the last quarter of the current fiscal year, staff is recommending that the US Cellular Center Fund budget be increased by $430,000.

It is anticipated that revenue generated by concessions & show revenues will cover all of the cost of the budget amendment; therefore, no additional transfer from the General Fund is required at this time. The US Cellular Center has several events scheduled before June 30 that should generate significant revenues.

This amendment has been presented to the US Cellular Center Commission and recommended to City Council.

Pro:

- Provides sufficient budget authorization for anticipated expenditures in the US Cellular Center Fund without increasing the General Fund transfer.

Con:

- There is a slight chance that year-end revenues could fall short of current estimates if ticket sales are less than expected or concession revenues are lower.

As noted above, this budget amendment is funded with US Cellular Center operating revenues that will likely exceed original budget estimates. Therefore, there is no expected impact to the City's General Fund budget.

US Cellular Center staff and Commission recommend City Council approve a budget amendment to increase the US Cellular Center Fund budget by $430,000 to reflect updated Fiscal Year 2013-14 revenue and expenditure projections.

ORDINANCE BOOK NO. 29 - PAGE 29

G. RESOLUTION NO. 14-66 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO INCLUDE THE BUDGET CALENDAR

Summary: The Asheville City Council hereby adopts the following budget calendar: (1) Budget worksession for policy direction on the operating budget on Tuesday, April 22, 2014, beginning at 3:00 p.m. in the 1st Floor North Conference Room in City Hall, located at 70 Court Plaza, Asheville, N.C.; (2) Budget worksession for policy direction on the Capital Improvement Plan budget on Tuesday, May 13, 2014, beginning at 3:00 p.m. in the 1st Floor North Conference Room in City Hall, located at 70 Court Plaza, Asheville, N.C.; (3) May 27, 2014 - Budget Presentation of the Fiscal Year 2014-15 Annual Operating Budget; and motion setting a public hearing on June 10, 2014 - Council Chamber in City Hall; (4) June 10, 2014 - Public hearing on the Fiscal Year 2014-15 Annual Operating Budget - Council Chamber in City Hall; and (5) June 24, 2014 - Adoption of the Fiscal Year 2014-15 Annual Operating Budget - Council Chamber in City Hall.

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H. RESOLUTION NO. 14-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY PROPERTY AT 550 NEW AIRPORT ROAD TO THE N.C. DEPT. OF TRANSPORTATION FOR RIGHT-OF-WAY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey 0.249 acres of real property located 550 New Airport Road to the N.C. Dept. of Transportation.

The City of Asheville owns approximately 10.37 acres of real property located at 550 New Airport Road. The parcel is subject to a ground lease by Fletcher Hospitality, LLC for the operation of the Clarion Inn. The main entrance to this property is off of New Airport Road (NC 280). The entire western boundary of the City's property exists alongside the NCDOT right-of-way for Interstate 26, at an interstate interchange and on ramp.

NCDOT has plans to retrofit the existing interchange at this location to a diverging diamond configuration in order to improve vehicular safety and traffic flow on and off Exit 40. Overall, the project provides much needed traffic improvements for this section of New Airport Road. The planned improvements, specifically a concrete median separating the travel lanes along the frontage of the City's property, will limit the utility of the main entrance at the Clarion Inn to a "right-in/ right-out" only. Per the plans, in order to make a left turn into the Clarion Inn property, a U-turn is necessary at the Rockwood Road Intersection. NCDOT plans to construct a bulb-out at the edge of the roadway in order to accommodate vehicles making this U-turn. Apart from NCDOT's plans, the City is seeking to mitigate the impacts of this ingress / egress issue by acquiring a secondary access point to the Clarion Inn property from Rockwood Road.

This NCDOT project, known as Project# I-5501, is currently in the Right-of-way acquisition phase and is set to begin construction this summer. At this time, NCDOT has requested to purchase approximately 0.249 acres of the city-owned property at 550 New Airport Road as right-of-way for this project. NCDOT has offered to pay $180,000 for the needed right-of-way. This purchase price is supported by two independent MAI appraisals.

Pros:

- The sale of 0.249 acres of property will support NCDOT's plans to retrofit an existing interchange and promote traffic efficiency and safety.
- The Conveyance of Real Property is at fair market value.

Con:

- Limits ingress/egress into City-owned property.

The proceeds of the sale of property will benefit the General Fund and will be designated for future economic and community development projects.

Economic Development staff recommends adoption of the resolution to convey 0.249 acres of real property at 550 New Airport Road to the N.C. Dept. of Transportation.

RESOLUTION BOOK NO. 36 - PAGE 136

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

E. RESOLUTION NO. 14-65 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE APPROPRIATE INSTRUMENTS TO ABANDON A WATERLINE AND EASEMENT LOCATED AT WEST EUCLID PARKWAY AND ST. CHARLES PLACE, ASHEVILLE, N.C.

Vice-Mayor Hunt moved to rescues Mayor Manheimer from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Hunt and carried unanimously.

Summary: The consideration of a resolution authorizing the City Manager to execute appropriate instruments to abandon a waterline and easement located at West Euclid Parkway and St. Charles Place, Asheville, N.C.

In 2010, a subdivision for the property of Frank W. Hall Jr., was recorded in the Buncombe County Register of Deeds Office in Deed Book 153/74, which plat depicts a waterline and easement crossing parcels 90 and 91. The parcels being serviced by the aforementioned waterline were subsequently transferred to other lines, resulting in the abandonment of the waterline. By letter dated April 21, 2011, the City determined that the waterline and easement were no longer needed by the City and had been abandoned.

The property owner desires for the City to officially abandon the waterline and easement for which the City is receptive as the City does not anticipated any future need for the waterline and easement.

Pro:

- Removes burden on private property to promote private investment

Con:

- None

City staff recommends City Council approve the resolution authorizing the City Manager to execute appropriate instruments to abandon a waterline and easement located at West Euclid Parkway and St. Charles Place, Asheville, NC.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-65. This motion was seconded by Councilman Pelly and carried unanimously (with Mayor Manheimer being recused).

RESOLUTION BOOK NO. 36 - PAGE 134

III. PRESENTATIONS & REPORTS:

A. UPDATE ON SENATE BILL 74 - REGULATORY REFORM ACT

Ms. Erin Wynia, Legislative & Regulatory Issues Manager for the the N.C. League of Municipalities, provided City Council with an overview regarding the local government environment ordinances - Senate Bill 74 - Regulatory Reform Act.

Mr. Wynia responded to questions/comments raised by Council.

On behalf of City Council, Mayor Manheimer thanked Ms. Wynia for helping City Council understand this complex Bill.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A SIGN PACKAGE FOR THE ASHEVILLE OUTLETS LOCATED AT 800 BREVARD ROAD

At the petitioner's request, Councilman Davis moved to continue this public hearing until April 22, 2014. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-68 - RESOLUTION ADOPTING THE HOUSING TRUST FUND RECOMMENDATION TO FUND BIOTAT LLC FOR THE OAK HILL COMMONS PROJECT

Director of Community Development Jeff Staudinger said that this is the consideration of a resolution adopting the Housing Trust Fund recommendation to fund Biotat LLC for Oak Hill Commons Project in the amount of $58,106.

Mr. W. Ward Griffin, Member Manager of Biotat, LLC, proposes a 30-unit affordable housing development project specifically targeting the hard to house, primarily for chronically homeless individuals who have failed to succeed in other affordable housing environments and who are in need of specialized support services. The project is proposed to occupy a portion of a vacant 3.71-acre site in West Asheville located off of New Leicester Highway, near the intersection of Patton Avenue.

The proposed development is modeled after the successful Moore House project in Charlotte, North Carolina.

The project is supported by the Homeless Initiative Advisory Committee as the last necessary step to ending chronic homelessness in Asheville and Buncombe County, in alignment with the Ten Year Plan to End Homelessness. Its Hardest-to-House subcommittee worked with Mr. Griffin on the design of the project, including the assessment of market, the role of partners such as Mission Hospital and Homeward Bound, and the availability of rental subsidies for eligible residents. Homeward Bound will provide supportive services including individual case management services. Mission's representative to the committee has proposed an on-site clinic.

The developer and community partners are now actively seeking both the necessary development financing and the commitment of operational funds to make this project a reality.

Biotat, LLC (the project developer) has secured the project site through a purchase contract, and the Asheville Regional Housing Consortium is recommending the award of a $75,000 federal HOME loan for the project. On March 18, 2014, the Housing and Community Development Committee recommended the award of a $58,106. HTF loan for the Oak Hill Commons project.

Pros:

- The project follows national best practices in its development and operational design for housing those deemed hardest-to-house;
- The development is seen as the next necessary step to ending chronic homelessness in Asheville and Buncombe County;

- The development site is within ¼ mile of jobs, services, groceries, and transit; and is under developer control via a purchase contract;
- Site has capacity to add more units to complement proposed project;
- The proposed loan is an efficient use of Housing Trust Funds.

Con:

- Additional public and private financing commitments will be necessary for the project to move towards construction. These include additional development financing, as well as firm commitments for supportive services necessary for project success.

The proposed Housing Trust Fund support is within the budgeted amount for this fiscal year.

The Housing and Community Development Committee recommends City Council approve a resolution authorizing the following loan subject to the developer meeting all program requirements for loan closing: Oak Hill Commons, Biotat, LLC: $58,106 HTF loan with a 20-Year Term, 2% Interest Only, Deferred Principal Payment.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-68. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 137

B. ORDINANCE NO. 4301 - ORDINANCE ADOPTING THE 2014-15 FEES & CHARGES MANUAL

Budget Director Tony McDowell said that this is the consideration of an ordinance adopting the Fiscal Year 2014-15 Fees & Charges Manual.

The major types of revenue available to North Carolina counties and municipalities are local taxes (including property taxes); local fees, charges and assessments; and intergovernmental and miscellaneous revenue. Local governments have increasingly looked for appropriate opportunities to implement local fees and charges because they have the advantage of aligning service provision directly with payment; therefore, the person or entity receiving the benefit of a service pays for the service. In Asheville, these fees make up about 10% of the City's General Fund revenue and 36% of city-wide revenue. These fees generally fall into three major categories: general user fees and charges; regulatory fees, and; public enterprise fees and charges.

Proposed FY 2014-15 Fee Changes:

1. *Minor Changes in Most Funds.* Staff is recommending minor changes to fees in several funds, including the General Fund. The total additional revenue generated from the changes in each fund is summarized below.

Fund	Additional Revenue
General Fund	$78,000
Transit Services Fund	$50,000
US Cellular Center Fund	$38,500
Parking Services Fund	$8,600

2. *Continue Planned Annual Water Adjustments.* Based on the financial analysis completed last fiscal year, staff is proposing the following rate adjustments in the Water Resources Fund.

    - Single Family, Multi-Family, Small Commercial/Manufacturer: 1.5% increase
    - Large Commercial/Manufacturer (>1,000 CCF/month): 3.5% increase
    - Wholesale & Irrigation: 4.0% increase

These changes will produce approximately $458,000 in additional revenue in the Water Resources Fund.

The proposed FY 2014-15 fee adjustments were reviewed by the City Council Finance Committee on March 25, 2014. The Finance Committee had additional questions about some of the proposed Parks and Recreation fee adjustments that were presented on March 25. Staff is currently preparing a response to those questions, so those fee adjustments are not included in this fee package. The Finance Committee also heard a staff presentation on March 25 related to proposed fee adjustments in the Stormwater program. The Stormwater fee adjustments will be discussed at a future Council budget worksession and are therefore not included in the fee package under consideration tonight.

Pros:

- Provides additional revenue to help balance the FY 2014-15 budget.
- Provides staff with time to begin communicating fee changes to citizens, customers and stakeholders so they are aware of changes that will be implemented on July 1.

Con:

- None.

The fiscal impact of the proposed fee changes is outlined in the information above.

Staff recommends that Council adopt the proposed FY 2014-15 fee proposals.

There was a brief discussion, initiated by Councilman Davis, about the water rate increase which is in line with the schedule the consultants had recommended, and Council approved, two years ago. City Council determined that it would be better to gradually increase the fees each year instead of having a large increase every 10 years. The increase on water rates for the average homeowner is approximately $3.00 per year, noting that the water utility is a break even deal - that the City does not make money on water.

Councilman Smith noted that we have an excellent water system and this will allow us to maintain the quality of the system.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4301. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 31

C. CODE FOR AMERICA FELLOWSHIP UPDATE

Chief Information Officer Jonathan Feldman said that this is a report to share staff-level exploration of a Code for America (CfA) Fellowship opportunity and seek concurrence regarding further exploration.

The Code for America Fellowship program matches cities with high-performing individuals who have given a year to civic service. The program's outcomes are listed in the organization's annual report (2013.codeforamerica.org), and generally seek to make government more efficient and beneficial through a mix of community collaboration and technology.

CfA uses a lightweight, "agile" form of project management and appraisal that emphasizes early and continuing evaluation prior to commitment. The Code for America Fellowship application is a mutual evaluation tool that allows both the City organization as well as Code for America to determine if a Fellowship is in both parties' interest, prior to any contract being executed with the City of Asheville.

Depending upon the project mutually chosen, this action would comply with the City Council Strategic Operating Plan. Staff plans on exploring projects with CfA that would substantially improve development services and/or economic development. Staff would only recommend going forward if the project substantially impacted City Council SOP goals such as the Economic Growth and Financial Sustainability focus area's goals regarding downtown vitality and job growth. Staff would vet the proposal with stakeholders (e.g. development services community) and would propose a funding source commensurate with the area of benefit (e.g. existing permit fees).

Pro:

- Allows city staff to explore the opportunity without making significant commitments of staff time or funding

Con:

- Because the process is called an "application," misunderstanding about the current level of commitment among citizens or other stakeholders could occur.

The cost of the program for the typical city is $220,000, with the balance of the funding being raised through community partners. However, there is no fiscal impact at this time, and staff would strongly suggest to Code For America that Asheville's commitment be at a significantly different level than that of Boston or San Francisco. Once initial exploration is complete, if staff was to recommend moving forward, staff would bring a funding request to City Council.

City staff recommends exploration of a Code for America Fellowship opportunity and the findings be brought back to City Council prior to any commitment being made.

D. BOARDS & COMMISSIONS

Regarding the Homeless Initiative Advisory Committee (HIAC), the following individuals have applied for the vacancy: Sabrah n'haRaven, Matthew Shepley, Allison Bond, Heather Smith, Carrie Pettler and Kristi Case. The HIAC recommended appointing Sabrah n'haRaven. It was the consensus of City Council to interview Sabrah n'haRaven and Heather Smith.

Regarding the Asheville-Buncombe Community Relations Council (CRC), the following individuals applied for the vacancy: Sandra Houts, Brandee Boggs and Fyffe Aschenbrenner. Councilman Smith, liaison to the CRC, said that the CRC will be holding a recruitment event and requested an additional one month delay. It was the consensus of Council to delay the appointment for one month.

RESOLUTION NO. 14-69 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Marc Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Citizens-Police Advisory Committee.

Grant Osborne (south representative) has resigned as a member of the Citizens-Police Advisory Committee, thus leaving an unexpired term until July 1, 2014.

The following individuals applied for the vacancy: Buck Bragg and Bill Galbraith.

It was the consensus of the Boards & Commissions Committee to appoint Bill Galbraith.

Councilwoman Wisler moved to appoint Bill Galbraith to the Citizens-Police Advisory Committee (south representative) to serve the unexpired term of Mr. Osborne, term to expire July 1, 2014, and then a full three-year term, term to expire July 1, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 138

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler felt we should use local vendors for snacks in meetings.

Rev. Christopher Chiaronmonte spoke the rights of unborn children.

Ms. Louise Heath and Ms. Marty Grist spoke about the danger of use of Round Up/Agent Orange on Asheville School and park lawns. Councilman Bothwell recalled a memorandum from City staff at the Sustainability Advisory Committee on Energy & the Environment Committee regarding this subject and it was the consensus of Council to have the City Manager provide that memorandum to Council.

Mr. Paul Berry, Mr. Lafayette Prescott, and Ms. Robbie Coleman, representing Asheville Voice for Animals, provided City Council with information regarding misuse and improper handling of elephants by Ringling Brothers. They urged Council to seek a ban on exotic animals by the circus. Mayor Manheimer thanked them for bringing this matter to their attention and noted City Council would review the matter. She asked City Manager Jackson to provide information on whether City Council has authority on who uses the US Cellular Center as a venue, and how other cities have moved in this direction, noting that any ban should be a community decision. Councilman Bothwell would support a ban on animal acts, and noted that since the City has a policy about no weapons on City property, the gun show at the U.S. Cellular Center moved from that venue. City Manager Jackson said that he would provide City Council with information and then seek their direction.

Closed Session

At 6:54 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: State of North Carolina, City of Asheville, and Metropolitan Sewerage District of Buncombe County . The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:53 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:53 p.m.

Magdalen Bullock
CITY CLERK

Esther G. Manheimer
MAYOR

Tuesday – April 22, 2014 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

Finance Director Barbara Whitehorn recapped the process. Expectations are modest growth in revenues: (1) Property tax - no increase to rate; (2) Sales Tax; (3) Building permits are up; and (4) Business privilege licenses. Her challenge from the City Manager has been to evaluate processes, trends and expenditure patterns and consider alternatives that may improve productivity and save money. While property taxes are not expected to increase significantly in Fiscal Year 2015, it is important to note that increasing permit activity is a leading indicator for property value increases, whether increases to existing property through improvements, or additions to the property tax roll through.

She explained their goals from Council are (1) continue to provide core services; and (2) priorities/ guidance from City Council (a) compensation - employee compensation pool; (b) transit - Sunday Service; and (c) Police strategic plan - compensation; vehicle replacement; take-home vehicle program; and management structure changes. The graffiti program one-time expense of approximately $300,000 will be included in the operating budget. She explained how savings identified in the Current Year will be swept into Fiscal Year 2014-15 budget to fund the cost of living adjustment. General Fund expenditures will be by managed savings in the current fiscal year,

She then reviewed the enterprise funds: (1) Water Fund (a) continued stable performance; (b) minor rate adjustments based on financial model were approved on April 8; and (c) $10.1 Million pay-go investment in water capital improvements; (2) Transit Fund (a) limited Sunday service; (b) continued financial pressure; and (c) General Fund support increased by $621,000; (3) Parking Fund (a) strong revenue growth; (b) no adjustments to garage or meter rates; and (3) maintain $616,000 in support to Transit Fund; and (4) US Cellular Center Fund (a) strong performance in Fiscal Year 2013-14; (b) anticipated savings from outsourcing custodial operations; and (c) no increase in General Fund operating support.

Throughout Ms. Whitehorn's presentation, she responded to various questions/comments from Council.

Ms. Whitehorn then reviewed the upcoming dates associated with adoption of the budget.

At 4:00 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 22, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized Mr. David D. Bailey, President and CEO of the United Way of Asheville and Buncombe County, and Mr. Richard Caro, United Way's Resource Development Manager, who then recognized the Public Services Division Coordinator Police Chief William Anderson; along with the following Campaign Coordinators: Scott Burnette, Curtis Jones, Chris Collins, Brad Stein, Alex Carmichael, Rachel Buckner, Robin Rice, Gina Zachary, Jannice Ashley, Caroline Long, Christy Bass, Christy Edwards, Jakob Klodt, Alina Law, and Darlene Barnwell.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING APRIL 20-26, 2014, AS "ADMINISTRATIVE PROFESSIONALS WEEK"

Vice-Mayor Hunt read the proclamation proclaiming April 20-26, 2014, as "Administrative Professionals Day" in the City of Asheville. He presented the proclamation to Ms. Mary Ann Schiller, Vice-President of the Land of the Sky Chapter of the International Association of Administrative Professionals, along with Sandy Stotesbury and Monica Strickland, who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING APRIL 21-26, 2014, AS "NATIONAL COMMUNITY DEVELOPMENT WEEK"

Mayor Manheimer read the proclamation proclaiming April 21-26, 2014, as "National Community Development Day" in the City of Asheville. She presented the proclamation to Community Development Director Jeff Staudinger, and program partners, who briefed City Council on some activities taking place during the week.

D. PROCLAMATION PROCLAIMING MAY AS "MOTORCYCLE AWARENESS MONTH"

Councilman Davis read the proclamation proclaiming May, 2014, as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Roger Williams, representing the Concerned Bikers Association, who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING MAY 4-10, 2014, AS "NATIONAL DRINKING WATER WEEK"

Councilman Bothwell read the proclamation proclaiming May 4-10, 2014, as "National Drinking Water Week" in the City of Asheville. He presented the proclamation to Mr. Ivan Thomas, Operations Manager for the Water Resources Department, who briefed City Council on some activities taking place during the week.

F. PROCLAMATION PROCLAIMING MAY 6-12, 2014, AS "NURSES WEEK"

Councilman Pelly read the proclamation proclaiming May 6-12, 2014, as "Nurses Week" in the City of Asheville. He presented the proclamation to Mission Hospital's Chief Nursing Officer Karen Olsen, along with Ms. Kathy Guyette, Stephanie Whitaker, Ginny Raviotta and Cherry Odom, who briefed City Council on some activities taking place during the week.

G. PROCLAMATION PROCLAIMING MAY 16-22, 2014, AS "STRIVE NOT TO DRIVE WEEK"

Councilwoman Wisler read the proclamation proclaiming May 16-22, 2014, as "Strive Not To Drive Week" in the City of Asheville. She presented the proclamation to Mr. Jim Grode, Chair of the Multimodal Transportation Commission, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

At the request of City staff, Vice-Mayor Hunt moved to continue to May 13, 2014, Consent Item "C" - Resolution authorizing a land exchange with the UNC-Asheville Foundation, Inc., for City-owned real property at Broadway Street for a greenway easement along Reed Creek. This motion was seconded by Councilman Bothwell and carried unanimously.

Consent Agenda Items "H" and "M" were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 8 2014

B. RESOLUTION NO. 14-70 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE US DEPT. OF TRANSPORTATION TIGER PROGRAM FOR ELEMENTS IN THE FOLLOWING PROJECTS: RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT, FIVE POINTS ROUNDABOUT, CLINGMAN FOREST GREENWAY, TOWN BRANCH GREENWAY, FRENCH BROAD RIVER GREENWAY, AND LIVINGSTON STREET "COMPLETE STREETS" IMPROVEMENT PROJECT; AND TO AUTHORIZE THE CITY MANAGER TO SIGN A LETTER OF COMMITMENT TO PROVIDE MATCHING FUNDS IF THE CITY IS AWARDED THE GRANT

Summary: The consideration of a resolution authorizing the City Manager to submit a grant application to the U.S. Dept. of Transportation (USDOT) TIGER Program, and to authorize the City Manager to sign a letter of commitment to provide matching funds if the City is awarded the grant.

On March 3, 2014, the USDOT released a notice of funding availability for this, the sixth round of TIGER (Transportation Improvements Generating Economic Recovery) funds. Nationally, $565 Million will be allocated for construction projects; $35 Million for planning projects. The award minimum is $10 million.

Staff is in the process of preparing a TIGER VI grant application for transportation construction funding. The application will include the RADTIP and other complete streets and greenways improvements in the East of the Riverway area. Many of these projects were developed and studied in the East of the Riverway Multimodal Neighborhood Project, which was funded with a TIGER II Planning Grant.

The TIGER Program is a highly competitive discretionary grant program. Approximately five percent of applications receive funding. Applicants are asked to submit projects that will deliver five long-term outcomes: safety, economic competitiveness, state of good repair, livability and environmental sustainability. The TIGER Program also has an emphasis on economic recovery. Applications must include a benefit-cost analysis. The application is due on April 28th.

For this round of TIGER, projects must be ready for implementation by certain deadlines. All funds must be fully expended by September 2021. Generally this means that construction for all projects would be likely to happen between 2016 and 2020.

Staff has identified six key transportation projects that will create a multi-modal transportation network along the riverfront and East of the Riverway. These projects total approximately $27.1 million. Staff is in the process of refining the scope and budget of transportation elements that will be included. Although the minimum required match is 20%, successful projects usually have a much bigger commitment of local funds. Therefore, we anticipate submitting an application for $10-$15 million in TIGER funds. In other words, we expect for the local match to be more in the range of 45% to 65%. The application will need to include a commitment to provide matching funds. Staff is confident that other stakeholders and partners will contribute to the project and provide matching funds. However, these commitments will not be able to be made until after the application deadline. Therefore, the City will need to make a commitment in the application to provide the entire amount of the match.

The City of Asheville application will include the following project elements (cost estimates are subject to change):

- The RADTIP - a multi-modal transportation project that will construct roadway improvements, sidewalks, bike lanes and greenways along Lyman Street and part of Riverside Drive adjacent to the French Broad River. Total cost approximately $20 million.
- Five Points Roundabout – a key connection between the RADTIP and the multi-modal network in the East of the Riverway Area. Total cost approximately $600 thousand.
- Clingman Forest Greenway – connects the riverfront area with downtown. Total cost approximately $1.5 million.
- Town Branch Greenway – connects the riverfront, Southside neighborhood, and south slope of downtown. Total cost approximately $2.5 million.
- French Broad River Greenway (West Side – Duke Energy Donation) – completes a key link in the riverfront greenway system, connecting the French Broad River Park system to the RADTIP and the site of New Belgium Brewing. Total cost approximately $1 million.
- Livingston Street "Compete Street" Improvements – a recommendation of the East of the Riverway Connections plan. The project will be designed in close coordination with the neighborhood. Total cost approximately $1.5 million.

Local partnerships are an important element of successful TIGER Projects. Staff is reaching out to other agencies and key officials to ask for support of this grant application and for the suite of transportation projects. This effort is in concert with other efforts to develop funding partnerships that will contribute to the local match.

Pros:

- City Council has identified implementation of multi-modal transportation investments as a key strategic goal for the city.

- The City has engaged in and significantly invested in the planning activities that make the application timely and competitive;
- The TIGER Program is a significant funding opportunity that would allow the City to move forward on these investments.
- The City has already shown a commitment to implementing these projects as part of the Economic Development Capital Improvements Program.

Cons:

- If awarded, the City would be expected to provide matching funds and move forward with the projects.
- The projects would be required to follow federal guidelines for implementation.

The USDOT may choose to award the city with full or partial funding based on the application. If awarded, the city would begin the process of developing a grant agreement with USDOT. The specific funding amounts and project elements will be further defined at that time. By submitting the application, the City is indicating to the USDOT that the project matching funds will be committed, if the grant is awarded. Based on the preliminary budget numbers in the application, the City and its partners could expect to spend between $12 million and $17 million on these specific projects from FY16 to FY20. City funding will be included as part of the five-year Capital Improvement Program.

City staff recommends City Council adopt a resolution authorizing the City Manager to submit a grant application to the USDOT TIGER Program, and to authorize the City Manager to sign a letter of commitment to provide matching funds if the City is awarded the grant.

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C. RESOLUTION AUTHORIZING A LAND EXCHANGE WITH THE UNC-ASHEVILLE FOUNDATION, INC., FOR CITY-OWNED REAL PROPERTY AT BROADWAY STREET FOR A GREENWAY EASEMENT ALONG REED CREEK

Vice-Mayor Hunt moved to continue this item to May 13, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

D. RESOLUTION NO. 14-71 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES INC. FOR THE DEVELOPMENT OF THE MULTIMODAL TRANSPORTATION PLAN

ORDINANCE NO. 4302 - BUDGET AMENDMENT TO SET UP THE PROJECT BUDGET FOR THE DEVELOPMENT OF THE MULTIMODAL TRANSPORTATION PLAN

Summary: The consideration of: 1) a resolution authorizing the City Manager to enter into a General Services contract with Kimley-Horn and Associates, Inc. for the development of the Multimodal Transportation Plan for the City of Asheville; and 2) a budget amendment in the amount of $336,000; $200,000 awarded to the City by the Metropolitan Planning Organization as part of the Unified Planning Work Program in June 2013; and $136,000 from the City's General Fund and the Community and Economic Development CIP (EDCIP).

In order to address the City's growing transportation needs, the City of Asheville has proposed the development of a Multimodal Transportation Plan to analyze existing transportation infrastructure and to create strategies to develop a network of interconnected transportation modes. This plan will include measurable goals and detailed strategies for creating a vision to develop transportation networks to improve accessibility, connectivity and transportation

infrastructure throughout the City and at the same time becoming an element to promote economic development. The project is funded with FHWA metropolitan planning funds allocated through the French Broad River Metropolitan Planning Organization's Unified Planning Work Program grant, and with local funds.

The City issued a Request for Proposals for a Multimodal Transportation Plan in November 11, 2013. The RFP closed on December 13, 2013. Seven proposals were received from the following firms:

1. Moffat and Nichol, Raleigh, NC
2. Renaissance Planning Group, Inc., Durham, NC
3. Stantec Consulting Services, Inc., Raleigh, NC
4. Michael Baker Engineering, Inc., Asheville, NC
5. URS Corporation, Morrisville, NC
6. VHB Engineering NC, P.C., Raleigh, NC
7. Kimley-Horn and Associates, Inc., Raleigh, NC

The evaluation committee recommended Kimley-Horn and Associates, Inc. as the firm to provide services for the development of the City of Asheville Multimodal Transportation Plan. The firms were evaluated based on their experience, similar projects completed, team qualifications, quality of proposal, project management plan and project cost.

The project cost will be approximately $324,250, with $11,750 contingency added to that amount for unforeseen expenses the consultant may incurred during the development of the contract.

The Multi-modal Transportation Plan is intended to help further community goals and improve transportation facilities and services by:

1. Finding commonalities and efficiencies in existing transportation plans.
2. Analyzing current land use to determine areas of activity, and major generators and destination nodes and the effect of existing and proposed land use policies on the existing transportation network.
3. Improving the transportation of people and goods, using different modes and facilities.
4. Improving connectivity among main generators.
5. Providing guidance and transportation elements to implement the Complete Streets policy.
6. Planning a safe, efficient, accessible, cost-effective transportation system.
7. Providing a prioritized project list and policy recommendations that would reduce barriers to access transportation and ensuring an equitable transportation system.
8. Considering environmental impacts, including protecting and improving air quality and taking water quality and stormwater runoff issues into account.
9. Identifying funding opportunities.
10. Drafting a set of Street Design Guidelines with graphic illustrations.

This plan will be completed in approximately 14 months after signing the contract.

The Multimodal Transportation Commission endorses the development of this plan; a member of the Commission has been part of the Evaluation Committee.

Pros:

- The Multimodal Transportation Plan will analyze existing transportation infrastructure and needs across the city.
- It will create strategies to develop a network of interconnected transportation modes that promote efficient use of the transportation network and address inequality.

- The French Broad River Metropolitan Planning Organization (MPO) through the Unified Planning Work Program (UPWP) grant will provide $200,000 of the total cost which equates to $336,000.

Cons:

- The total maximum cost of the subject project is $336,000.
- Requires a City match of $136,000.

The cost of the Multimodal Transportation Plan will be approximately $324,250 with $11,750 contingency added to that amount for a total budget of $336,000. As noted above, $200,000 will be provided by the French Broad River Metropolitan Planning Organization (MPO) through the Unified Planning Work Program (UPWP) grant. The remaining $136,000 will come from the General Fund operating budget and the EDCIP. The adopted General Fund budget included $50,000 as the City's match or this grant. The additional $86,000 will be taken from EDCIP funds.

City staff recommends that City Council adopt 1) a resolution authorizing the City Manager to enter into a General Services contract with Kimley-Horn and Associates, Inc. for the development of the Multimodal Transportation Plan for the City of Asheville; and 2) a budget amendment in the amount of $336,000; $200,000 awarded to the City by the Metropolitan Planning Organization as part of the Unified Planning Work Program in June 2013; and $136,000 from the City's General Fund and EDCIP.

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E. RESOLUTION NO. 14-72 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR IMPROVEMENTS ON I-240 FROM I-26/I-40 TO SR 1781 (BROADWAY)

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N.C. Dept. of Transportation approving a project for making improvements on I-240 from I-26/I-40 to SR 1781 (Broadway) in Asheville.

The North Carolina Department of Transportation (NCDOT) plans to make improvements including concrete slab repair and/or replacements and resurfacing on I-240 from I-26/I-40 to SR 1781 (Broadway) in Asheville. The project, which is identified as I-5608, has a letting date of September 16, 2014. The NCDOT will prepare the environmental and/or planning documents, obtain applicable environmental permits, prepare the project plans and specifications, acquire any needed right-of-way, and construct or cause the project to be constructed including the administration of the construction contract.

It is understood that there are no municipally-owned water and/or sewer lines to be adjusted or relocated at this time. If during the project it becomes necessary to adjust or relocate municipally-owned water and/or sewer line, a separate utility agreement will be prepared.

The NCDOT has confirmed that the subject municipal agreement does not require a financial commitment.

Pros:

- A section of interstate highway will be improved.
- The NCDOT is funding and constructing the project.

Con:

- None

Staff recommends that City Council approve a resolution authorizing the City Manager to sign a municipal agreement with the NCDOT formally approving Project I-5608.

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F. ORDINANCE NO. 4303 - BUDGET AMENDMENT FOR DONATIONS FROM THE ASHEVILLE PARKS & GREENWAYS FOUNDATION AND OTHER PRIVATE DONATIONS FOR VARIOUS PARKS & RECREATION PROJECTS

Summary: The consideration of a budget amendment in the General Fund in the amount of $3,651 from donations for projects within the Parks and Recreation Department.

The City of Asheville has received donations totaling $3,651 from the Asheville Parks and Greenways Foundation and other miscellaneous donations to support projects within the Parks and Recreation Department. Funds will be used to support the projects listed below.

- $2,201 donation for Park Maintenance to purchase materials for the Our Parks Day, a volunteer work day at Carrier Park with the Asheville Parks and Greenways Foundation.
- $600 donation for Park Maintenance to purchase a bench for French Broad River Park.
- $850 donation for Aston Tennis Center to support the purchase of a tennis ball machine.

Pro:
- Provide funds to support parks, facilities and programming enhancements

Con:
- None

These donations enhance parks and recreation services at no impact to the General Fund operating budget.

Staff recommends City Council to approve a budget amendment in the General Fund in the amount of $3,651 from donations for projects within the Parks and Recreation Department.

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G. RESOLUTION NO. 14-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A LEASE WITH THE U.S. GENERAL SERVICES ADMINISTRATION FOR THE ASHEVILLE POLICE DEPARTMENT PROPERTY ROOM STORAGE SPACE AT THE VEACH-BALEY FEDERAL COMPLEX AT 151 PATTON AVENUE IN ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to execute a lease agreement with the U.S. General Service Administration for satellite property storage space at the Veach-Baley Federal Complex, located at 151 Patton Avenue in Asheville.

In an effort to address the lack of storage space for property and evidence related to police functions, the police department seeks to establish an off-site secure storage facility to house property and evidence as the existing storage space has been maximized. The subject property at 151 Patton Avenue provides approximately 2,185.28 square feet of storage space that is in good condition and requires minimal improvements to begin operations. The property is easily accessible with very good site/access security in place. The space has significant shelving and access controls.

The initial term for this proposed lease is 36 months, with renewal options within 60 days of the end of the fixed term. The contract cost for the leased premises is $21,852.80/year for a total of $65,558.40 for the 36 month term. The monthly payment of $1,821.07 shall be paid in advance, and the Lessor shall furnish the Lessee under the terms of this lease services and utilities as follows:

A. Janitorial and space maintenance services during normal building hours - 11 hours/day, excluding weekends and Federal holidays
B. All utilities during normal building hours – 11 hours/day, excluding weekends and Federal holidays.

Pros:

- Establishes secure property storage facility with convenient access;
- Facility is climate controlled with maintenance, janitorial services, and utilities included in the lease agreement;
- Facility provides ample storage for property and evidence which alleviates current space concerns at the Municipal Building.

Con:

- The impact of a 36 month fixed term lease on the police operations budget.

Fiscal impacts are as follows: FY14: $3,642.14 expenditure for remaining budget year. FY15-17: Lease cost of $21,852.80 per year to be included in the police department's annual operating budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement with U.S. General Service Administration for satellite property storage space at the Veach-Baley Federal Complex, located at 151 Patton Avenue in Asheville.

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H. RESOLUTION AUTHORIZING A 60-DAY EXTENSION TO THE PACK PLACE EDUCATION, ARTS & SCIENCE CENTER INC. LEASE

This item was removed from the Consent Agenda for discussion and/or an individual vote.

I. RESOLUTION NO. 14--75 - RESOLUTION AUTHORIZING IMPLEMENTATION OF MAY 19, 2014, AS "FARE FREE DAY" TO PROMOTE TRANSIT DURING STRIVE NOT TO DRIVE WEEK

Summary: The consideration of a resolution authorizing the City Manager to implement a fare-free day to promote transit during the Strive Not To Drive Week, May 16-25, 2014.

Twenty-five years ago Bike to Work Day was launched in Asheville. Over the years this event evolved into Strive Not To Drive (SNTD) Week focusing more broadly on a variety of transportation alternatives to the single-occupant car, including carpooling, walking, and public transit.

SNTD Week is an annual event encouraging people to avoid driving their car for a day or part of a day in order to experience the benefits and opportunities of walking, bicycling, riding the bus, carpooling, telecommuting, etc.

This year the Transit Sub-committee of the SNTD Committee would like to offer commuters the following options:

1. Riders Appreciation Day on May 19, which will include breakfast at the Transit Station and free fare for the day.

2. The Transit Committee, a sub-committee of the Multimodal Transportation Commission, will set up informational tables at the transit station to provide general information about the bus system.

Pros:

- The fare-free day would help promote the Strive Not To Drive activities.
- Fare-free day during the SNTD week would show appreciation for transit system's core riders.
- The free fare would potentially attract new riders.

Con:

- The system would lose about $2,200 in revenue.

The system would lose about $2,200 in revenue from current riders.

Staff recommends a resolution authorizing the City Manager to implement a fare-free day in order to promote the Strive Not To Drive activities.

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J. RESOLUTION NO. 14-76 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT ON A MUNICIPAL SERVICE DISTRICT FOR THE SOUTH SLOPE AND SETTING A PUBLIC HEARING ON MAY 27, 2014

RESOLUTION NO. 14-77 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT ON A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT AND SETTING A PUBLIC HEARING ON MAY 27, 2014

RESOLUTION NO. 14-78 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT ON A MUNICIPAL SERVICE DISTRICT FOR NORTH CHARLOTTE STREET AND SETTING A PUBLIC HEARING ON MAY 27, 2014

Summary: The consideration of three resolutions to create three municipal service districts for the purpose of accelerating capital investment in the South Slope, River Arts District, and north Charlotte Street areas, and to set the public hearings for May 27, 2014.

The 2010 City of Asheville report titled "A Community Crossroads" recommended that a move toward more focused and strategic capital investments by the City could increase long term returns in community and economic development. In 2011 and 2012, staff began developing a long term Capital Improvement Plan strategy that aligned with Council's goals to support in-fill development, job creation, affordable housing, and multimodal transportation. This strategy or plan became known as the Economic and Community Development Capital Improvement Plan or EDCIP. To support the implementation of this plan, Council passed a three cent property tax increase in June 2013, two cents of which is reserved to implement the EDCIP.

Around the same time, the City contracted with Parker Poe and DEC Associates to review financing options and strategies that would leverage the taxpayers' new investment in EDCIP projects. While several types of debt financing are available, staff found that only a few are appropriate and allowable for the type of improvements the City wants to make. One option that the City has not previously utilized is the Special Obligation Bond (SOB). The benefit of financing CIP investments with SOBs is that they are appropriate for key infrastructure investments such as the River Arts District Transportation Improvement Project (RADTIP), and

that they are an established best practice within municipalities across the state. Projects that are financed through SOBs must be located in a municipal service district as outlined in Article 23 of Chapter 160 A of the North Carolina General Statutes.

To identify potential districts, staff considered mixed use areas where proposed public infrastructure investments would be most likely to find leverage in private investment (thus creating the most economic and community development return); staff has identified the South Slope, River Arts District, and north Charlotte Street areas as potential municipal service districts.

If Council desires to move forward with the process, the next step is for Council to adopt three resolutions, each directing staff to create a report detailing the individual, proposed municipal service district; and for Council to set public hearing dates for each proposed municipal service district.

The Planning and Economic Development Committee of Council reviewed this item at their March 2014 meeting and asked staff to move the item forward for Council consideration.

This request is in alignment with Council's 2013-2014 Strategic Plan for Focus Area 1: Economic Growth and Fiscal Responsibility (seek to ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work and invest). In particular, it is part of a coordinated strategy for Goal 1: Invest and leverage investment in community infrastructure.

Pros:

- Adoption of three resolutions provides further direction to staff and advances the process for Council's consideration of adopting three municipal service districts forward.

Cons:

- None

The use of Special Obligation Bonds (SOB's) is a key financial component of the City's Economic and Community Development Capital Improvement Plan or EDCIP. The financial model being developed in conjunction with Parker Poe and DEC Associates uses revenue from the three cent property tax increase mentioned above, along with resources already dedicated to the City's existing debt service budget, to fund all additional debt service that may arise from the future issuance of SOB's.

City staff recommends City Council adopt the three resolutions as presented.

When Rev. Christopher Chiaronmonte expressed concern that this item that would allow City Council to tax individuals without voice, Councilman Bothwell noted that this is only a resolution directing staff to prepare a report and to set a public hearing.

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RESOLUTION NO. 14-77 - RESOLUTION BOOK NO. 36 - PAGE 147
RESOLUTION NO. 14-78 - RESOLUTION BOOK NO. 36 - PAGE 149

K. RESOLUTION REGARDING NEW FDA REGULATIONS FOR FARMERS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

H. RESOLUTION NO. 14-74 - RESOLUTION AUTHORIZING A 60-DAY EXTENSION TO THE PACK PLACE EDUCATION, ARTS & SCIENCE CENTER INC. LEASE

Summary: City Council provided direction to the City's outside legal counsel concerning negotiations involving the City's lease with Pack Place Education, Arts & Science Center, Inc. City Council was advised of a proposed action on the Pack Place Board agenda for April 9 to make an offer to renew the lease with the City under its existing terms. City Council was advised that Pack Place tenant Colburn Earth Science Museum wished to remain in the premises until December 31, 2014. Outside legal counsel advised Council of the potential benefits to extending the Pack Place lease for 60 days, which would be to provide the opportunity for lease negotiations to continue and the needs of Colburn Earth Science Museum and other tenants to be met, and of not seeking rent or capital contribution from Pack Place tenants, to allow a transition period for Pack Place tenants. City Council authorized the City Manager to offer to extend the Pack Place lease for 60 days, and to not seek rent or capital contribution from Pack Place tenants through the end of 2014, contingent on Pack Place not making the offer to renew the lease under its existing terms at this time. On April 9, 2014, the Pack Place Board passed a resolution to extend the lease with the City by 60 days, and the motion to offer to renew the lease under the existing terms was withdrawn. This extension is authorized pursuant to the provisions of N. C. Gen. Stat. sec. 160A-272.

City Council authorized (1) The City Manager to extend the Pack Place lease for 60 days; (2) The City of Asheville to not seek rent or capital contribution from Pack Place tenants for the year 2014; and (3) The City Manager to execute any and all other documents to effectuate the 60 day extension to the Pack Place lease.

Interim City Attorney McGlohon asked that the resolution before Council be amended include a "Whereas" to read "Whereas, a notice shall be published regarding the 60-day extension."

Vice-Mayor Hunt moved for the adoption of the amended Resolution No. 14-74. This motion was seconded by Councilman Smith.

Mr. Ken Michalove, spoke against the the direct lease between the City and the Asheville Art Museum and urged them to continue the existing lease between Pack Place and the City for another 10 years.

The amended motion made by Vice-Mayor Hunt and seconded by Councilman Smith carried unanimously.

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K. RESOLUTION NO. 14-79 - RESOLUTION REGARDING NEW FDA REGULATIONS FOR FARMERS

The 2011 Food Safety and Modernization Act (FSMA) "aims to ensure the U.S. food supply is safe by shifting the focus from responding to contamination of the food supply to preventing it." Under FSMA, the U.S. Food and Drug Administration's (FDA) proposed rule, *Current Good Manufacturing Practice and Hazard Analysis and Risk-Based Preventative Controls for Food for Animals*, would regulate the process by which spent brewer's grain and spent distiller's grain could be used as a source of feed for animal livestock. This rule would subject the grain byproduct to the same sanitary handling, records keeping, packaging, and analysis regulations as manufactured livestock- and pet- food.

Brewery and agricultural industry associations nationwide have expressed opposition to the proposed rule, citing a lack of scientific analysis showing the longstanding practice to be unsafe and a financial burden that would disrupt the otherwise symbiotic relationship. The practice of using spent grains for animal livestock feed saves brewers and distillers from the costs of disposing of large quantities of the byproduct in landfills while simultaneously providing a nutrient-rich food source for farms. The cost of compliance with the new rule is expected to virtually eliminate this practice.

At this point in our analysis, staff finds no concern with the adoption of a resolution in opposition to new FDA regulations for farmers.

Vice-Mayor Hunt amended the resolution to reflect that City Council encourage the FDA to reconsider its regulation and only adopt a rule that both protects our food supply and is minimally disruptive to the long-standing practice of brewers providing wet grain to farmers, with supports both the farming and brewing industries.

When Mayor Manheimer asked for public comment, no one spoke.

Vice-Mayor Hunt moved to adopt the amended resolution. This motion was seconded by Councilman Bothwell and carried unanimously.

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III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE UNIVERSITY HEIGHTS AND A PORTION OF EDGEWOOD ROAD

RESOLUTION NO. 14-80 - RESOLUTION TO PERMANENTLY CLOSE UNIVERSITY HEIGHTS AND A PORTION OF EDGEWOOD ROAD

Interim Director of Public Works Ken Putnam said that this is the consideration of a resolution to permanently close University Heights and a portion of Edgewood Road. This public hearing was advertised on March 28, April 4, 11 and 18, 2014.

N.C. Gen. Stat. sec. 160A-296 gives cities the authority to permanently close streets and alleys within their jurisdictions and N. C. Gen. Stat. sec. 160A-299 outlines the procedure to be followed. The University of North Carolina at Asheville has requested the City of Asheville to permanently close University Heights and a portion of Edgewood Road, both of which are contained within the university's property which is identified as parcel # 9649072895.

During a meeting on May 18, 2012, staff from the University of North Carolina - Asheville (UNC-Asheville) officially requested that these streets be transferred to them for ownership and maintenance activities. City staff's initial concern was the possibility of losing connectivity between W.T. Weaver Boulevard and Hyannis Street. The university responded via e-mail message dated July 14, 2012, that they had no current plans to either gate or close the streets. The University is pursuing the subject action for the following reasons:

- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.
- Enables the use of State funding to improve and maintain the streets.

- Helps the university complete its master plan.

The City and UNC-Asheville staff has worked closely together during the past two years researching various ways to accomplish the subject task and we have concluded that the best way is through the closing procedures outlined in the statutes.

This item was reviewed by the Multimodal Transportation Commission on February 26, 2014, and they recommended approval.

Pros:

- There will be no future compromise of ingress/egress to other property.
- The closure would allow for more efficient use of the existing adjacent property.
- Enables the university to fully control and maintain the streets that are contained within their property.
- Enables the campus police to enforce parking and traffic control as dictated by N.C. Gen. Stat. sec. 116-44.4.

Cons:

- The City cannot prohibit the possibility of gating the streets although the university has stated that it has no current plans to do so.
- Minor loss of revenues from Powell Bill Funds although the revenues typically do not provide the full street maintenance cost.

City staff recommends City Council adopt the resolution to permanently close University Heights and a portion of Edgewood Road. Staff additionally recommends the street closure fee be waived since the City and UNC-Asheville continue to maintain a close partnership relationship.

In response to Councilman Bothwell, Ms. Heather Parlier, General Counsel for UNC-Asheville, said that the Board of Trustees passed a resolution announcing the University's plans to not close or otherwise block the road unless there is an emergency situation or unless they have a prior written agreement with the City.

Mayor Manheimer opened the public hearing at 5:50 p.m.

Mr. Dave Perkins, resident in Jackson Park, spoke against the road closings. He said that a resolution by the Board of Trustees is non-binding and felt that because the road closings affected many more than abutting property owners and the entire area should have been notified. He felt this closure will put more traffic on Merrimon and on the southern part of Barnard. If this resolution is adopted, he asked that a provision be included in the resolution ensuring that the roads will remain open.

When Councilman Smith asked if there was some way to give the neighbors comfort that UNC-Asheville will keep the roads open, Interim City Attorney McGlohon said that City staff did discuss that; however, it would not be possible because that would defeat the whole purpose of the statutory closing process.

Mayor Manheimer closed the public hearing at 5:56 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-80, and that the street closure fee be waived. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 152

B. PUBLIC HEARING TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE

RESOLUTION NO. 14-81 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF ASHELAND AVENUE

At the request of Councilman Pelly, Councilman Bothwell moved to recuse Councilman Pelly from participating in this matter due to a conflict of interest. This motion as seconded by Councilwoman Wisler and carried unanimously.

Interim Director of Public Works Ken Putnam said that this is the consideration of a resolution to permanently close a portion of Asheland Avenue. This public hearing was advertised on March 28, April 4, 11 and 18, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, 86 Asheland, LLC have requested the City of Asheville to permanently close a portion of Asheland Avenue

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of a portion of Asheland Avenue.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close a portion of Asheland Avenue.

Mayor Manheimer opened the public hearing at 5:59 p.m., and when no one spoke, she closed the public hearing at 5:59 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-81. This motion was seconded by Vice-Mayor Hunt and carried unanimously (with Councilman Pelly being recused from voting).

RESOLUTION BOOK NO. 36 – PAGE 155

C. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET

At the request of City staff, Councilman Davis moved to continue this public hearing until May 27, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

D. PUBLIC HEARING TO CONSIDER ADOPTION OF THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2014 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS

RESOLUTION NO. 14-82 - RESOLUTION ADOPTING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2014 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS

Community Development Director Jeff Staudinger said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2014-2015, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 11 and 18, 2014.

The City will have $1,174,689 in CDBG funds and $1,195,779 in HOME funds available for the fiscal year beginning July 1, 2014. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 17 CDBG and 11 HOME programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2010-2015.

Although the CDBG funds available this year are $49,500 less than last year, there were fewer requests for funding, and applications were generally funded at or close to the requested amounts. The exception is in the Public Service category, which is capped at 15% of this year's allocation and next year's expected program income. Requests in that category were $110,000 greater than could be funded.

The total HOME funds available this year are $288,600 less than last year, even though the HUD allocation was greater than last year. Over $2.8 million in funding was requested this year as opposed to $2.4 million last year. The Consortium Board met twice to consider proposals and develop its recommendations.

Funding for City management and administration is about $4,000 less in the HOME program and $11,500 less in the CDBG program than last year. The Community Development Division will maintain its staffing this year, but cuts, combined with an environment of increased federal administrative requirements make program administration challenging.

If the proposed projects receive the funding from other sources necessary to make them possible, HOME funds and CDBG funds will assist in creating 254 new affordable units, improving 28 housing units and helping an additional 157 households afford housing Consortium-wide. CDBG funds will also benefit almost 2,500 low-income City residents through homeless services, financial counseling, small business assistance, and other needed services. Our CDBG

partner agencies leverage $4.82 of other funding for every $1.00 of CDBG funding. Our HOME partners will raise over $25.00 for every $1.00 of HOME funds invested in their projects.

A public hearing will be held at the Council meeting of April 22. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15.

Pros:

- Approval of the Action Plan paves the way for the receipts of over $2,370,000 of HUD funding to the City and region, which will be used to create affordable housing and create jobs.
- HUD funding will leverage $35,900,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2014-15 to the U. S. Dept. of Housing and Urban Development.

Councilman Smith, Chair of the Housing & Community Development Committee, spoke in support of the resolution and expressed gratitude to the Committee and the members of the HOME Consortium for their patience. He also thanked the developers who will be receiving these funds for various housing projects.

Mayor Manheimer opened the public hearing at 6:04 p.m. and when no one spoke, she closed the public hearing at 6:04 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-82. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 158

E. PUBLIC HEARING TO CONSIDER A SIGN PACKAGE FOR THE ASHEVILLE OUTLETS LOCATED AT 800 BREVARD ROAD

ORDINANCE NO. 4304 - ORDINANCE GRANTING A SIGN PACKAGE FOR THE ASHEVILLE OUTLETS LOCATED AT 800 BREVARD ROAD

Urban Planner Julia Fields said that this is the consideration of an ordinance granting a sign package for the Asheville Outlets located at 800 Brevard Road. This public hearing was advertised on March 28 and April 4, 2014.

The proposed master signage plan is associated with a Level I renovation of an existing retail center at 800 Brevard Road. The subject property, comprised of approximately sixty (60) acres located on three (3) parcels, was originally developed in 1989 as an indoor regional mall, Biltmore Square Mall. The renovation and signage package are for a new rebranded development to be known as Asheville Outlets.

While the renovation includes little alteration of the square footage of the retail center it does involve removal of portions of the roof to create outdoor pedestrian-oriented corridors and the addition of amenities to the pedestrian corridors including benches, lighting, and landscaping. Also important to the rebranding of the property is a changed architectural appearance and signage. The development will have several public access points to the outlet buildings, over 2,700 parking spaces surrounding the development and approximately seventy-five (75) tenants. The project site is zoned Regional Business (RB) and is considered to be a multi-tenant development.

Anything not addressed in this sign package must meet City of Asheville standards.

Freestanding Development Identification Signage - The property on which the redevelopment is proposed is uniquely challenged. While it enjoys frontage on three (3) roadways – Interstate 26, Brevard Road, and Ridgefield Boulevard – its location some ten (10) to fifty (50) feet below these roadways severely limits visibility of the retail center. In recognition of the visibility/wayfinding issues of the property, when it was first developed, the Biltmore Square Mall developers erected a series of freestanding development identification signs located adjacent to Interstate 26, Brevard Road and Ridgefield Boulevard in addition to directional signs located within the parking fields on the property. The Asheville Outlets Signage Plan proposes to renovate or replace all the Biltmore Square Mall development identification signs currently located adjacent to Interstate 26, Brevard Road and Ridgefield Boulevard, and within the mall parking fields. In addition to the renovation/replacement of the existing development signage, the signage plan proposes an additional sign on Brevard Road to direct motorists from the north regarding access to the site. Under current City of Asheville signage regulations a multi-tenant development is allowed one development identification sign for each property boundary with street frontage with a maximum of two signs allowed. The proposed sign package requests five (5) such signs, all freestanding; all but one (1) of these signs will be a renovation/replacement. The proposed sizes, heights and setbacks for these signs are shown on the chart below. All signs in this category are proposed to be illuminated internally (faces or letters), have pin-mounted halo-lit letters, and/or utilize other compliant light sources.

Attached Identification Signage - In addition to updating the existing development identification signs, the submitted signage package proposes new attached signage for the development and tenants within the retail center (excluding the northern and southern commercial anchors – currently Belk and Dillard's). City of Asheville sign regulations allow each tenant in a multiple tenant development one (1) attached sign for each exterior public business entrance up to a maximum of two (2) signs. These signs must be located on the façade with the public entrance for that business. The total allowable sign area (per sign) is twenty-five (25) square feet of signage or one (1) square foot per one (1) linear foot of building frontage, whichever is greater, with a maximum size allowance of 200 square feet.

The submitted sign package proposes that the linear footage of the total exterior façade of the outlet center (minus screen walls and not including the northern and southern commercial anchor facades) be utilized in determining the amount of attached tenant signage that will be allowed for the development (not per tenant). This attached signage (including both tenant and development identification) would be located at the various public access points into the center, in any proportion, provided that the total area of the attached signs does not exceed the total permissible sign area. More specifically, this signage will be located on "towers" positioned at these access points or within 150 feet of the centerline of the public access points. Signage may be placed on all four sides of any individual tower but shall not be placed higher than twenty-one

(21) feet measured from the ground at the base of the tower. Should there be an individual tenant with a separate exterior entrance, attached signs for such tenant shall be permitted within fifty (50) feet of the entrance. This signage shall be included in the total signage allowed for the development. Attached signage may include wall, window, projecting, awning or canopy signs. In keeping with City regulations, signs located within internal pedestrian corridors or on facades facing internal pedestrian corridors are not regulated. Proposed projection and clearance standards are in line with City regulations (see table below). All signs in this category are proposed to be illuminated internally (faces or letters), have pin-mounted halo-lit letters, and/or utilize other compliant light sources. Window signs shall not be so illuminated.

Banners - The sign package proposes that banners be allowed both on building facades and on parking lot light poles within the development. The UDO allows similar banners for multi-tenant developments. The proposed banners for the outlet center meet the minimum and maximum sign area and minimum clearance regulations of the UDO (see table). The proposal requests that these signs be allowed to carry tenant and development identification or logos which are not permitted by City regulations. The proposal states that in most instances the banners will be of a graphic or seasonal nature as is permitted by the UDO. A maximum of twenty (20) banners on light poles and twenty (20) banners on building facades is requested. These signs would not be illuminated.

Vehicular Directional Signs - Four (4) existing vehicular directional signs eight (8) feet in height with twenty-seven (27) square feet of sign face (two faces) are located within the vehicular circulation areas of the existing development. These signs are being utilized by the current tenants. These signs do not conform in sign area or height to current City standards (four (4) signs allowed; four (4) square feet per face; three (3) feet in height) but are largely not visible from the public rights-of-way. The sign package proposes to redesign these signs to be six (6) feet in height with twenty-four (24) square feet of sign area per side. A maximum of six (6) such signs are proposed. All signs in this category are proposed to be illuminated internally (faces or letters), have pin-mounted halo-lit letters, and/or utilize other compliant light sources.

Parking Area Location Signs - The configuration of the proposed outlet center creates several different parking fields. As is typical with large commercial developments, parking area location signs are proposed to be located within the parking fields for the safety and convenience of customers. The signs are proposed to have four (4) sides with a maximum of six (6) square feet per side and be mounted on parking lot light poles. It is proposed that these signs will bear text to distinguish parking areas and may bear the name and/or logo of the development. The UDO is silent on such signage which means that they are not permitted. These signs shall not be illuminated.

Service Door Identity Signs - Exterior facing wall or door mounted signs on or near tenant rear service doors and on or near project ingress or egress corridor doors are requested as part of this sign package. One sign per service door is proposed with the letters on such signs to be no taller than four (4) inches. These signs may include tenant names, space numbers, addresses, phone numbers, hours, and similar information or any text required by governmental authorities. The UDO does not regulate such signage as they are not designed to be visible beyond the boundaries of the lot upon which they are located and/or from any public thoroughfare or right-of-way.

Sign Type	Proposed Quantity	Sign Details	UDO Regulations
Freestanding Development ID Pole Sign (Replace Existing)	1	Height –110 Feet (No Change) Sign Area –340 SF Per Face (No Change); 2 Faces Setback – 85 Feet (No Change)	This Sign is an Additional Sign to What is Permitted. UDO Allows Two Development or Joint ID Where

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			There are Two Property Frontages It is an Existing Sign Change-Out – No Increase in Size/Ht/Setback
Freestanding Development ID Directional Ground Sign (New Sign)	1	Height –18 Feet Sign Area –200 SF Per Face; 2 Faces Setback – 15 Feet	Permissible Freestanding Development ID Sign Max. 25 Feet High Max. 200 SF Per Face; 2 Faces Setback – 15 feet
Freestanding Joint ID Ground Sign (Replace Existing)	1	Height –24 Feet (27 Feet Existing) Sign Area – 200 SF Per Face; 2 Faces Inclusive of Max. 40 Feet of Changeable Copy Per Face (207 Feet Existing) Setback – 30 Feet (No Change)	Permissible Freestanding Development ID Sign Max. 25 Feet High Max. 200 SF Per Face; 2 Faces Setback - 15 Feet
Freestanding Development ID Ground Signs (Replace Existing)	2	Height –10 Feet (11 Feet Existing) Sign Area – 86 SF Per Face (No Change); 2 Faces Setback – 21 Feet – Brevard Road (No Change) Setback – 17 Feet – Ridgefield Boulevard (No Change)	Additional Freestanding Development/Joint ID Sign to What is Permitted. [See Above]
Development and Tenant ID Attached Signage (Exterior Only – Internal Attached Signage is Not Regulated); May Be Wall, Projecting, Window, Awning, Canopy	TBD	Total Sign Area – 1 SF Per 1 LF of Outlet Building Façade ID for Development and Tenants All Signage to Be Located Within 150 Feet of the Centerline of Public Access Points and May Be Located on All Four Sides of Towers Located at Public Access Points (Not Higher than 21 Feet on Tower) Tenant ID Signs Shall be Permitted within 50 Feet of the Entrance of an Outlet Building With an Exterior Entrance. Max. Projection Wall Sign – 12 in. Max. Projection Projecting Sign - 4 ft. Max. Clearance Projecting	Total Sign Area for Tenant – 1 SF Per 1 LF of Business Façade (Max. of 200 SF); Up to 2 Signs if More than 1 Entrance Located on the Façade with Public Entrance for Tenant Max. Projection Wall Sign – 12 in. Max. Projection

		Sign – 8 ft.	Projecting Sign - 3 ft. Max. Clearance Projecting Sign – 8 ft.
Banners	Max. 20 on Building Façade Max. 20 on Light Poles	Max. 24 SF Per Sign; 2 Faces Min. Clearance – 9 Feet Design and Material May Vary – with Season/Tenant Banners Located on Building Facades May Bear the Name and/or Logo of Development or Individual Tenants or May be of a Graphic or Seasonal Nature Banners Located on Light Poles May Not Bear the Name of Tenants but May Bear the Name/Logo of the Development or be of a Graphic or Seasonal Nature	Max. 24 SF Per Sign; 2 Faces Min Clearance 9 Feet All Consistent in Design and Material May Not Contain Commercial Advertising Message, Name or Logo
Vehicular Direction	Maximum - 6 Signs (4 Existing)	Height – Max. 6 Feet (Existing 8 Feet) Sign Area - Max. 24 SF Per Sign Face (27 Existing) ; 2 Faces	Height – Max. 3 Feet Sign Area – Max. 4 SF Per Sign Face; 2 Faces 4 Signs Permitted
Parking Area Location Signs	TBD	Height – Min. 10 Foot Clearance Sign Area – Max 6 SF Per Sign Face Faces – 4	Not Addressed in Code
Service Door Identity Signs	1 Sign Per Service Door	Maximum Letter Height – 4 Inches May Include Tenant Name, Space Numbers, Address, Phone Numbers and Similar Information	Not Regulated

Staff Findings: The stated purpose in the City's Unified Development Ordinance of allowing the consideration of a separate signage plan is as follows:

The purpose of allowing the consideration of a separate signage plan is to permit creativity in sign placement to address issues and constraints associated with topography, pedestrian-orientation, way-finding, and other conditions unique to the subject development.

In reviewing the proposed signage plan, the city council, per the ordinance, shall take the following matters into consideration:

- The extent to which the proposed signage plan deviates from the sign allowances otherwise applicable in this article.

- The rationale provided by the applicant for the deviations.
- The extent to which the signage plan promotes city goals for way-finding, pedestrian-orientation, and business identification.
- The degree to which the signage plan creatively and effectively addresses the issues and constraints unique to the site and with regard to signage.

While staff does find that there is fairly significant deviation from the ordinance found in this signage plan, the proposed Asheville Outlets center presents an especially unique situation that leads us to recommend approval. In terms of freestanding development signage, all but one of the signs proposed are existing signs that will be renovated/improved. Therefore, the impact of additional freestanding development identification signage will be minimal. Much of the other signage (attached, banners, service door identification) will not be visible from adjacent public rights-of-way or properties. Additionally, because of the site size and number of tenants that will be part of the proposed center, staff finds that easily identifiable wayfinding signage is critical to pedestrian and vehicular safety in such a development. The largest area of concern is that the attached signage on the exterior of the building is not necessarily located on the portion of the building that the tenant occupies (although it would be within 150 feet of a public access point). This may contribute to some confusion on the part of the visitor wishing to park in the vicinity of a particular tenant.

Pros:

- Provides clear and recognizable signage for a major regional shopping center.
- Utilizes many existing development identification signs.
- Addresses visibility challenges of development site and addresses way-finding and pedestrian orientation issues.
- Promotes a coordinated unifying theme for the development.

Cons:

- Exceeds existing standards found in the UDO.
- Establishes a possible precedent for larger developments for greater sign allowances.
- Attached signage may confuse visitors by not being located on the portion of the building that the tenant occupies.

City staff recommends City Council adopt the ordinance approving the sign package for 800 Brevard Road (Asheville Outlets) as submitted subject to the condition that any signage not addressed in the package would have to comply with the City's sign regulations or an amendment to this sign package would have to be approved.

Councilman Bothwell understood the need for the signage in the site; however, he could not support another large sign on the highway.

Councilman Pelly felt the variations are justified.

Mayor Manheimer opened the public hearing at 6:18 p.m., and when no one spoke, she closed the public hearing at 6:18 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Davis found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4304. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilman Bothwell voting "no."

ORDINANCE BOOK NO. 29 – PAGE 42

F. PUBLIC HEARING TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE UNNECESSARILY RESTRICTIVE AND POTENTIALLY EXPENSIVE REGULATORY REQUIREMENTS IN THE COMMERCIAL INDUSTRIAL DISTRICT AND INDUSTRIAL DISTRICT BY ELIMINATING LANDSCAPING REQUIREMENTS WHERE SMALL ADDITIONS TO EXISTING FACILITIES ARE PLANNED

ORDINANCE NO. 4305 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE UNNECESSARILY RESTRICTIVE AND POTENTIALLY EXPENSIVE REGULATORY REQUIREMENTS IN THE COMMERCIAL INDUSTRIAL DISTRICT AND INDUSTRIAL DISTRICT BY ELIMINATING LANDSCAPING REQUIREMENTS WHERE SMALL ADDITIONS TO EXISTING FACILITIES ARE PLANNED

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend Chapter 7 of the Code of Ordinances to remove unnecessarily restrictive and potentially expensive regulatory requirements in the Commercial Industrial District and Industrial District by eliminating landscape requirements where small additions to existing facilities are planned. This public hearing was advertised on April 11 and 18, 2014.

Section 7-11-3(b) establishes the instances in which landscape standards are applied when development is proposed in the City of Asheville. The section outlines which developments require full compliance with landscaping regulations and addresses those developments that are subject to lesser levels of compliance. Specifically, Section 7-11-3(b)(1.1)b. provides that:

> *Building expansions or additions that are less than 50 percent of the pre-expansion floor area must meet the landscaping requirements only in the area around the addition which is parallel to any edge of the expansion area and extending to the property line or street pavement edge.*

This latter provision has worked well in most applications both in gaining some landscape compliance as additions are proposed but also in terms of finding an equitable and economically viable way of applying landscape standards to smaller additions.

There have been some situations, however, with properties zoned Commercial Industrial (CI) and Industrial (I) where this provision has resulted in substantial landscaping being required, with substantial expenditure, resulting from a very small planned expansion. As an example in one recent instance an approximately 3% expansion to a very large industrial operation would require that the entire parking field for the operation be redesigned to meet the parking lot landscape standards.

In order to avoid extensive landscape requirements being applied to small additions on industrially zoned properties, staff is proposing that the following language be added as a new subsection 7-11-3(b)(1.1)c. of the Unified Development Ordinance:

> *Building expansions or additions occurring on properties zoned Commercial Industrial or Industrial that result in an expansion of less than 5 percent of the pre-expansion floor area or 3,000 square feet in size whichever is less, are not required to meet additional landscape standards. Cumulative expansions occurring over a three year period that exceed this threshold shall have to meet all applicable landscape standards.*

While this proposal addresses industrial properties only, staff will continue to research the regulations as they affect development in other zoning districts and may determine that additional modifications should be considered.

The Asheville Planning and Zoning Commission reviewed and recommended approval (unanimously) of this wording amendment. No one from the public spoke on the issue and staff has received no comments/concerns as of the completion of the staff report.

This proposal does not directly relate to the goals outlined in the Strategic Operating Plan but is most closely aligned with the goal for "economic growth and financial sustainability" in promoting an environment conducive to the expansion of existing businesses.

Pros:

- Eliminates excessive landscape requirements/expenditure for small industrial expansions.
- Is in keeping with other recent amendments concerning the applicability of standards to industrially zoned properties.

Con:

- Some may feel this application unfairly addresses only industrially zoned properties.

City staff recommends approval of this wording amendment. The Asheville Planning and Zoning Commission reviewed and recommended unanimous approval at their meeting on April 2, 2014.

Mayor Manheimer opened the public hearing at 6:22 p.m., and when no one spoke, she closed the public hearing at 6:22 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4305. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 57

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4306 - ORDINANCE AMENDING CHAPTER 10 (NUISANCES) OF THE CODE OF ORDINANCES BY ADDING ARTICLE VI (REGULATION OF GRAFFITI)

Assistant City Manager Cathy Ball said that staff recommends adoption of an ordinance to allow significant civil penalties to perpetrators and encourage property owners to quickly remove graffiti from their property. Staff also recommends that Council approve moving forward with a 90 day graffiti initiative program to significantly reduce graffiti vandalism in the City.

The City of Asheville recognizes that graffiti vandalism has sufficient negative impact on the economic vitality and quality of life of our community. Since 2007 the City has made efforts to remove graffiti from public property. The City spends approximately $90,000 per year to remove graffiti from public property. The City utilizes nuisance court resources to assist in the removal. Some of which have been charges with graffiti vandalism. During this period of time, we have removed over 10,000 tags.

The City has also attacked this problem with higher level of police enforcement. Under the current state law, the City has processed graffiti vandals to the maximum of their ability.

The difference between beautiful mural wall art and graffiti vandalism may be difficult for some to define. Quite simply, graffiti vandalism is illegal and unwanted damage to private property. Murals are commissioned and add value to our economic vitality. National data supports the fact the graffiti vandalism has several negative impacts on communities. Some of which are listed below.

- Property owners incur tremendous expense in removing graffiti.
- Vandalism left unaddressed breeds more vandalism. (Broken Windows theory)
- The negative image that graffiti generates results in a loss of customers to business owners.
- Property and business owners may incur devalued property.
- Taxpayers' dollars are spent removing graffiti from public buildings, monuments and park structures.
- The overall image of a community is affected.

We know from research that there are three essential elements to reducing graffiti vandalism in our community. These are education, enforcement and rapid removal.

1. ***Education***: Education efforts related to graffiti can be viewed in two general categories: General and Public Engagement. Essential to both educational components is Community ownership of the problem. There continues to be coordination of efforts between City staff and community stakeholders to increase education while at the same time minimizing publicity.

2. ***Enforcement:*** The Asheville Police Department (APD) has developed a comprehensive strategy to improve reporting, provide a consistent investigative response and use predictive analytics in an effort to focus enforcement resources.

3. ***Rapid Removal:*** The N.C. Communities benchmarked require property owners to clean the graffiti off their buildings in a specified amount of time to avoid civil penalties. While many N.C. cities have found this to be the most effective way to reduce or eliminate graffiti, *Asheville will not assess a civil penalty against the property owner.* Instead, through outreach and education, Asheville is hopeful that most property owners will partner with the City and/or remove graffiti; if that does not happen the City may consider asking for equitable relief from the courts.

The City's "Graffiti Removal Initiative" consists of three steps. The **first** step is to immediately impose significant escalating civil penalties on the perpetrator. The scale is detailed as follows: First offense $200; Second offense: $250; (ii) Third offense $500; (iii) Fourth offense $750; and (iv) Fifth and any subsequent violations $1,000. The adoption of this ordinance does not preclude the criminal enforcement allowed by state law. This will begin April 23, 2013.

The **second** step is a 90 day concentrated initiative to aggressively remove graffiti from public property. A 90 day graffiti removal initiative to allow the property owners to get significant assistance from the City is proposed from July 1, 2014 to September 30, 2014. During this time, the property owner can request assistance from the City. The property owner would be required to sign a waiver and agree to pay 10% of the cost of removal. The City would pay up to $500 per building per incident. The City would consider budgeting $300,000 toward this 90 day graffiti removal initiative.

Ms. Ball then walked Council through the process: (1) property owner contacts City to request removal of graffiti; (2) City staff visit the site and estimates the cost of the removal; (3)

Property owner signs a waiver and agrees to pay 10% of the cost (City contribution is maximum amount of $500 per incident); (4) City contracts to have contractor remove graffiti within 48 hours; (5) Contractor removes graffiti; (6) City pays the contractor; (7) City bills property owner; (8) property owner pays City 10%. She noted that Asheville Greenworks has notified that they have an anonymous donor who has offered to pay the 10% ($30,000). Mayor Manheimer asked that Asheville Greenworks thank the donor for his generous offer.

In summary regarding the second step, prior to July 1, 2014, (1) the City would establish an hourly rate to pay contractors for graffiti removal; (2) City pre-qualifies several contractors to perform work on a rotational basis; (3) City establishes a 1-800 graffiti removal hotline; (4) partners with community to assist with an intense communication plan; and (5) City establishes a budget of $300,000 for the 90-day initiative.

The **third** step in the graffiti removal initiative is to require property owners to remove graffiti on their property with a reduced level of assistance from the City. This step would begin on October 1, 2014, when the ordinance if fully in effect, the City would still provide assistance to the property owners in the graffiti removal process but the owner will be responsible to reimburse 100% of the cost of removal. This ordinance does not fine the property owner for failure to remove graffiti.

The long-term strategy is to encourage property owner to remove graffiti immediately: (1) City notifies property owner of graffiti; (2) property owner has 7 days to remove graffiti; (3) property owner may request assistance from the City to remove graffiti. Property owner should contact the City preferably within the 7 days; (4) City's assistance is coordinating clean up with pre-qualified contractors, provided the property owner signs waiver and agrees to pay 100% of the cost of the removal; (5) City contacts to have graffiti removed in 48 hours; (6) City pays contractor; and (7) City bills property owner 100% of the removal cost.

If the property owner does not comply, the City may choose to take legal action against the property owner. Even though there are no fines in the ordinance for property owners, if the property owner continues to refuse to remove the graffiti, the City has options available as we do with any other nuisances.

Regarding how the contractor will remove the graffiti, the contractor will utilize standard means and methods to remove graffiti, including pressure washing, applying a tag removing chemical, or painting over the graffiti.

The City will not remove graffiti from historic properties, but our historic resources staff will work with the property owner to provide technical assistance.

Regarding if the contractor will match the building paint color when the contractor paints over the graffiti, the contractor will be required to stock a standard gray paint. If the property owner wants the same color, they can provide it to the contractor.

We recognize we are a city full of art, but when it's tagged, that does not represent our community well.

The City's new Graffiti Ordinance encourages property owners to immediately remove graffiti. The ordinance will not become effective as to the property owner until October 1, 2014, while the City implements a graffiti removal assistance program, to partner with and assist private property owners in removing graffiti from their properties. Upon a property owner's failure to remove graffiti and/or partner with the City to remove the graffiti, the City will, upon compliance with process, remove the graffiti and assess a lien against the property. Additionally, the perpetrators will continue to be subjected to criminal prosecution, while the new ordinance will also require the assessment of a civil penalty against the perpetrator, based upon an escalating formula.

Pros:

- Encourages graffiti to be removed quickly.
- Provides for stricter monetary penalties to perpetrators.
- Establishes an assistance program for property owners.
- Property owners will not be fined for failure to remove graffiti from their property.
- Small business owners will have an opportunity to earn money removing graffiti from properties.

Cons:

- The fiscal impact is substantial but important to attach the graffiti vandalism issue.

The City would include $300,000 in the FY 2015 Manager's Recommended Budget for the first 90 days of the graffiti removal initiative. Administrative cost will also be included in the FY 2015 Manager's Recommended Budget for the program. The money for this initiative would come from the City's fund balance.

Staff recommends adoption of an ordinance to allow significant civil penalties to perpetrators and encourage property owners to quickly remove graffiti from their property. Staff also recommends that Council approve moving forward with a 90 day graffiti initiative program to significantly reduce graffiti vandalism in the City.

Councilman Bothwell thanked City staff for their work on this and was entirely sympathetic to the property owners whose property is tagged; however, he voiced the following concerns to the ordinance: (1) he was opposed to using taxpayer dollars to clean up private property; (2) catching perpetrators is the biggest single deterrent and increasing fines for the perpetrators don't have much effect; and (3) research shows that fining property owners has had a positive effect in getting property owners to comply. Responsible property owners will take care of their property and the fines will be placed on irresponsible property owners. He could not support this ordinance as proposed.

Councilman Bothwell suggested (1) adding a cap on the number of instances per property owner; (2) make it a rule that graffiti must be removed within 48 hours and then start fining $5 per day; and (3) in the long-term, just have property owners find their own contractor to remove the graffiti and not have the City pay the contractor and then get reimbursed by the property owner.

Councilman Davis agreed with several comments by Councilman Bothwell; however, he felt this is the best way to get started.

Mayor Manheimer provided Interim City Attorney McGlohon with some amendments to the ordinance, noting mostly grammatical changes; notice requirements being in sync with other notice requirements; and removal of the civil penalty increasing incrementally.

Councilman Davis moved to adopt Ordinance No. 4306, as amended. This motion was seconded by Councilman Pelly.

In response to Councilman Bothwell, Interim City Attorney McGlohon said that since our ordinance specifically authorizes civil penalty assessment, those penalties, according to case law would not have to go to the School system.

Councilman Smith was not happy about using public resources on private property; however, we have the responsibility to recognize there is a real public good and we will be partnering with our business community. We need to recognize that it will take this whole community coming together. He looked forward in exploring some other options.

Councilman Pelly recognized that this is a work in progress and after a period of time, the ordinance will be reviewed for possible amendments.

City Manager Jackson said that capping the number of properties is an excellent suggestion and they will build that into the administration of the clean-up program. He did note that they are not taking on the responsibility of cleaning up public utilities. That will also be outlined in the administration of the clean-up program.

Councilman Smith confirmed that property owners have the option of calling the City for a contractor or they can call the contractors directly.

Mayor Manheimer said that the proposed ordinance does not include a fine for property owners who fail to remove graffiti from their property. She emphasized that the City will review the ordinance in 6-12 months. She did note, though, that almost every community they researched included a fine for property owners who failed to clean up their property. This ordinance is tailored for our community. The bottom line is we are all trying to get to the same place - get rid of graffiti.

The following individuals spoke regarding the graffiti ordinance:

Mr. Bruce Kennedy - develop a listening program and find ways to encourage creativity
Mr. Chris Peterson, representing the Downtown Business Group - support ordinance
Ms. Susan Roderick - support ordinance
A Gentleman - suggest a hot line, reward fund, cameras, and steeper fines
Mr. Robert Roepnack, representing Asheville Greenworks - support ordinance
Rev. Christopher Chiaronmonte - suggest a wall for graffiti artists; incorporate an incentive for jail inmates to clean up graffiti
Rev. Lisa Landis - suggest education in school system to explain harm of graffiti
A Gentleman - support future public artwork opportunities and ultimately property owners are fined if they don't clean up their property
Ms. Kitty Love, Executive Director of the Asheville Area Arts Council - support ordinance and suggestion to work with graffiti artists on mural projects
Mr. Donald Danes - suggestion for public funds to cover insurance deductibles
Mr. Byron Greiner, representing the Asheville Downtown Association and member on the Downtown Commission - support ordinance
A Gentleman - support ordinance and offer services on graffiti abatement
Mr. John Kloeckner - suggestion for wall for graffiti artists
Mr. Timothy Sadler - suggestion for wall for graffiti artists
Ms. Pattiy Torno - related experience of legal graffiti wall in River Arts District which resulted in a blossom of graffiti everywhere in the River Arts District

Mayor Manheimer said that we are in a climate to where it is prudent to take proposed new ordinances and run them by our new legislators because we do not want to run the risk of repeal by the state when we are trying to make our best effort on a local level. We have met with our legislators on this ordinance.

Councilwoman Wisler felt this is a good first step. She felt it is difficult to set up a listening program when many perpetrators are from out of Asheville.

Councilman Pelly noted that in a report that Mayor Manheimer circulated, one of the recommendations was to find ways to channel behavior into more acceptable activities, such as venues for mural artists or sanctioned graffiti walls. He asked that Council allow the Public Safety Committee to explore this issue more and talk with some of the stakeholders in the community to see if there is a solution that is right for Asheville.

Councilman Bothwell felt that the $300,000 might be better spent on more enforcement or addressing those group causes in the community. He felt we are doing something, but not doing anything useful.

Councilman Smith said that as we work with our legislators on penalties at the state level, he wanted to ensure that this remains a misdemeanor and not a felony.

It was the consensus of Council to ask the Public Safety Committee to explore this issue more and talk with some of the stakeholders in the community to see if there is a solution that is right for Asheville.

The motion made by Councilman Davis and seconded by Councilman Pelly carried on a 6-1 vote, with Councilman Bothwell voting "no."

ORDINANCE BOOK NO. 29 – PAGE 59

At 7:35 p.m., Mayor Manheimer announced a short recess.

B. RESOLUTION NO. 14-83 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE COUNTY OF HENDERSON REGARDING REAL PROPERTY LOCATED ON FERRY ROAD, IN THE COUNTY OF BUNCOMBE, STATE OF NORTH CAROLINA

Mayor Manheimer said that Asheville and Henderson County (Henderson) are parties to several agreements regarding regional water issues, including the "First Amended and Restated Water Supply and Water Service Agreement, ("1995 Agreement");" and among the terms of the 1995 Agreement are provisions regarding approximately 137.21 acres of real property located on Ferry Road (Bent Creek area), in the County of Buncombe, and more particularly described in Deed Book 2152, Page 4, and in Plat Book 50 Page 107 of the Buncombe County Register of Deeds, (Real Property). Asheville and Henderson claim an interest in the Real Property. Pursuant to a Consent Judgment entered in Buncombe County Superior Court in 2002 (file number 01 CVS 344), the Real Property was conveyed by Asheville to Henderson County by deed recorded July 15, 2002, in Book 2852, Page 775, Buncombe County Registry; and Asheville and Henderson desire to enter into this Interlocal Agreement to address the real property.

Mayor Manheimer said that this interlocal agreement was adopted by Henderson County on April 16, 2014, by Henderson County Commissioners. She explained that, in general, it provides that the 137.21 acres in the Bent Creek area that is owned by Henderson County, but subject to a deed that provides for the property's reversion in the near future if certain conditions are not met, be sold and the proceeds be split between Henderson County and Asheville. Asheville's proceeds will go to Buncombe County for use for a public safety purpose, such as a training center, and Henderson County's proceeds will be used for the same. It does not require that the proceeds be used for the same facility, but there is an ongoing dialogue with Buncombe County to try to work together to share in a joint facility. Buncombe County is working hard to find an appropriate site and funding for such a facility and City Manager Jackson has been in contact with County Manager Green and the County would like our participation in such an endeavor. This also brings resolution to a long-standing unresolved issue with Henderson County over what to do with the disposal of the Bent Creek property. She felt this is a great opportunity to do that and hoped Council would support the resolution authorizing her to sign the interlocal agreement.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-83. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 35 – PAGE 161

C. RESOLUTION NO. 14-84 - RESOLUTION ADOPTING THE 2014-15 LEGISLATIVE AGENDA

Mayor Manheimer said that this is the consideration of a resolution adopting the City Council Legislative Agenda for the 2014 Session of the North Carolina General Assembly.

The session of the North Carolina General Assembly that begins on May 14, 2014, is a "short" session.

As set forth in the Adjournment Resolution, only certain categories of bills will be eligible for consideration; such bills include: (1) Bills that passed out of the chamber in which they were introduced, and that were received in the other chamber ("crossover bills"); (2) Bills implementing the recommendations of study commissions ("study bills"); and (3) Local bills that meet certain requirements (non-controversial, unanimous support among local delegation, etc. "local bills"). The City of Asheville is interested in some bills that fall into each of these categories.

The following is the 2014-15 Legislative Agenda, which has been reviewed with our legislators:

"Environmental Issues

- Support changes to HB 74, Regulatory Reform Act, to restore local control regarding environmental protection.
- Seek legislation requiring the appropriate clean up and disposal of coal ash in coal ash ponds.

"Revenue

- Support reducing the complexity and inequity of the privilege license tax while maintaining the tax as a locally controlled source of revenue that supports services to businesses and consumers.
- Seek changes to Session Law 2013-414 to exempt farmers markets and farmers market managers from N.C.G.S. 66-255, allowing farmers markets and farmers market. managers to operate without the requirements of registration lists and vendor certificates.
- Seek legislation to give municipalities the option to use electronic legal public notices in lieu of newspaper publication. In FY 2012-2013 the City of Asheville spent $85,000 on notification advertisements and publications.

"Transportation Infrastructure

- Seek funding of the I-26 Connector Project as recommended by joint resolution of the Board of Commissioners for the County of Buncombe and the Asheville City Council.

"Graffiti

- Seek to strengthen and/or clarify current state law to more effectively deter and punish perpetrators who damage property, such as by committing vandalism with graffiti."

Pro:

- Opportunity for City Council of the City of Asheville to identify matters of local and State-wide interest where legislative action is needed or desired.

Con:

- None

City staff recommends the adoption of the City Council Legislative Agenda for the 2014 Session of the North Carolina General Assembly.

When Councilman Davis asked if there was any discussion from the Governance Committee about the topless issue, Mayor Manheimer replied that there was discussion.

Councilman Bothwell remains opposed to the I-26 connector, but will support the Legislative Agenda.

Councilwoman Wisler wondered if next year it might be better to have the legislative agenda be adopted formally by the entire City Council prior to discussing it with our legislators. Mayor Manheimer noted the valid process question and explained that we wanted to work with our legislators to get a general feel from them about what might or might not be pending or what might or might not be reasonable. The idea was to have dialogue with our legislators before we rolled it old cold to them. She noted that some cities work with their legislators to develop a legislative agenda. This is a beginning of a new way and we are feeling our way out in terms of process. This time we managed it in the Governance Committee, met with our legislators one on one, and then brought it forward to the full Council.

Vice-Mayor Hunt noted that this is for the Short Session and there is a relatively small list. For the Long Session there will be a lot of new initiatives coming up and he felt our challenge is to develop an on-going dialogue with our legislators so by the time one year from now we would be looking at a similar process for the Long Session, but there will have been multiple interactions building up.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-84. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 162

D. RESOLUTION ADOPTING THE CITY COUNCIL 2014-15 STRATEGIC OPERATING PLAN

This item was removed from consideration to be considered at the May 13, 2014, meeting.

E. RESOLUTION NO. 14-85 – RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Homeless Initiative Advisory Committee.

Ms. Marcie Walker resigned as a member from the Homeless Initiative Advisory Committee, thus leaving an unexpired term until November, 1, 2014.

The following individuals have applied for the vacancy: Sabrah n'haRaven, Matthew Shepley, Allison Bond, Heather Smith, Carrie Pettler and Kristi Case.

The Homeless Initiative Advisory Committee recommended appointing Sabrah n'haRaven. On April 8, 2014, it was the consensus of Council to interview Sabrah n'haRaven and Heather Smith. Ms. Smith has moved out of state.

Councilman Smith moved to appoint Sabrah n'haRaven as a member on the Homeless Initiative Advisory Committee to serve the unexpired term of Ms. Walker, term to expire November 1, 2014, or until her successor has been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 164

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Councilman Wisler, liaison to the Asheville City Board of Education, welcomed Dr. Pamela Baldwin as the new Superintendent of Asheville City Schools (effective July 5, 2014), and thanked Dr. Bobbie Short for her dedication as Interim Superintendent.

Mayor Manheimer reminded the community about Moogfest beginning April 23, 2014.

Councilman Smith stated that Asheville resident Caleb Johnson is one of the top finalists for American Idol and hoped that if he wins Asheville will hold some kind of public celebration.

Rev. Christopher Chiaronmonte spoke about the rights of unborn children.

Rev. Lisa Landis spoke about the leadership shown by some Council members.

Mr. Timothy Sadler suggested the City prepare a document to give to new development showing the impact they are bringing to the City and suggest they have a plan to offset that impact.

In response to Mr. John Kloeckner about who to contact about a suggestion for Asheville's next signature event, City Manager Jackson said that he would have Mr. Jon Fillman in Economic Development contact Mr. Kloeckner on his proposal.

Mr. Steve Agan suggested City Council make a part of their legislative agenda for the Long Session support of proposed legislation of the local government tort claims act.

In response to Mr. Jerry Rice's suggestion of improving City Council's image, Mayor Manheimer said that we are in the process of making improvements in the Council Chamber.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:41 p.m.

Magdalen Bellerson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – April 29, 2014– 6:30 p.m.
Charles T. Koontz Intermediate School

Community Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and Deputy City Clerk Jaime Mathews

Absent: Councilman Gordon D. Smith

Mayor Manheimer opened the meeting, welcomed the audience and introduced City Council members.

City Manager Jackson highlighted several south Asheville projects.

Mayor Manheimer then gave an overview of the draft City Council Strategic Operating Plan, which contains the following three focus areas: Focus Area 1 - Economic growth and sustainability; Focus Area 2 - Affordability and economic mobility; and Focus Area 3 - High quality of life.

Small group discussions on the areas of choice were held. City Council will use the ideas generated as a resource for their process of finalizing the Strategic Operating Plan and developing and prioritizing action items.

At 7:30 p.m., Mayor Manheimer adjourned the meeting.

Magdalen Bowlson
CITY CLERK

Esther E. Manheimer
MAYOR

330

Tuesday – May 13, 2014- 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Capital Improvement Program

Finance Director Barbara Whitehorn said that the City is embarking on a Capital Improvement Program that targets services areas with critical needs and areas with economic development potential. Leveraging the $.02 of the ad valorem tax dedicated for capital improvement projects and using other funding sources including installment financing, special obligation bonds, pay-as-you-go funding and grants and contributions from other agencies, the City will invest approximately $132 million in capital improvements over the next five years.

During the 2013-14 budget process, Council approved an increase to the ad valorem tax rate of $.03. One cent of the increase was to fund ongoing operations, with two cents dedicated to funding capital projects and related debt service.

To ensure that the available funds are used to their highest and best potential, City staff evaluated proposed capital projects against the following criteria: (1) Does the project meet one or more of the strategic goals of City Council? (a) Economic Development; (b) Public Safety; (c)Multi-Modal Transportation; and (d) Affordable Housing; and (2) Is the project critical to ongoing service delivery?

If projects met one or both of these criteria, the cost, timing, staff labor commitment and other determining factors were analyzed to determine when projects should be funded within the plan.

Projects that are "shovel-ready," (design is complete and contracts are ready to be let to begin construction) are planned for the first two years, with other projects coming in as they are likely to be ready and the responsible departments have capacity to manage them.

Implementing this capital improvement program allows the City of Asheville to fund critical infrastructure needs as well as take advantage of economic development opportunities.

The City of Asheville will be issuing debt as part of the funding for this program. Over the next five years, staff expects to issue approximately $24 million in special obligation bonds and installment finance approximately $29 million. The City's financial advisors have aided staff in developing a model for funding and debt service that accommodates this debt within the existing tax rate. *No increase in tax is recommended as part of this program.*

City staff recommends that Council review the materials provided and give direction for final preparation of the City Manager's recommended budget. The date for presentation of the City Manager's recommended budget is May 27, 2014.

She then provided Council with information showing the projects included in the first five-year piece of the plan, and throughout her presentation, she responded to various questions/comments from Council. Projects include RADTIP Transportation Project; Downtown

Recycling & Trash Containers; Eagle/Market Street; Handi Park Demolition; Park St. Bridge; Pack Place Capital Maintenance; Azalea/Lake Craig; and Multimodal Transportation Plan.

She then reviewed some high profile projects over the next 5 years: Azalea Road - $1,037,588; Charlotte Street - $3,850,000; Eagle Market Place - $3,949,500; Finalee Landslide Mitigation - $550,000; East of the Riverway (RADTIP) - $22,000,000; East of the Riverway (Five Points Roundabout) - $700,000; East of the Riverway (Clingman Forest Greenway), - $1,500,000; East of the Riverway (Town Branch Greenway) - $2,500,000; East of the Riverway (French Broad River West Greenway) - $1,000,000; East of the Riverway (Livingston Complete Street) - $1,500,000; Total cost of East of Riverway - $29,200,000 (hoping that half of that will be funded through the Tiger VI project); Craven Street - $5,400,000; Chunn's Cove Bridge Rehabilitation - $500,000; Hendersonville Road Sidewalks - $4,125,000; New Leicester Highway Sidewalks - $3,630,000;

In summary, she said this is a new Capital Improvement Plan. It's a 5-year capital plan with Council adopting a 1-year capital budget as part of the plan.

Upon inquiry of Councilwoman Wisler, Assistant City Manager Cathy Ball explained the ways that money gets committed. City Manager Jackson said that he would provide Council with an analysis of the 2015 Capital budget identifying previously approved and continuation projects.

Public Works Director Greg Shuler responded to Vice-Mayor Hunt regarding the street resurfacing program.

Vice-Mayor Hunt asked that the reference to the I-26 Connector be renamed "I-26 Connector Enhancements" to make sure that it's understood that the City is enhancing improvements above and beyond with the N.C. Dept. of Transportation is doing.

Information Technology Director Jonathan Feldman responded to questions raised by Councilman Bothwell concerning the radio infrastructure improvements.

Assistant City Manager Cathy Ball responded to questions raised by Councilman Smith regarding funds for the Affordable Housing Trust Fund and funds going towards other efforts of affordable housing.

Vice-Mayor Hunt asked that a topic at a future Finance Committee meeting be the review of debt capacity, debt retirement schedules, and bond rating.

There was considerable discussion about the need for neighborhood sidewalks. It was the consensus of Council to shift some funds to neighborhood sidewalks.

Ms. Whitehorn noted that if Council wishes to add more neighborhood projects, staff will have to shift current projects out to further years. She asked for their guidance on which projects Council feels are less critical and can be moved out further.

City Manager Jackson suggested that before Council starts to shift current projects to allow for more neighborhood sidewalks, that he be allowed to work with the Multimodal Transportation Commission to evaluate the five-year Capital Improvement Plan relative to proportion of the sidewalk allocation within the total allocation for transportation capital projects. He noted that this shift would not be reflected in the presentation of the City Manager's recommended budget May 27; however, the adjustments would be reflected prior to public hearing for budget adoption.

Upon inquiry of Councilman Bothwell, City Manager Jackson suggested that Council re-visit the Public Art Policy.

The worksession was adjourned at 4:22 p.m.

Tuesday – May 13, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Manheimer welcomed new City Attorney Robin T. Currin.

Mayor Manheimer also noted that Mr. Caleb Johnson, contestant on American Idol, made a hometown visit to Asheville on Saturday, May 10, 2014.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 18-24, 2014, AS "NATIONAL PUBLIC WORKS WEEK"

Mayor Manheimer read the proclamation proclaiming May 18-24, 2014, as "National Public Works Week" in the City of Asheville. She presented the proclamation to Mr. Jeremy Hyatt and Mr. Eric Suhren, representing the Stormwater Division; Mr. Chris Maloney and Mr. Anthony, representing the Sanitation Division; Ms. Lora Morgan and Mr. Brad Hunter, representing the Streets Division; and Mr. John Gavin and Mr. Lee Morrison, representing the Engineering Division.

B. PROCLAMATION PROCLAIMING MAY 21, 2014, AS "PRITCHARD PARK DAY"

Councilman Davis read the proclamation proclaiming May 21, 2014, as "Pritchard Park Day" in the City of Asheville. He presented the proclamation and thanked Ms. Kim MacQueen, Chair of Downtown Asheville Residents Neighborhood, along with many other volunteers, especially acknowledging the work of the late Trina Mullen in making Pritchard Park the wonderful Park it is today.

C. PROCLAMATION PROCLAIMING MAY 24-SEPTEMBER 1, 2014, AS "AMERICAN RED CROSS 100 DAYS OF SUMMER"

Vice-Mayor Hunt read the proclamation proclaiming May 24 - September 1, 2014, as "American Red Cross 100 Days of Summer" in the City of Asheville. He presented the proclamation to Mr. Andrew Jacobs, who thanked Council for their support.

II. CONSENT AGENDA:

Councilman Bothwell suggested removal of Consent Agenda Item "B" since no bids have been received and no action of Council is required.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 22, 2014, AND THE COMMUNITY MEETING HELD ON APRIL 29, 2014

B. RESOLUTION TO SELL ONE PARCEL OF CITY OWNED PROPERTY LOCATED AT 30 ROCK HILL PLACE

This item was deleted from the Consent Agenda due to no bids being received and no action of Council required. Staff will continue to market the property.

C. RESOLUTION NO. 14-86 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL FROM MAY 23-25, 2014

RESOLUTION NO. 14-87 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE PACK SQUARE PARK CANOPY UNVEILING ON MAY 28, 2014

RESOLUTION NO. 14-88 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE 5 WALNUT ANNIVERSARY EVENT ON MAY 29, 2014

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival from May 23 – May 25, 2014; the Pack Square Park Canopy Unveiling on May 28, 2014; and the 5 Walnut Anniversary event on May 29, 2014.

- Mountain Sports Festival has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

  The Mountain Sports Festival will be held on Friday, May 23 from 4:00 p.m. – 10:00 p.m., Saturday, May 24 from 10:00 a.m. – 10:00 p.m., and Sunday, May 25, 2014 from 10:00 a.m. – 6:00 p.m. at Carrier Park as per the event area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit beer and/or unfortified wine be served to guests at the Pack Square Park Canopy Unveiling and allow for consumption at this event.

  The Pack Square Park Canopy Unveiling will be held on Wednesday, May 28, 2014, from 5:30 p.m. – 7:30 p.m. at Pack Square Park, as per the event area limits referenced on the accompanying site map.

- LEAF in Schools & Streets in conjunction with 5 Walnut Wine Bar has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at the 5 Walnut Anniversary and allow for consumption at this event.

  The 5 Walnut Anniversary event will be held on Thursday, May 29, 2014, from 5:00 p.m. – 10:00 p.m. on Walnut Street between the intersections of Broadway and Carolina Lane, as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Mountain Sports Festival, the Asheville Downtown Association, and LEAF in Schools & Streets

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival, the Pack Square Park canopy unveiling, and 5 Walnut Anniversary event.

RESOLUTION NO. 14-86 - RESOLUTION BOOK NO. 36 - PAGE 165
RESOLUTION NO. 14-87 - RESOLUTION BOOK NO. 36 - PAGE 168
RESOLUTION NO. 14-88 - RESOLUTION BOOK NO. 36 - PAGE 161

D. RESOLUTION NO. 14-89 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CONVEYANCE OF PROPERTY UNDER THE CONTROL OF THE N.C. DEPT. OF TRANSPORTATION THAT WILL BECOME THE RIGHT-OF-WAY FOR PINEY MOUNTAIN ROAD AND TO AUTHORIZE THE MAYOR TO CONVEY BACK TO THE N.C. DEPT. OF TRANSPORTATION PROPERTY THAT WAS ERRONEOUSLY CONVEYED TO THE CITY OF ASHEVILLE VIA A QUITCLAIM DEED DATED OCTOBER 13, 2011

Summary: The consideration of a resolution authorizing the Mayor to accept the conveyance of property under the control of the N.C. Dept. of Transportation that will become the right-of-way for Piney Mountain Road, and to authorize the Mayor to convey back to the N.C. Dept. of Transportation property that was erroneously conveyed to the City of Asheville via a quitclaim deed dated October 13, 2011.

City Council approved Resolution No. 01-131 on August 28, 2001, accepting Piney Mountain Road as a city-maintained street subject to approval by the N.C. Dept. of Transportation (NCDOT). The Board of Transportation for the NCDOT approved this action on February 7, 2002.

Typically, when this type of transfer occurs, the receiving party gets the entire street including stormwater infrastructure, signs, pavement markings, and right-of-way. This specific situation is unique because Piney Mountain Road lies within the overall right-of-way along I-240 in the Chunns Cove Road area of East Asheville. Therefore, the City did not receive the actual right-of-way for Piney Mountain Road.

City staff has been working with the NCDOT over the years to obtain the appropriate right-of-way and we thought it was achieved when we received the quitclaim deed dated October 13, 2011. After City staff recorded the deed with the Buncombe County Register of Deeds (Deed Book 4973 Page 371), we discovered that the NCDOT had actually conveyed 40+ acres to the City which included a section of I-240. City staff immediately contacted the NCDOT and for the past two years, both parties have been working together to make the appropriate correction. The agreed upon right-of-way uses the controlled access fence as the western boundary and includes about 14+/- acres.

Pros:

- An appropriate right-of-way will be part of Piney Mountain Road.
- Would eliminate and/or minimize future access connection issues.

Con:

- There are no known cons.

There is no immediate fiscal impact to the City regarding the subject action.

Staff recommends that City Council approve a resolution authorizing the Mayor to accept the conveyance of property under the control of the NCDOT that will become the right-of-way for Piney Mountain Road and authorizing the Mayor to convey back to the NCDOT property that was erroneously conveyed to the City of Asheville via a quitclaim deed dated October 13, 2011.

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E. RESOLUTION NO. 14-90 - RESOLUTION ACCEPTING AN EXTENSION OF OLD HAW CREEK ROAD AS A CITY-MAINTAINED ROAD

Summary: The consideration of a resolution to accept an extension of Old Haw Creek Road as a city-maintained street.

Code of Ordinances sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on November 5, 2013, asking the City to accept the subject street extension as a city-maintained street.

Old Haw Creek Road Extension from the end of Old Haw Creek Road to its dead-end is a developer-constructed street that has an average width of 20 feet with grass shoulders, a length of 0.05 mile, and a right-of-way width of 45 feet.

Transportation Department staff and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the developer verified that the subject street extension was constructed to current City of Asheville standards.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the N.C. Dept. of Transportation to help maintain the street.
- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept an extension of Old Haw Creek Road as a city-maintained street.

When Councilwoman Wisler asked why the City does not ask the developer for funds to help future maintenance of the road, Transportation Director Ken Putnam said that would be a policy direction staff would need to receive from Council. The City has the authority to accept streets that have been brought up to the standards in our Asheville Standard & Specifications Manual. Once the City takes it over, it opens up that area for potential development that could then benefit the City in property tax revenue.

City Manager Jackson suggested the Finance Committee review the street acceptance policy, along with a survey of the standard practices throughout the state.

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F. RESOLUTION NO. 14-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR A CONTRACT WITH ASHEVILLE STAFFING INC. FOR TEMPORARY SERVICES IN THE CITY'S PARKING GARAGES AND SURFACE PARKING LOTS THROUGH JUNE 30, 2014

Summary: The consideration of a resolution authorizing the City Manager to execute a change order for a contract with Asheville Staffing, Inc for temporary services in the City's parking garages and surface parking lots through June 30, 2014.

The City of Asheville, through the Parking Services Division, currently operates four parking garages and several monthly parking and pay-by-space surface parking lots downtown. Parking Services Division uses a combination of City employees and contract temporary workers to provide service and customer assistance in these facilities and lots. Generally, City employees work during the business day and early evenings while contract temporary services are used for fill-ins, special events, and to extend garage hours during late evenings, weekends, and holidays. Use of temporary workers enhances customer service and allows greater flexibility as needs vary greatly depending on time of year and events booked at the U.S. Cellular Center, outside special events, and other large venues downtown.

Estimating the needs for fill-ins and special event staffing 6 -18 months in advance is at best an educated guess. This current fiscal year has presented Parking Services with pleasant but unexpected staffing challenges in garages and lots. Demand for garage transitory parking has far exceeded expected demand so far this fiscal year. In addition, due to superb scheduling by US Cellular Center staff, special events staffing demand has been stronger than expected as well. These actions translate into higher than projected revenues coming in for the garages; especially in transitory and special event parking where temporary staffing is primarily utilized. And, we still have some large special events scheduled such as the circus and high school graduations that should sell well. The current contract with Asheville Staffing is not to exceed $89,000 for the current fiscal year. Staff is requesting authorization to execute a change order to make the contract not to exceed $130,000 for the fiscal year ending June 30, 2014.

Pros:

- Enhances customer service by providing staffing to speed egress from the garages on weekends/holidays and special events.
- Provides safe and convenient facilities for residents' and visitors' parking.
- Using temporary service employees is the most cost effective and flexible manner to augment the Parking Services Division's staffing requirements.
- Allows parking Services to capitalize on extended weekend/nights/holiday hours to bring in additional revenue.

Con:

- Additional $41,000.00 expenditure.

The necessary funds are already budgeted in the Parking Services' Operating Budget for FY 2013-14.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a change order in the contract with Asheville Staffing to increase the contract amount to not exceed $130,000 for the current fiscal year.

RESOLUTION BOOK NO. 36 - PAGE 178

G. RESOLUTION NO. 14-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE NORTH CAROLINA HUMAN RELATIONS COUNCIL FOR A FAIR HOUSING OUTREACH PROGRAM

ORDINANCE NO. 4307 - BUDGET AMENDMENT FOR A FAIR HOUSING OUTREACH PROGRAM

Summary: The consideration of a resolution to accept a fair housing outreach grant and a budget amendment, in the amount of $25,000, from the North Carolina Human Relations Commission.

The North Carolina Human Relations Commission (NCHRC) requested support last fall for an application they were making to HUD for a grant to support fair housing outreach in selected regions across North Carolina. Their application was successful. NCHRC has asked the City to directly join in the "Partnering to Develop a Comprehensive Fair Housing Outreach, Recruitment and Investigative Program, and has made available a $25,000 sub-grant of HUD funds to the City of Asheville to support this effort.

The Community Development Division has recruited the Asheville Buncombe Human Relations Council and the Land of Sky Regional Council to perform the outreach activities, which will include 10 fair housing events in Asheville and Buncombe County over the next year, and the distribution of fair housing marketing materials.

NCHRC sought this grant because of their concern that the low incidence of fair housing complaints here and in other areas of the State is due to a lack of understanding about fair housing protection. Our efforts here will primarily focus on outreach to human service providers and others who provide referral and assistance to persons in our community. Outreach materials will be published in English, Spanish and Russian.

Pro:

- Persons throughout the City and County will be informed of the protection offered to them through fair housing laws.

Con:

- None.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends accepting $25,000 from the North Carolina Human Relations Commission to support a Fair Housing Outreach program by adoption of the resolution and budget amendment.

RESOLUTION BOOK NO. 36 - PAGE 179
ORDINANCE BOOK NO. 29 - PAGE 64

H. RESOLUTION NO. 14-93 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH THE

N.C. DEPT. OF TRANSPORTATION FOR IMPROVEMENTS ON NC 81 SWANNANOA RIVER ROAD AT ITS INTERSECTION WITH GASHES CREEK ROAD (AZALEA ROAD)

Summary: The consideration of a resolution authorizing the City Manager to sign a construction agreement with the North Carolina Department of Transportation (NCDOT) approving a project for making improvements on NC 81 (Swannanoa River Road) at its intersection with Gashes Creek Road (Azalea Road) in Asheville.

The North Carolina Department of Transportation (NCDOT) plans to make improvements including sidewalk, curb and gutter, and widening for a left-turn lane at the intersection of NC 81 (Swannanoa River Road) and Gashes Creek Road (Azalea Road) in Asheville. The project, which is identified as WBS Element # 3613.3.11, will be constructed during the Summer and Fall of 2014. The NCDOT will prepare the environmental and/or planning documents, obtain applicable environmental permits, prepare the project plans and specifications, relocate and adjust all conflicting utilities, and construct or cause the project to be constructed including the administration of the construction contract.

All work will be performed within the existing right-of-way if possible. In the event any additional right-of-way or construction easements are required, the City will acquire them at no cost to the NCDOT. As a partner with the NCDOT, the City is currently securing appropriate construction easements (At this time, we do not anticipate any fiscal impact in the securing of the construction easements).

Once the project is completed, the City will be responsible to maintain the newly constructed sidewalk.

The subject agreement is a companion agreement to one that was approved by City Council on May 14, 2013 via Resolution # 13-102 which includes a payment from the City of Asheville of $75,000 that will be applied to the construction phase of the project (the project includes a traffic signal at the intersection).

Pros:

- A much needed left-turn lane will be provided.
- The NCDOT is funding and constructing the project.

Con:

- The City will be responsible to maintain the sidewalk.

There is no immediate fiscal impact to the City regarding the subject agreement.

Staff recommends that City Council approve a resolution authorizing the City Manager to sign a construction agreement with the North Carolina Department of Transportation (NCDOT) approving a project for making improvements on NC 81 (Swannanoa River Road) at its intersection with Gashes Creek Road (Azalea Road) in Asheville.

RESOLUTION BOOK NO. 36 - PAGE 180 .

I. RESOLUTION NO. 14-94 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE THE EXCHANGE OF CITY-OWNED REAL PROPERTY ALONG BROADWAY AND CATAWBA FOR AN IMPROVED GREENWAY EASEMENT OWNED BY THE UNC-ASHEVILLE FOUNDATION INC.

Summary: The consideration of a resolution authorizing the exchange of City-owned real property along Broadway and Catawba for an improved greenway easement owned by the UNC-Asheville Foundation, Inc. also located off of Broadway Street.

The City of Asheville and the University of North Carolina - Asheville Foundation, Inc. entered into a Memorandum of Understanding (MOU) on December 13, 2013, concerning the development of a greenway section of the Reed Creek Greenway corridor at 525 Broadway Street. The MOU outlined the partnership and cost-sharing goals relative to the Greenway, and also acknowledged the intent to resolve property ownership and long-term maintenance of the greenway.

Accordingly, the City of Asheville and the UNC-Asheville Foundation have negotiated an exchange of real property based on the terms outlined below. Pursuant to N. C. G. S. 160A-271 a notice was duly published in the Asheville Citizen-Times on April 11, 2014, describing the exchange of properties.

The property at 525 Broadway Street is owned by the UNC Asheville Foundation and measures in total approximately 8.8 acres (PIN 9649-05-1813-00000 and PIN 9649-05-5513-00000). At this location, the Reed Creek Greenway has been designed to follow the creek that runs through this property, and connect to existing sections of greenway at Catawba Street and on the other side of Broadway at WT Weaver Boulevard. UNC Asheville has now commenced construction of the greenway, with estimated completion sometime this summer. The final product will yield a 10 foot asphalt multi-use path that extends approximately 1100 feet from Catawba to the corner of the property at Broadway. Including maintenance areas, the proposed easement would encompass approximately 1.65 acres, including the path, benches, signage, trash receptacles and storm water retention ponds. The City will acquire this area as a greenway easement once all the greenway improvements are completed. With the acceptance of this easement, the City accepts responsibility for long-term infrastructure and ground maintenance of this area.

In exchange for this greenway easement, the UNC-Asheville Foundation requests that the City convey two parcels of real property at the same location (PINs 9649-05-6562-00000 and 9649-05-4826-00000) measuring a total of 0.58 acres. One parcel is configured as a long narrow strip along the frontage of Broadway Street and the other parcel contains a 0.27 acre corner at Broadway and Catawba. The City intended to use these parcels for the Reed Creek Greenway, hence the unique configuration of the parcels. Since the UNC Asheville Foundation is offering to situate the greenway in a more ideal location (proximity to the Creek and shielded from Broadway traffic), City staff recommends City Council to convey these two parcels in consideration. Being that the total value of the greenway improvements exceed the market value of the two City parcels, this exchange is considered full and fair.

Pro:

- Assemblage of land necessary for the implementation of the Reed Creek Greenway.

Con:

- Increased maintenance, repair and operating costs for this section of Reed Creek Greenway.

The land exchange requires no additional compensation in that the exchange is of equivalent value, thus implying no short-term fiscal impact. Long-term fiscal impact includes increased maintenance costs year over year and future replacement costs of infrastructure.

City staff recommends City Council adopt a resolution authorizing the exchange of real property interests at 525 Broadway Street with the UNC-Asheville Foundation, Inc.

Vice-Mayor Hunt spoke in support of the good partnership with the UNC-Asheville.

RESOLUTION BOOK NO. 36 - PAGE 181

J. RESOLUTION NO. 14-95 - RESOLUTION UPDATING THE ASHEVILLE

STANDARD SPECIFICATIONS AND DETAILS MANUAL

Summary: The consideration of a resolution updating the Standard Specifications and Details Manual.

An effort to update the Standard Specifications and Details Manual has been ongoing since 2009. A Focus Group was established that included staff from the various City Departments and local engineering firms to review and make suggestions regarding the appropriate revisions. This group met five times during the months of April and May 2009. Other stakeholder groups, including the Bicycle and Pedestrian Task Force, provided written comments.

The Standard Specifications and Details Manual was approved by City Council on May 20, 1997 via Resolution #97-68 with an effective date of May 27, 1997 to coincide with the effective date of the Unified Development Ordinance (UDO). Since 1997, three major revisions have been approved. The first revision which included changes that were developed from application and practice was approved by City Council on March 28, 2000 via Resolution # 00-61. The second revision which included fire protection water supply requirements was approved on June 12, 2001 via Resolution # 01-84. The third revision which included a new lighting section was approved on March 28, 2002 via Resolution # 02-98. The purpose of the manual is to provide design guidelines and technical specifications for construction activities related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. It outlines the minimum construction standards which would be allowed within the City limits and the extraterritorial zoning jurisdiction (no longer valid) and it is applicable on both public and private property.

The Engineering Department (now Division) is the primary Department (Division) responsible for enforcement of the standards through the Construction Inspectors. The City Engineer is responsible for any requested variance or deviation from the standards unless otherwise noted. One example is waiving the sidewalk requirement (City Council is the only authority that can grant a sidewalk waiver).

Copies of the manual, which are bound in 3-ring binders, are available to the public at a one-time cost of $25. Updates are available at no cost. Staff does not anticipate having to provide copies of the updated manual in 3-ring binders because it will be available in pdf format.

Pros:

- Continues to provide minimum design and construction standards, guidelines, and specifications.
- Includes guidelines and specifications for complete streets principles.
- The development community provided input through the local engineering firms.

Con:

- There are no known negative impacts.

There is no known fiscal impact associated with this action.

City staff recommends that City Council approve a resolution updating the Standard Specifications and Details Manual.

RESOLUTION BOOK NO. 36 - PAGE 183

K. RESOLUTION NO. 14-96 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CHERRY BEKAERT & HOLLAND FOR AUDITING SERVICES FOR FISCAL YEAR 2013-14

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Cherry Bekaert & Holland (hereinafter referred to as Cherry Bekaert) for auditing services for fiscal year 2013 - 2014.

North Carolina General Statute 159-34 requires that local governments have their accounts audited each fiscal year and submit a copy of the audit to the Local Government Commission. In response to the aforementioned general statute, staff recommends retaining the services of Cherry Bekaert to conduct the audit of the city's accounts for the fiscal year ending June 30, 2014. The proposed fee for fiscal year 2013-2014 audit and financial statement preparation is $85,000.

As part of the engagement, Cherry Bekaert will provide a document required by the Auditing Standards Board that provides a framework for the auditor's communication with the Mayor and City Council and identifies some specific matters to be communicated. Pursuant to the Auditing Standards Board requirement, Cherry Bekaert will communicate timely and directly with the Mayor and City Council on matters related to the financial statement audit that are, in the auditor's professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. Additionally, Cherry Bekaert will provide an audit schedule with milestones and timetables in an effort to improve audit planning and ensure that the audit report is delivered timely to the Local Government Commission.

Pro:
- Contracting with Cherry Bekaert aligns with City Council's financial policy, and will help ensure the timely and successful completion of the annual audit.

Con:
- None noted.

A fee of $85,000 has been proposed for the audit and is included in the Finance Department's portion of the annual operating budget.

City staff recommends adoption of the resolution authorizing the Mayor to execute a contract with Cherry Bekaert & Holland in the amount of $85,000 for auditing services for fiscal year 2013-2014.

RESOLUTION BOOK NO. 36 - PAGE 184

L. RESOLUTION NO. 14-97 - RESOLUTION ADOPTING A RIGHT-OF-WAY ACQUISITION POLICY

Summary: The consideration of a resolution adopting a Right-of-Way Acquisition Policy to ensure consistency and documentation when acquiring right-of-way and/or easements for infrastructure improvements.

The City of Asheville is committed to infrastructure improvements including sidewalk installation, roadway improvements, and water and storm water infrastructure upgrades. In some cases, additional right-of-ways or easements are needed to make these improvements.

Many times staff is successful in obtaining easements through negotiations with the property owner. In some cases the property owners will donate the property at no cost to the City. Other times, the City will pay an assessed value for the property depending on the nature of the need (temporary or permanent). In a few cases it can become very difficult to negotiate with a

property owner and other measures such as eminent domain are necessary to complete the project.

The purpose of the policy is to provide consistency and documentation in the process in the event that eminent domain is necessary. The Metropolitan Sewerage District utilizes a similar policy to acquire easements for sewer installation and rehabilitation.

Staff presented the policy to the Planning and Economic Development Committee in April. That committee recommended the policy be reviewed by the full body of City Council.

Pros:

- ☐ Establishes a standard policy and procedure for acquisition of right-of-way for infrastructure improvements.
- ☐ Allows for fair compensation to property owners for land the citizens need to make infrastructure improvements.
- ☐ Consistent with the policy the Metropolitan Sewerage District uses to acquire easements.

Cons:

- ☐ None

Staff requests approval of the Right-of-Way Acquisition Policy for the purpose of acquiring right-of-ways and easements for infrastructure improvements.

RESOLUTION BOOK NO. 36 - PAGE 185

M. RESOLUTION NO. 14-98 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY 0.764 ACRES OF REAL PROPERTY AND OTHER ASSOCIATED PROPERTY RIGHTS LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO THE N.C. DEPT. OF TRANSPORTATION

RESOLUTION NO. 14-99 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR DISPOSITION OF A 0.483 ACRE REMNANT PROPERTY GENERALLY LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO YOUNGBLOOD OIL COMPANY INC.

Summary: The consideration of a resolution authorizing the City Manager to convey 0.764 acres of real property and other associated property rights located at the Asheville Regional Airport to N.C. Dept. of Transportation (NCDOT) for right-of-way purposes; and the consideration of a resolution directing the City Clerk to advertise for upset bids for disposition a 0.483 acre remnant property at the same general location to Youngblood Oil Company, Inc.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). The Airport property is included in the Airport Layout Plan (ALP), which is approved by the FAA. In order for property included in ALP to be conveyed, the City of Asheville must execute the deeds of conveyance as grantor, and the FAA—in consultation with the Airport--must "release" the property from the ALP. Because the property was acquired with FAA financial assistance, and has been held for use by the Airport, the conditions of the FAA release include that the proceeds of sale be reimbursed to the FAA and to the City in the same proportion as the initial contribution to the purchase price. The City's portion of those proceeds must be used at the Airport. The release typically requires the deed of conveyance to include restrictions to ensure that the use of the property will not interfere with airport operations.

The North Carolina Department of Transportation (NCDOT) has plans to improve New Airport Road in front of the Asheville Airport. NCDOT has plans to re-route the existing Interstate interchange to a diverging diamond configuration in order to improve vehicular safety and traffic flow on and off Exit 40. Overall, the project provides much needed traffic improvements for this section of New Airport Road. This NCDOT project, known as Project# I-5501, is currently in the Right-of-way acquisition phase and is set to begin construction this summer. At this time, NCDOT has requested to purchase right-of-way and associated property rights at the Asheville Regional Airport, as follows.

Property Right	Area	Value
Permanent Right-of-way (fee simple)	0.764 acres	$570,000
Temporary Construction Easement	2.023 acres	$110,000
Permanent Utility & Drainage Easement	0.233 acres	$130,000
Dual Use Easement	0.045 acres	-
Personal property (signs, street lights, fencing, landscaping)	-	$245,000
Residual damages to property	-	$110,000

The total offer is $1,165,000 for the real property needs of NCDOT. This value is based on an independent MAI fair market appraisal. The Airport is amenable to the transaction and will seek the required approval and release from the FAA for this conveyance. The applicable law, NCGS 160A-274, authorizes the City to convey the property to a governmental entity (in this case, the DOT) upon such terms as it "deems wise," and there are no special procedures, other than Council approval.

This NCDOT property need has resulted in a property remnant on the east side of New Airport Road at Airport Park Road. This property remnant measures 0.483 acres, and after installation of the planned improvements by NCDOT, the property will no longer be usable by the Asheville Airport. As such, the adjacent land owner, Youngblood Oil Company, Inc., has come forward with an offer to purchase the property remnant. This offer is in the amount of $420,000 and is considered fair market value based on the NCDOT appraisal. In order to sell this property to Youngblood, a private party, the City is required to use one of several competitive procedures specified in the statute. In this case, staff recommends the process set out in NCGS 160A-269, negotiated offer and upset bid, which is the process usually employed by the City. The Youngblood offer is treated as an opening offer, and Council indicates its intent to accept. That offer is advertised, and is subject to an "upset bid" for a period of 10 days. If City Council approves the resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $420,000. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $441,095 or higher.) Since the current bid from Youngblood represents fair market value, the resolution provides that if no qualifying, competing bid is received, then City Council agrees to convey this parcel to Youngblood Oil Company, Inc. for $420,000.

Pros:

- The sale of property will support NCDOT's plans to retrofit an existing interchange and promote traffic efficiency and safety.
- Private sale will convert public land into taxable real property.

Cons:

- None noted.

All financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be

delivered to FAA as a reimbursement for the initial acquisition of said property and/or must be utilized for airport purposes.

Economic Development staff recommends adoption of the resolution to convey real property at the Asheville Regional Airport to NCDOT, and further recommends the adoption of the resolution directing the City Clerk to advertise for upset bids for the remnant property at New Airport Road and Airport Park Road.

RESOLUTION NO. 14-98 - RESOLUTION BOOK NO. 36 - PAGE 192
RESOLUTION NO. 14-99 - RESOLUTION BOOK NO. 36 - PAGE 193

N. ORDINANCE NO. 4308 - BUDGET AMENDMENT TO BUDGET INSURANCE RECOVERY FUNDS FOR THE PURCHASE OF FIRE DEPARTMENT EQUIPMENT

Summary: The consideration of a budget amendment in the General Fund in the amount of $80,500 from insurance recovery funds to purchase equipment for the Fire Department.

On December 14, 2013, a City of Asheville fire engine (1996 KME) was involved in an accident that resulted in the fire engine being totaled. As a result of the accident, the City will receive $80,500 in insurance recovery funding to settle the property damage claim. The fire engine that was totaled in the accident was set to be replaced by a new engine that was already on order and will arrive in June. For this reason, the Fire Department is not recommending that another fire engine be purchased at this time. Instead, the department is proposing to utilize the insurance recovery funding to equip a fire apparatus for Station 1 that will be deployed during the day. This daytime fire engine will provide full credit as a reserve apparatus, which will allow the Fire Department to reduce its heavy apparatus fleet by one vehicle, which will save significantly on future apparatus replacement cost.

Pros:

- Provides funding for Fire Department equipment purchase that will allow for operation of a daytime fire engine that will improve operational effectiveness.
- Reduces Fire fleet by one engine, which will save approximately $550,000 in future apparatus replacement cost.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the City's General Fund, where the equipment purchase will be made.

City staff recommends City Council adopt the budget amendment in the General Fund in the amount of $80,500 from insurance recovery funds to purchase equipment for the Fire Department.

ORDINANCE BOOK NO. 29 - PAGE 66

O. RESOLUTION NO. 14-100 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT FOR THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE SOUTH SLOPE AND CANCELLING THE PUBLIC HEARING ORIGINALLY SET FOR MAY 27, 2014

RESOLUTION NO. 14-101 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT FOR THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT AND CANCELLING THE PUBLIC HEARING ORIGINALLY SET FOR MAY 27, 2014

RESOLUTION NO. 14-102 - RESOLUTION DIRECTING STAFF TO PREPARE A REPORT FOR THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR NORTH CHARLOTTE STREET AND CANCELLING THE PUBLIC HEARING ORIGINALLY SET FOR MAY 27, 2014

Summary: The consideration of amending three resolutions previously adopted by City Council on April 22, 2014, by cancelling the public hearing dates of May 27, 2014, but retaining the direction to staff to create reports detailing a proposed municipal service district for the South Slope, River Arts District and north Charlotte Street.

On April 22, 2014, City Council adopted Resolution Nos. 14-76, 14-77 and 14-78 directing City staff to create reports detailing a proposed municipal service district for the South Slope, River Arts District and north Charlotte Street. At that time, the public hearing dates were set for May 27, 2014.

Providing adequate notice to all real property owners required that the City request records from the county and state. Due to the length of time needed to process those requests, it was determined that the public hearing should be held at a later date.

Additionally, recent information received by the City's bond counsel indicated that the proposed municipal service districts need not be formally accepted at this time due to the schedule for issuing Special Obligation Bonds, which will not occur until Fiscal Year 2016. Therefore, public hearings to establish the proposed municipal districts will be rescheduled at a later date.

City staff recommends amending three resolutions previously adopted by City Council on April 22, 2014, by cancelling the public hearing dates of May 27, 2014, but retaining the direction to staff to create reports detailing a proposed municipal service district for the South Slope, River Arts District and north Charlotte Street.

RESOLUTION NO. 14-100 - RESOLUTION BOOK NO. 36 - PAGE 194
RESOLUTION NO. 14-101- RESOLUTION BOOK NO. 36 - PAGE 196
RESOLUTION NO. 14-102- RESOLUTION BOOK NO. 36 - PAGE 198

P. RESOLUTION NO. 14-103 RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY 125 JACOB HOLM WAY TO BUNCOMBE COUNTY

Summary: The consideration of a resolution authorizing the City Manager to convey 2.43 acres of real property located at 125 Jacob Holm Way to Buncombe County.

The City of Asheville owns approximately 2.43 acres of real property located at 125 Jacob Holm Way (PIN 9617-72-4466) outside of the western boundary of Asheville City limits off of Sand Hill Road. The City purchased this property for $243,000 in 2008 for a new fire station to serve Biltmore Lake. City Council reviewed the initial acquisition of this parcel in closed session on September 19, 2006. The City acquired this parcel from Fletcher Partners through commercial real estate broker Bob Lewis, who was also part owner of Fletcher Partners. The Closed session minutes reflect that the list price for the property was based on the unit price of $100,000 per acre for a total price of $243,000. Per the purchase contract, the Seller was also responsible for site grading to prepare for a fire station foundation and parking.

In that Biltmore Lake was not annexed into City limits, a fire station in this location is no longer needed. As such, the property is considered surplus and available for sale. At this time, Buncombe County has requested to purchase the property at fair market value. The County intends to assemble this parcel into a neighboring tract of land that was purchased for the new

Enka District Intermediate School. A recent MAI appraisal states that the parcel is valued at $195,000.

Pros:

- The sale of this property is at fair market value.
- This property will be used for a new Enka Intermediate School by Buncombe County

Con:

- The parcel was purchased during a period of inflated real property values and the current offer from the County is $48,000 less than what was paid for the property.

The sale of this property will benefit the General Fund and will be designated for future economic and community development projects.

Economic Development staff recommends adoption of the resolution to convey 2.43 acres of real property at 125 Jacob Holm Way to Buncombe County.

RESOLUTION BOOK NO. 36 - PAGE 200

Q. RESOLUTION NO. 14-104 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A JOB ACCESS AND REVERSE COMMUTE GRANT TO FUND PART OF THE COST OF PROVIDING SUNDAY SERVICE

Summary: The consideration of a resolution authorizing the City Manager to apply for a Job Access and Reverse Commute (JARC) grant to fund part of the cost of providing Sunday service.

The French Broad Metropolitan Planning Organization has released a call for projects for the JARC program which is part of Section 5307 of the new MAP 21 transportation bill. This program is available to transit agencies, non-profits or for profit agencies for transit capital and operating projects. The MPO Board has authorized the use of 10% of Section 5307 for projects that fulfill JARC goals.

JARC is a formula grant program oriented to provide job access in the urbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas.

The job access refers to projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment.

The reverse commute refers to a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization, Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. The plan was approved on March 29, 2012, by the French Broad River MPO's Board, which includes elected representatives from each of the eighteen local governments which make up the MPO. Project will be selected in a competitive process.

Sunday service has been identified in the CTP-HSTP and in the City's Transit Master Plan as one of the priorities for citizens that need access to jobs seven days a week or during the weekend.

The City's Fiscal Year 2015 proposed budget currently includes funding to begin limited Sunday service on January 1, 2015. The full annual cost of providing this service will be $321,000. Operating expenses are an eligible activity under the JARC program and the City will apply for 50% of the total annual cost or $160,500 to pay for Sunday service.

Pro:

- JARC could subsidize Sunday service for a maximum of $160,500.

Con:

- The City has to contribute 50% of the cost, or $160,500.

The project cost is $321,000; the City will contribute 50% of the cost or $160,500, and if awarded, FTA will pay for the remaining 50%.

City staff recommends that City Council approve a resolution authorizing the City Manager to apply for a Job Access and Reverse Commute (JARC) grant to fund part of the cost of providing Sunday service.

RESOLUTION BOOK NO. 36 - PAGE 201

R. RESOLUTION NO. 14-105 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ROGERS GROUP INC. FOR THE ASPHALT PAVING IMPROVEMENTS PROJECT - FISCAL YEAR 2014

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $1,121,330.25 plus a contingency of 43% ($478,669.75) with Rogers Group, Inc. of Nashville, TN, for the project known as Asphalt Paving Improvements – Fiscal Year 2014, City of Asheville Project # ENG-13-14-006.

A list of warranted streets was put together to be addressed by this contract. The project was advertised on March 18, 2014, and due to an insufficient number of bids, advertised again on April 11, 2014. Bids were opened on April 21, 2014, with Rogers Group, Inc. of Nashville, TN, being the lowest responsible bidder with a bid of $1,121,330.25. This unit price contract bid presents the City with a great value and the potential for adding more streets to this year's paving project based on our budget of $1,600,000.00. The City did its due diligence in establishing that this was a responsible bid. A 43% contingency ($478,669.75) has been added to allow payment for any unforeseen costs that typically arise during construction and to do additional street resurfacing. The work produced from this contract would fix a number of roads that are in drastic need of repair.

Pros:

- Will repair approximately 5.44 miles of roadways within the Asheville City limits.
- Extremely competitive prices maximize resources.

Cons:

- The project will cost the City approximately $1,121,330.25.
- Project management and contract administration will consume staff time.

The total budget for this project, including contingency, is $1.6 million, and included as part of the FY 2013-14 Public Works Departmental budget.

City staff recommends City Council adopt the resolution awarding the contract to Rogers Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $1,121,330.25 plus a contingency of 43% ($478,669.75) with Rogers Group, Inc. for the project known as Asphalt Paving Improvements – Fiscal Year 2014, City of Asheville Project # ENG-13-14-006.

RESOLUTION BOOK NO. 36 - PAGE 202

S. RESOLUTION NO. 14-106 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ARMEN CONSTRUCTION LLC FOR THE NORTH LOUISIANA AVENUE SIDEWALK IMPROVEMENTS PROJECT - PHASE 4

ORDINANCE NO. 4309 - BUDGET AMENDMENT FOR THE NORTH LOUISIANA AVENUE SIDEWALK IMPROVEMENTS PROJECT - PHASE 4

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Armen Construction, LLC for the amount of $126,820 and any change order within the project budget for the project known as North Louisiana Avenue Sidewalk Improvements, Phase 4, City of Asheville Project #E1014; and the associated budget amendment, in the amount of $25,000, from savings in other sidewalk projects to fund costs that exceeded the original budget.

This project will build a much needed sidewalk along North Louisiana Avenue and provide connectivity from the Skyview Community to Patton Ave. Pedestrians currently must walk on the side of the road, in a ditch, or in the street itself. The scope of work includes sidewalk, curb and gutter, drainage, retaining walls, wheelchair ramps, driveways, and utility relocation. The project is funded in part with U.S. Department of Urban Development Community Development Block Grant (CDBG).

The N. Louisiana Sidewalk Improvements – Phase 4 project was advertised April 11, 2014, - April 28, 2014. The bids were opened informally Monday April 28, 2014, and the following two bids were received:

- Patton Construction Group, Inc. of Asheville, NC in the amount of $156,640
- Armen Construction, LLC of Charlotte, NC in the amount of $126,820

Pros:

- Improves pedestrian safety.
- Funded by a Federal grant, with minimal City General Fund contribution.
- Encourages walking, thereby reducing carbon emissions.

Cons:

- Project management and contract administration will consume staff time.

The project budget will be $142,000. CDBG will provide $117,000 (previously budgeted), and $25,000 will be allocated from savings in other sidewalk projects. .

City staff recommends the City Council adopt the budget amendment in the amount of $25,000; and the resolution awarding the contract to Armen Construction, LLC and authorizing the City Manager to execute contract and any change order within the budgeted amount.

RESOLUTION BOOK NO. 36 - PAGE 203
ORDINANCE BOOK NO. 29 - PAGE 68

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda B, since no bids have been received and no action from Council is required. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ANNUAL STATE OF AIRPORT

Mr. Lew Bleiweis, Director of the Greater Asheville Regional Airport, reviewed their 2013 Annual Report.

In response to Mayor Manheimer, Mr. Bleiweis responded to the Airport's exciting re-use of coal ash for fill for the runway.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN APPEAL OF THE PLANNING & ZONING COMMISSION'S DECISION TO APPROVE A LEVEL II SITE PLAN FOR THE CAMBRIA SUITES HOTEL PROJECT LOCATED AT 15 PAGE AVENUE, FOR A 12-STORY HOTEL WITH GROUND LEVEL COMMERCIAL SPACES

At Mayor Manheimer's request, Councilman Smith moved to recuse Mayor Manheimer from participating, due to a conflict of interest. This motion was seconded by Councilman Davis and carried unanimously. Mayor Manheimer handed over the gavel to Vice-Mayor Hunt and left the meeting room.

Vice-Mayor Hunt said that pursuant to Section 7-5-9.1 (b) (11) "appeals of decisions of the Asheville Planning & Zoning Commission regarding developments requiring Level II site plan approval in the Central Business District shall be heard by the Asheville City Council. Further appeals shall be made to Buncombe County Superior Court in accordance with subsection (a) (12)." The Planning & Zoning Commission voted 5-0 to approve the Cambria Suites Hotel Level II site plan. Thereafter, an appeal was filed to Council by Gary Davis, pursuant to Section 7-5-9.1 (b) (11).

City Attorney Currin reviewed with Council the appeal process, which will be using quasi-judicial procedures. It is important to note that in a quasi-judicial proceeding, Council protects the due process rights of the parties. There are several components of a quasi-judicial hearing as follows: (1) all testimony will be sworn; (2) any decision reached by City Council must be supported by findings of fact and conclusions of law and those findings and conclusions must be based on competent material and substantial evidence in the record; (3) this is a Level II site plan appeal under Section 7-8-18 (f) of the Code of Ordinances, and those are the only standards in front of Council in this appeal; and (4) if documentary evidence is presented to Council, please give your opponent a copy so they have an opportunity to review it. She then explained the order of the presentations, noting that all of the witnesses can be cross-examined. Council can, at anytime, ask questions of the staff or any of the witnesses. Regarding time limits, the parties will not be restricted to any time limits; however, any individual from the public who would like to speak will be limited to 3 minutes each.

City Attorney Currin asked if any member of Council has had any conversations or any involvement in the case that would prevent them from listening to the evidence tonight and giving an unbiased decision. Councilman Davis disclosed that he was a member of the Downtown Commission when the design review of Cambria Suites Hotel was discussed; however, he would consider this issue with an open mind on all the matters before the Council without pre-judgment and that he will make his decision based solely on what is before Council at the hearing. In addition, Vice-Mayor Hunt disclosed that he attended the Downtown Commission meeting when the design review of Cambria Suites Hotel was discussed; however, he too would consider this issue with an open mind on all the matters before the Council without pre-judgment and that he will make his decision based solely on what is before Council at the hearing.

City Attorney Currin said that as documentary evidence is submitted, City Clerk Burleson would be noting the entry of that evidence into the record.

After hearing no questions about the procedure, Vice-Mayor Hunt opened the public hearing at 5:48 p.m.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Urban Planner Alan Glines said that this is the consideration of an appeal (pursuant to Section 7-5-9.1(b)(11) of the Asheville Unified Development Ordinance (UDO) of Planning and Zoning Commission's decision to approve a Level II Site Plan for the Cambria Suites Hotel project located at 15 Page Avenue, for a twelve-story hotel with ground level commercial spaces (City Exhibit 1 - Staff Report, which has been provided to City Council and both parties). This public hearing was advertised on May 2 and 9, 2014 (City Exhibit 2 - Affidavit; City Exhibit 3 - Certificate of Notice).

Using various maps and plans (City Exhibit 4), Mr. Glines then reviewed his following staff report (City Exhibit 1; City Exhibit 5 - Record of Proceedings):

"Site Conditions: The project site consists of one parcel .46 acre (20,031 square feet) with frontage on Battery Park Avenue and primary access along Page Avenue. There is a city-maintained alley at the rear of the property which provides access through this site to neighboring properties. An existing structure will be demolished – a two-story retail building that once housed Kosta's and Subway with a total square footage of 28,000 square feet according to Buncombe County tax records. The structure is not a contributing structure in the downtown national register district.

"The proposal is a twelve-story hotel with ground level commercial spaces with the hotel tower located on the north side of the structure. Plans show a building height of 115 feet to the highest occupied floor (and 136 feet to the top of the tallest architectural element) with a gross floor area of 120,000 square feet (just over 112,000 s.f. conditioned space). Floors two and three will be parking floors within the larger base of the structure, and the basement level will also be used for parking. Total parking will include 151 spaces made up of 147 regular spaces, one van space, and three accessible spaces. As specified in the UDO, the parking levels in a parking structure are not counted in the overall square footage of the building.

"The hotel will have 136 hotel room suites, an amenity floor with a restaurant (with outdoor seating) and meeting space (on the fourth level), and about, 3,400 square feet of commercial space on the ground level that will include a restaurant. The outdoor terrace at the fourth level will total 4,000 square feet.

"Primary vehicular and pedestrian access to the site is planned for the main entrance at the western side of the hotel building where there will be a drop-off area for guests under the main structure. The commercial spaces have frontage along Page Avenue with a separate

pedestrian entrance. (Mr. Glines explained the floor plans and elevations, using various drawings in City Exhibit 4).

"The Downtown Master Plan (DTMP) was initiated in 2008 and adopted by City Council on May 12, 2009. The consultant team very early on identified a number of key components that the plan would address including how to manage and encourage new development while maintaining community character which includes views into and out of the downtown area, vistas from the street and between buildings, and encouraging variety in taller structures. The project plans make references to these issues in the following ways:

- Community Vision- protect landmark buildings and views to and from our downtown setting

- Shape building form to promote quality of place excerpts-
    - Encourage variety in height, massing and character to respect context, animate the skyline, preserve valued views and offer development options

    - D. Step upper floors back above a defined streetwall for daylight and pedestrian scale

    - E. Keep taller buildings slender to preserve view corridors and daylight between them.

"These goals apply to all properties in the Central Business District and are dependent on their exact location in downtown and the scale of development proposed now or in the future. They have been incorporated into the UDO for the most part and were in a few cases adjusted through the review and adoption process. This project site is located towards the north end of the traditional downtown core.

"Compliance with Central Business District Regulations in the UDO: (Mr. Glines explained the regulations, using the Downtown Master Plan Concepts: Height Zones Map - City Exhibit 4)

"Building Height- The site is located in the intermediate height zone which allows floor heights up to 145 feet. The proposed building will be twelve stories with a final floor height of 115 feet and the total height of the building to the tallest roof element, 136 feet.

"Base middle cap orientation- The design has a distinct base created by the use of cast limestone material for the first four levels of the building. The middle section will have a change of material by use of a red brick colored stucco. The upper two hotel floors and the roof feature will change color and material again using a silver gray stucco surface to create a contemporary cap for the building. The tower portion was revised following discussion with the design review subcommittee of the Downtown Commission to incorporate a contemporary cap. There is a strong architectural element over the entrance to the hotel that continues up to the top of the building made up of lighter finished metal and metallic-finished stucco on upper floors.

"Street Wall Stepback- The intent statement found in 7-8-18 (f) (13) (a) notes that the reduction of the perceived heights of building elements are enacted "to enhance the traditional scale of downtown and ensure adequate air and light at the sidewalk level and neighboring properties, a visual demarcation will be established across the façade of the building at a height that is defined as the *street wall.* Corresponding to this elevation on the façade a *step-back* across the front or side(s) will be provided...." (Mr. Glines reviewed the Traditional Downtown Core Map - City Exhibit 4)

"The project has selected a step-back implementing the side setback option. It incorporates the third and fourth floors as the setback height allowed by the ordinance based on

properties located in the *traditional downtown core*. The side step-back is proposed to be 74 feet measured from Battery Park Avenue which actually exceeds the requirements in the UDO. The UDO stipulates that any series of step-backs need not exceed 10% of the lot area, in this case 2,000 square feet. The developer is proposing almost 4,000 square feet of roof top deck spaces. At the Downtown Commission meeting, the developer explained that he is proposing this larger than required stepback solution because of his interest in preserving the western views for the condominium owners in the neighboring building to the extent that he is able.

"The appeal of this Level II project to the City Council is largely based on concern from an adjacent condominium owner at 21 Battery Park Avenue that the requirement for towers with floor levels above 75 feet were not properly applied, affecting his property."

Mr. Davis raised an objection that Mr. Glines was about to rebut his case and he is not a party to this. He said he is going far beyond to where he went in his recommendation to the Planning & Zoning Commission and he would be happy to cross examine Mr. Glines; however, Mr. Glines should not be trying to rebut his case at this time when he is presenting conditions. City Attorney Currin said that Mr. Glines, as a staff member, is giving a summary of the decision of the Planning & Zoning Commission. Mr. Davis has presented an appeal and Mr. Glines is stating the staff's position. She said that Mr. Davis will have time to cross-examine Mr. Glines and ask him any questions. Vice-Mayor Hunt overruled Mr. Davis' objection.

Mr. Glines continued with the review of his staff report (City Exhibit 1) as follows:

"*Tower Dimensions*- The tower dimensions with floor levels above 75 feet is limited in the ordinance for wall length and floor plate size.

"To avoid large 'slabs' in the tower portions of a development, any horizontal dimension of a tower may not exceed the maximum dimension of 145 feet established for the downtown CBD. The tower width is 140 feet for the primary façade along Page Avenue and 71 feet measured from Battery Park Avenue. The proposal is within the range of allowed widths for the tower portion of the development.

"The floor plates for building towers with floor levels above 75 feet are also limited based on lot size and the particular downtown context. The UDO provided these options under 7-8-18(f.)(13)b(1.) Floor plate limited:

a. For parcels 20,000 square feet and larger, the gross floor plate area is limited to 40 percent of the lot area;

b. For parcels smaller than 20,000 square feet, gross floor plate area may not exceed 8,000 square feet.

c. For parcels greater than 16,000 square feet, the agency or official responsible for project review may consider floor plates up to 50 percent if it is surrounded by substantial permanent public or private open space that allows for views and access to direct sunlight.

"The Cambria Hotel proposal is pursuing a tower floor plate option 'c.' based on 50% of the lot area, which is an option for projects that can demonstrate that they are 'surrounded by substantial public or private open space that allows for views and access to direct sunlight'.

"Open Space Requirements - Section 7-2-5 of the UDO defines *open space* as: 'Open space means an area that is intended to provide light and air, and is designed for either environmental, scenic, or recreational purposes. Open space may include, but is not limited to, lawns, decorative planting, walkways, active and passive recreation areas, playgrounds,

fountains, swimming pools, wooded areas, and water courses. Open space shall not be deemed to include driveways, parking lots or other surfaces designed or intended for vehicular travel.'

"Open space in an urban setting is further refined in 7-11-4 of the UDO in which 'Urban Open Space amenities mean public sidewalks significantly in excess of standard sidewalk requirements, streetscape and hardscape areas accessible to the public including sidewalk café areas, areas containing public art and similar amenities.'"

Vice Mayor Hunt asked if it's staff's interpretation that the height limit of the Grove Arcade constitutes a result of open space because of its relative height compared to this property. Mr. Glines responded that it certainly contributes to this area. He said that pre-DTMP we had no height limits and no provisions for any step-backs at all on any downtown property. The DTMP recognized the importance of limiting tower heights to keep them slender but also have a benefit of ensuring views, air and light throughout the downtown from the sidewalk level and from long-term vistas into downtown and vistas out and across the City. The DTMP was intending that towers be limited on each and every parcel so that a big portion of each and every parcel would also be open. It's unique in this case that we have a height limited substantial building a block long that affords views. The open space in the Grove Arcade represents opening and air and light to the sidewalk level too, not just neighboring properties. It does factor into open space, but it doesn't satisfy all of it together.

In response to Vice-Mayor Hunt, Mr. Glines said that the Grove Arcade height limitation is based on some deed restriction.

Councilman Bothwell felt that Mr. Glines is interpreting the DTMP in that way, but there is nothing in our ordinances that says we should to take into consideration the height of adjacent buildings.

Mr. Glines continued with the review of his staff report (City Exhibit 1) as follows:

"Although the Central Business District is exempt from open space requirements as a rule, the provision for the floor plate of the tower to reach 50% of the lot area relies on a finding of being surrounded by substantial permanent public and private open space. It is worth noting that the open space need not be found only on the subject property but also on properties surrounding it. Considering the site plan and the specific context in the downtown area, staff believes that the tower meets this standard based on the following considerations:

- Substantial sidewalk areas surround this property directly adjacent to the site and across the street

- The combination of building step-back(s) which are again noted in 7-8-18(f.)(a.)(2.) are required 'in order to enhance the traditional scale of downtown and ensure adequate air and light at the sidewalk level and neighboring properties, a stepback at the street wall height is required according to the following standards. In no case shall the required step-back(s) decrease the buildable area by more than ten percent." The step-back provided in the proposal is substantial and exceeds the step-back amount (200% of the required amount by ordinance) and ensures that air and light reach the sidewalk level and neighboring properties. This decision was made by the developer to preserve views to the south and west for neighboring properties but which has the added benefit of positively impacting the street and sidewalk by ensuring that the surrounding area is not overwhelmed by tall buildings

- The proposed hotel building has a step-back for the tower from the north side of the property for all floors above the fourth floor which supports the open space standard.

- The Grove Arcade located directly to the west is height protected through the sale of air rights to maintain its existing configuration of four stories which ensures that air and direct sunlight reach the sidewalk and neighboring properties.

- The roof of the podium height of the proposed Cambria Hotel building (at the third and fourth floor levels) provides a restaurant amenity serving as open space for hotel guests and the public.

- The sidewalk adjacent to the project site is the location for an urban trail public art piece known as "Grove's Vision' and will remain at this location in support as an urban open space amenity.

- Café spaces are located along Battery Park Avenue and Page Avenue which provides scenic and active urban open space.

- Street trees, wide pedestrian crossings, wayfinding signage, and benches are a part of the surrounding streetscape, existing and proposed as a part of the new development and are among noted urban open space amenities.

- The 21 Battery Park Avenue building is setback from its western property line (the common property line with the Cambria Hotel project) by 50 feet and this space is used for surface parking and access to underground parking but also includes area for residents' overhanging balconies which ensures that sunlight and air are accessible to this property and neighboring properties and supports the open space standard.

- At the height of the eighth story a deck for hotel guests with rooms adjacent to it is provided in support of the open space standard.

- By definition, the floor plate requirement for the hotel tower above 75' is limited to 50% of the lot area, then the other negative space of the lot in this same area is open and not built upon above this level.

"Thus the open space considered in this situation is both on-site and surrounding the parcel and provides the benefit of assuring access to views and direct sunlight by including areas that provide light and air, for environmental, scenic, and recreational purposes. The open space enhances the experience for pedestrians at the sidewalk level, allows for views between buildings and assures air and light for neighboring properties. This staff interpretation of a correct application of this standard was accepted by the Downtown Commission and the Planning and Zoning Commission.

Shadow Impact limits- As described in 7-8-18(f)(7)(e.) shadows from new construction on large and small public parks or public plazas are limited by the following standard: (1.) Shadow impacts on any one point are limited to no more than two hours between the hours of 10:00 a.m. and 2:00 p.m. on the spring or fall equinox at ground level; March 21 or September 21 respectively.

"Concern was raised by the same condominium owner at 21 Battery Park Avenue that the shadow study was not conducted to consider the shadow impacts of the proposed tower on the eastern sidewalk area that is adjacent to the Grove Arcade pursuant to the noted shadow impacts standard. Staff did not initially consider the shadow impact standard because the sidewalk area while providing a vibrant community amenity with outside dining, is neither a park or plaza that is still staff's position. The sidewalks were widened and the current traffic and parking configuration installed when the Grove Arcade was renovated in the late 1990's. however, since the initial submittal was received, shadow studies were conducted for this area by the applicant and show no impact that would be in violation of the noted standard.

"Tower Placement- The tower is placed towards the northern side of the parcel in order to minimize the impacts to neighbors at 21 Battery Park Avenue. The tower was shifted from the actual property line on that side by 10 feet in order for upper story windows to be permitted which also supports the open space standard by allowing access to air and light. The windows are a requirement for the upper stories of buildings in the UDO and the proposed windows comply with the requirement.

"Streetscape- The proposed streetscape follows the pattern established in downtown with concrete sidewalks following the running-bond pattern. The sidewalks exceed minimum standards for downtown. Street trees will be placed in tree grates in a regular pattern along both street frontages. At the Technical Review Committee meeting, the Fire Department noted a requirement for additional clear space in front of the tower along Page Avenue for aerial access needs so some trees will be eliminated from this area. Opportunities for planters are being explored for this location.

"Fenestration and primary pedestrian entrance- This proposal complies with the CBD standards, for both ground level and upper floors. Both frontage streets are key pedestrian streets, so the minimum standard is 70% ground level fenestration (windows, doors and other openings) and is provided at 73% along Battery Park Avenue and 80% along Page Avenue. Upper floors must meet a 20% fenestration standard and all facades meet the requirements for openings. The Battery Park and Page Avenue elevations are proposing 42% and 65% respectively.

"Recent Area Zoning Actions: The Hyatt Place Hotel was approved in the vicinity at Montford Avenue and Haywood Street and construction has begun with clearing on the site.

"As a Level II project, the Cambria Suites project was reviewed by the Technical Review Committee (for technical compliance), the Downtown Commission (mandatory review, voluntary compliance of design standards), and the Planning and Zoning Commission (approval authority for technical compliance).

"The Technical Review Committee (TRC) recommended approval at their January 6, 2014, meeting, with conditions. Subsequent to that the TRC met on March 3 and granted final project approval.

"The Downtown Commission discussed the project at length at their meeting on January 10, 2014. Their comments centered on the following topics which they asked to be shared with the Planning and Zoning Commission:

- Sidewalk connection and crosswalk to the Grove Arcade is important.
- Assuring that a local-made art piece or some other special treatment will be provided for the center space of the parking drop-off area since the plans did not show anything at the time. Since their review, a few items have changed in this area including the fire fighting command room which will now form a 'back drop' for this space between the columns. The architects are working to provide a focal point at this location.
- Some concern about the number and width of the driveway aisles since driveways tend to compromise the pedestrian experience and the UDO trends away from multiple driveways in the CBD. The Traffic Engineer reviewed the plans and did support for the current configuration.
- Appreciation of the effort by FIRC Development to shift the tower portion to the north end of the property to assure some views for neighbors located in 21 Battery Park Condominiums.

- Idea for a garbage compactor and recycling on this site that could be shared by other nearby businesses since there are few locations in downtown well situated for these needed facilities.

- Parking will be available to visitors of the hotel, restaurant and to the retail tenants.

- There was some concern about noise from the amenity floor affecting nearby residents but Mr. Fraga explained that his own hotel guests would also have the same concern.

- Interest in having sufficient signage so that guests do not get lost.

- Some concern about traffic flow along Page Avenue and acknowledgement that this topic is beyond the effects of this particular project.

- Interest in additional windows being provided at the fourth level where the meeting rooms are located to open up the façade for uses that could benefit from natural light.

- Agreement that the building proposed meets the basic development requirements outlined in the UDO.

"The Planning and Zoning Commission reviewed the project and voted 5-0 to recommend approval at their meeting on February 5, 2014. During that review, Mr. Gary Davis, an attorney with a condominium unit in the neighboring property at 21 Battery Park Avenue, raised concerns about the review process for the project from the level of review that the project received and how the project is meeting specific development standards for properties located in the Central Business District. Staff answered questions from the Commission and the Commissioners voted unanimously to recommend approval.

"Subsequently, Mr. Davis filed the appeal on February 25, 2014, of the Level II approval of the Commission to the Council. This is the first appeal of a Level II approval downtown under the standards adopted with the Downtown Master Plan

"The Planning and Zoning Commission voted unanimously to approve the Cambria Suites project at their meeting on February 5, 2014. The Downtown Commission voted to approve the project unanimously at their meeting on January 10, 2014. Staff believes the project meets the requirements of the UDO and the intent of the Downtown Master Plan because the project brings new investment and added vitality to the traditional downtown core and enhances community character."

Councilman Bothwell confirmed sidewalks are public spaces for the purpose of providing open space, but they are not public spaces for the purpose of shadows. Mr. Glines agreed noting that the sidewalks are not public parks or public plazas.

When Mr. Gary Davis asked to be allowed to make a opening statement prior to cross examination of Mr. Glines, Mr. Joe McGuire, attorney representing FIRC, had no objection to Mr. Davis presenting a short opening statement before he asks Mr. Glines questions.

Mr. Davis said that he is an attorney and a witness. He reviewed with Council a PowerPoint and it's going to be in the nature of his opening. Some of it will include evidence that he intends to present as a witness. What he proposed to do, once he finishes his opening, he will enter his exhibits into evidence mentioned in the opening. He will come back up for cross-examination.

Mr. Davis said that he owns an office space in 21 Battery Park on the second floor. He's also a resident of Asheville as of November, 2013. The space is for his law office firm which he practices environmental and land use law. He chose his office location because that is his favorite part of downtown Asheville and largely because of the Grove Arcade. Using Appellant Exhibit 10, he showed the view toward his office. He chose that office space because of the light from the western side of the building that reduces his need for electric lighting for his office and he also chose it because of the location and his appreciation of the historic nature of this area of downtown. He said it has been said many times that this project complies with the Downtown Master Plan and the UDO - it does not. His main issue is that the proposed tower for the Cambria Suites Project covers 25% more of the parcel than it should under the UDO. That is a tremendous bonus for the developer. It also consequently significantly impacts his building and his office. He is not representing everyone in Battery Park, but representing only himself, but there are others who have concerns about light and the blockage of light by this building that unnecessarily violates the UDO. There is a reasonable compromise that complies with the UDO but doesn't pervert the definition of open space. He referred to Appellant Exhibit 11, stating that this is essentially what would happen to his office space and roughly 1/3 to ¼ of the people on the western side of 21 Battery Park. But his office space will be down in a deep dark hole after this project is completed. He didn't believe this should have been a Level II project and he has reasons which he presented to the Planning & Zoning Commission. They are presented in his appeal. City Attorney Currin has written a letter and he assumed that the letter was part of the record for this hearing.

Mr. McGuire objected in that he felt this issue of which level review is not part of this hearing today. City Attorney Currin agreed. She said she has no problem with Mr. Davis preserving his objection to this proceeding as a Level II, but we are not going to accept evidence as to why it is or is not.

Mr. Davis said he was just preserving his issue.

In response to Vice-Mayor Hunt, City Attorney Currin said that for this purpose there is a Level II site plan and a Level III site plan. There is a certain size level that triggers the Level III review. There are also some other components that make something Level II vs. Level III. Now the determination as to whether something is a Level II vs. a Level III is an interpretation of the zoning ordinance. Zoning staff is charged with an interpretation of the zoning ordinance - not City Council. At the time the applicant came in, there was a determination made that this should be a Level II site plan. If there was an objection at that point, the review board for that is the Board of Adjustment. The City Attorney's Office wrote a letter and informed Mr. Davis of that. She pointed out another problem in treating this as a Level III - City Council cannot say this Level II project should be a Level III project because that would be a conditional zoning request, and the only entity that can request a conditional zoning is the property owner. This property owner has not asked for that. Before Council is an appeal for the Level II project only.

Mr. Davis also raised the issue that the appeal should be heard as a legislative conditional zoning matter and that was taken care of in a letter. He wanted to make sure that letter was part of the record. He said there are no procedures laid out in the UDO for his hearing and we are essentially operating under the direction of the City Attorney as to what procedures should apply.

Mr. Davis said that the issue he raised under the UDO is the floor plate limits for the tower. Using Appellant Exhibit 2 (Section 7-8-18 of the Code of Ordinances), he noted the floor plate is limited in (a) and (b) to either 40% or a maximum of 8,000 square feet. Subsection (c) is the issue Mr. Glines was discussing "for parcels greater than 16,000 square feet, the agency or official responsible for project review may consider floor plates up to 50 percent if it is surrounded by substantial permanent public or private open space that allows for views and access to direct sunlight." Subsection (c) is the crux of his appeal. According to a survey presented to the Planning Department there are two parcels that were combined into one for this project and they

total 19,929 square feet (Appellant Exhibit 9). The last drawing submitted said 20,031 square feet. The drawing also said 10,015 square feet for the tower floor plate.

Mr. Davis presented his exhibits has and will be using in his testimony: Appellant Exhibit 1 (Sec. 7-5-9.1 of the Asheville Code of Ordinances); Appellant Exhibit 2 (Sec. 7-8-18 of the Asheville Code of Ordinances); Appellant Exhibit 3 (definitions of "open space" and "plaza space" found in Sec. 7-2-9 of the Asheville Code of Ordinances); Appellant Exhibit 4 (Sec. 7-11-4 of the Asheville Code of Ordinances); Appellant Exhibit 5 (Cover Page and Plan A1.08 - Floor Plan for Levels 9-12); Appellant Exhibit 6 (Plan A2.01 - Exterior Elevation); Appellant Exhibit 7 (Plan A2.06 - Exterior Perspective); Appellant Exhibit 8 (Survey); Appellant Exhibit 9 (Buncombe County Map of parcel in question including property cards); Appellant Exhibit 10 (Photo of 21 Battery Park - Suite 206) from parking lot); and Appellant Exhibit 11 (Illustrative exhibit showing arrows pointing to his law office).

Mr. McGuire objected to Appellant Exhibit 9 because he did not see how it was relevant. Mr. Davis said that he would offer that in cross-examination of Mr. Glines. Mr. McGuire reserved his objection.

City Attorney Currin said Appellant Exhibits 1-8 have been admitted into the records; Appellant Exhibit 9 (not admitted yet due to objection reserved); and Mr. McGuire reserved objection to Appellant Exhibits 10-11 until they see the use.

Mr. Davis said that Appellant Exhibit 10 (Photo of 21 Battery Park Avenue - Suite 206); and Appellant Exhibit 11 (Illustrative exhibit showing arrows pointing to his law office). Mr. McGuire then did not object to Appellant Exhibits 10 and 11. Therefore, Appellant Exhibits 1-8 and 10-11 were admitted into the record.

Using Appellant Exhibit 8, he said the survey shows total area of two parcels of 19,929 square feet. That would be below 20,000 square feet for purpose of the UDO limitation on the tower floor plate and restrict it to 8,000 square feet. Using Appellant Exhibit 5, the plans show a 20,031 square feet parcel area and 10,015 for the tower floor plate. He did not know where the discrepancy is in the parcel area, but if you apply the UDO provision on the floor plate limitation, a little over 8,000 square feet. Using Appellant Exhibit 5, he said the dimensions don't match up with the 10,015 square feet. He entered into the Appellant Exhibit 12 (Plan A2.06 which illustrates the floor plate tower relation to 21 Battery Park Building). Under subsections (a) & (b) under 7-8-18 (f) (13) (b) it's approximately 8,000 square feet. By using subsection (c) that Mr. Glines used, the developer is receiving a 25% greater floor plate for the tower than the limit would be in (a) and (b). The wording in subsection (c) is what this appeal is about - open space. He cited the definition of "open space" in Appellant Exhibit 3. The definition tells you some of what open space means and some of what open space is not. It does not tell you that tops of buildings are open space. He said that open space standards define open space as land. Using Appellant Exhibit 4 (which is Open Space Standards) he referred the Council to where the word "land" is used for open space. No where says tops of buildings can be considered to be open space. There is an explicit statement in Appellant Exhibit 4 that says "In no case shall the following land be used for open space; ... land occupied by streets, drives, parking areas, required landscape buffers or structures other than recreational structures ...." He said his expert will testify about how open space is typically used in planning and how it was used in Asheville - it's not meant to the the tops of buildings or the air space above buildings. He stressed that Subsection (c) states "... project review may consider floor plates up to 50 percent if it is *surrounded by* by *substantial permanent* public or private open space that allows for views and access to direct sunlight." No where is there substantial open space that fits the UDO definition. Again, the tops of buildings can't be used as open space, and the air space above buildings can't be used as open space. All Mr. Glines said that the project appears to meet this standard because the Grove Arcade is height protected and the surrounding area has much shorter buildings, including the lower podium height of the amenity level of the hotel at the south end of the project. Using Appellant Exhibit 5, the width is considered to be the street frontage on Page Avenue, and the length is the

other direction. The drawing shows 79.75 feet long and 138 feet wide, which totals 11,005 square feet. That is more than 50% of the parcel area. The developer says 10,015 square feet. He felt the solution is to comply with the 8,000 square foot limit. If the length of the building along Battery Park stays the same, then the width would have to change to be 100 feet (not 140 feet). That would essentially move the tower part of the building back to where there would be no blockage of any light or air for 21 Battery Park and he would not have an objection to the project going higher if it was necessary to maintain the same number of rooms. That is the solution he felt was required by the UDO, or at least a remand to say that you can't apply the open space definition in the manner that it was applied in this case. A reconfigured project would have to come back before Council.

Vice-Mayor Hunt said that the reconfigured project would have to go back to the Planning & Zoning Commission, not City Council. City Attorney Currin said that the developer would have to agree to amend his application and ask City Council to rule on that, or Council has to rule what is before them.

At 7:03 p.m., after was no objection from Mr. Davis or Mr. McGuire, Vice-Mayor Hunt announced a 5-minute recess.

City Attorney Currin reviewed the next order of events. Mr. McGuire will cross-examine Mr. Davis and then Mr. Glines will be cross-examined by Mr. Davis and Mr. McGuire. Mr. Davis' witness will then testify and be subject to cross-examination.

The following is a verbatim transcript of the cross-examination:

"Mr. McGuire - You understand today's review is a non-discretionary technical review of the UDO?

Mr. Davis - No I don't. It's a quasi-judicial hearing concerning the UDO.

Mr. McGuire - But it relates to the technical requirements of meeting the UDO.

Mr. Davis - It relates to discretionary requirements as well that are as part of the UDO.

Mr. McGuire - And questions about views or whatever are not part of what the UDO deals with in this situation.

Mr. Davis - That's not true. It does deal with views.

Mr. McGuire - And you've been in your condo for how long?

Mr. Davis - For approximately 6 months. Your office did the closing.

Mr. McGuire - And as a land use attorney, you understand that no view is guaranteed in an urban environment.

Mr. Davis - No particular view is guaranteed, but views are guaranteed as part of the UDO

Mr. McGuire - Where in the UDO is the view guaranteed?

Mr. Davis - Well it's guaranteed in the provision we have been talking about. For one, dealing with floor plate area.

Mc. McGuire - Does it say guarantee a view? Or does it say view is a consideration?

Mr. Davis - It says to preserve views.

Mr. McGuire - Okay, so it's no guarantee.

Mr. Davis - Not for any particular view.

Mr. McGuire - Right. Do you understand that Mr. Fraga's Haywood Park Hotel views were blocked when your condominium project as put in?

Mr. Davis - Actually it's my understanding that he didn't own it at that time.

Mr. McGuire - But whoever did own it, that's part of being a downtown environment. Someone may build a building that blocks your views. That happened to my office, that happened to Mr. Haywood of the Haywood Park Hotel and now you think is happening with your office.

Mr. Davis - I understand Mr. Fraga bought the Haywood Park Hotel after that happened.

Mr. McGuire - Okay. And were you in any way, like Mr. Glines, involved in writing and revising the UDO?

Mr. Davis - I was not. I wasn't living here.

Mr. McGuire - So anything you know about its meaning is based upon you think should happen in this particular case.

Mr. Davis - No, that's not true. I've read all of the minutes of the City Council pertaining to the adoption of the UDO. I've read the UDO in great deal, so that is not true.

Mr. McGuire - So you're well read on it.

Mr. Davis - And I also have an expert witness who will testify.

Mr. McGuire - And are you aware that Mr. Fraga made substantial changes to this design to accommodate views of some of the residents of 21 Battery Park?

Mr. Davis - I was at a meeting in October of 2013 when Mr. Fraga presented essentially the same project that he is presenting today. And whether there were any changes made before that presentation to the neighborhood as a neighborhood meeting, I don't know.

Mr. McGuire - And if there were a neighborhood meeting, which I think there was months before you came to town, obviously you know nothing about that neighborhood meeting.

Mr. Davis - No, the neighborhood meeting was October 2013 and I was present for that.

Mr. McGuire - And at that point, Mr. Fraga got input from the various residents.

Mr. Davis - And ignored it.

Mr. McGuire - He ignored your input.

Mr. Davis - No, he ignored the input from several people at that meeting including several residents of the west side of 21 Battery Park who complained about their lack of light and their views.

Mr. McGuire - Now, you say that this project may be under 21,000 square feet so that (b) would apply rather than (c)?

Mr. Davis - Under 20,000.

Mr. McGuire - Yes. But you don't have any evidence as to whether it's just under or just over, do you?

Mr. Davis - I have the dimensions that were listed on the plans provided to the City Council.

Mr. McGuire - Before they were revised.

Mr. Davis - I have the revised plans.

Mr. McGuire - Okay. And do you have any evidence to support under the revised plans where it shows it's under 20,000 square feet?

Mr. Davis - I have the survey of the parcels. I don't know how you can get any better than that.

Mr. McGuire - And the revised parcel shows it's not more than 20,000 square feet, correct?

Mr. Davis - I haven't seen a revised survey.

Mr. McGuire - Okay. Now when you talk about open space, all of your comments before Council, up to now, had to do with on top of the Grove Arcade, correct?

Mr. Davis - No.

Mr. McGuire - Did you talk about whether there was open space on any other side of the project?

Mr. Davis - Well there are buildings on every side of the project.

Mr. McGuire - But, can you not have open space between buildings?

Mr. Davis - You can have some open space between buildings, yes.

Mr. McGuire - And if fact the deep dark hole that you're talking about is 50 feet from your project over to the building we are talking about, correct?

Mr. Davis - That is correct, but that is parking space which cannot be used as open space under the UDO.

Mr. McGuire - It does give you air and light.

Mr. Davis - But it's not open space.

Mr. McGuire - Okay, so we want to get technical, that's fair enough.

Mr. Davis - That's what we're here for.

Mr. McGuire - Absolutely and we will get technical, but in terms of your being in a deep dark hole it's 50 feet over that hole.

Mr. Davis - I've seen the shadow studies that were referred to, but not shown to anybody and that deep dark hole is deep and dark all but 2 hours a day.

Mr. McGuire - Now?

Mr. Davis - And with the project.

Mr. McGuire - You've seen that the shadow study shows that the shadow impact requirements have been complied with in this case.

Mr. Davis - Assuming that is a valid study it shows that for the public plaza, which is what I consider the sidewalk along the Grove Arcade a public plaza, that it is only impacted about an hour a day.

Mr. McGuire - So you're not arguing the shadow impact and you have no evidence relating to that today?

Mr. Davis - I don't have any evidence to refute the drawing that I've seen that Mr. Glines apparently reviewed very briefly.

Mr. McGuire - Okay, so that's not an issue for decision today - shadow impacts.

Mr. Davis - It's an issue if your client brings it up.

Mr. McGuire - Okay, but not from your viewpoint?

Mr. Davis - I didn't bring it up.

Mr. McGuire - Okay. Now there is open space. First of all, the definition of open space. The definition in the UDO gives examples. Correct?

Mr. Davis - It gives a definition plus examples.

Mr. McGuire - And the examples are, says the examples are not limited to those examples. Open space is not limited to those examples, correct?

Mr. Davis - It says may include, but is not limited to. Correct.

Mr. McGuire - So you would interpret that as someone who wrote that knew that there might be other examples of open space.

Mr. Davis - Except that the open space is further limited by the definitions and the language in the open space standards.

Mr. McGuire - And you understand generally open space standards may vary from one use to another?

Mr. Davis - They do, yes.

Mr. McGuire - And there's nothing in the open space definition in anyway that excludes including the top of the Grove Arcade.

Mr. Davis - Well, let's be specific. In 7-2-5 there is nothing that even remotely resembles the top of the Grove Arcade. But it doesn't exclude it explicitly. But in 7-11-4 it does.

Mr. McGuire - Now if you had, say the original tower on the Grove Park Inn that was intended by Mr. Grove, do you know who Mr. Grove is?

Mr. Davis - I do. I haven't met Mr. Grove

Mr. McGuire - Of course he's been gone for decades. But, you've seen the design.

Mr. Davis - I have - it's right on the street corner.

Mr. McGuire - And if that had been built so that the Grove Arcade will, how many more ... 8 or 10 Mr. Grove?

Mr. Davis - I don't know.

Mr. McGuire - That would certainly affect the light and air on the other side of the street.

Mr. Davis - But it's a skinny tower.

Mr. McGuire - It's a skinny tower, but the point is that if you had.

Mr. Davis - To a certain extent, yes.

Mr. McGuire - If you had a skinny or fat or any kind of tower over there that took up open space, it would keep air and sunlight from coming down to where the current building is and where your building is.

Mr. Davis - But it would probably comply with the UDO because it's a very small percentage of the lot.

Mr. McGuire - And is there any definition here about how much open space there has to be? That's something that the staff is to fairly interpret?

Mr. Davis - The term is substantial and I think that's for the City Council to interpret?

Mr. McGuire - That's correct. But there is no set percentage or amount of air or otherwise.

Mr. Davis - No, it just says substantial, permanent public or private.

Mr. McGuire - Now, let me ask you a couple of things just about your space, if I may. I think this is working okay if I can show you these photographs so that folks can see them. That shows a little bit of a shadow. But, does "x" mark the spot?

Ms. Currin - Make sure that you speak in the mikes so we can get the recording.

Mr. McGuire - Does this show "x" where your condo is?

Mr. Davis - Yes.

Mr. McGuire - And does this also show that? That is your condo on the other side of those trees.

Mr. Davis - It is obscured by a tree, but yes.

Mr. McGuire - Okay. And you're not complaining about the tree cutting out your air and light, are you?

Mr. Davis - No, in the winter time I have a perfect view of the Grove Arcade.

Mr. McGuire - And is that another photo that shows your condominium behind those trees?

Mr. Davis - Yes.

Mr. McGuire - And is this photograph show "x" where the side of your condominium is?

Mr. Davis - We're in the back of the building or the north side of the building? Yes.

Mr. McGuire - Right. And what does that area look over to, the wall?

Mr. Davis - That looks over to the wall of the Haywood Park Parking Garage.

Mr. McGuire - Okay. And is this a photograph showing "x" at where about the level of that ladder goes up to where your condo is?

Mr. Davis - That's my office window to the right of the "x". Yes.

Mr. McGuire - And is this a fair view - it's actually taken from that ladder - of your view from your condo?

Mr. Davis - With the leaves on the trees, yes.

Mr. McGuire - Okay. And is this the view from your alley window, that is, you look over at a wall?

Mr. Davis - It's better than that, I think.

Mr. McGuire - Okay. But basically it looks over to the wall?

Mr. Davis - It does look at the wall.

Mr. McGuire - Now in considering open space it's also legitimate, is it not, to consider space on sidewalks?

Mr. Davis - The sidewalks that are substantially larger than the requirements.

Mr. McGuire - And that would be true of the sidewalk in front of the Grove Arcade, correct?

Mr. Davis - I don't know.

Mr. McGuire - Well you called it a public plaza?

Mr. Davis - Well, I mean it's one I think is wide at points and not wide at other points.

Mr. McGuire - Well how can it be a public plaza but not big enough to be a walkway for purposes of air and space?

Mr. Davis - If that is, it's not substantial.

Mr. McGuire - Are you being consistent on this Mr. Davis?

Mr. Davis - Of course I am.

Mr. McGuire - You want to say it's a plaza, but it's not open space.

Mr. Davis - I don't know the requirements for sidewalks.

Mr. McGuire - But it's open space and the open space definition specifically includes walkways.

Mr. Davis - That, it does.

Mr. McGuire - So it would include sidewalks.

Mr. Davis - It could include sidewalks if you look at 7-11-4 however, it restricts that to sidewalks that are substantially larger than the requirements.

Mr. McGuire - Ones that might even be called a plaza.

Mr. Davis - Correct.

Mr. McGuire - Okay. And you would have to consider not only the roof of the Grove Arcade but the open space over what you call the plaza between the Grove Arcade and this projected building.

Mr. Davis - I don't understand the question.

Mr. McGuire - Open space whether or not it includes above the Grove Arcade would certainly include the space on the larger than usual, you call, public plaza area between the Grove Arcade and where this building would be.

Mr. Davis - If those sidewalks were wider than the requirements. Substantially wider than the requirements, yes.

Mr. McGuire - Then do you dispute that they are substantially wider with the tables?

Mr. Davis - I don't know. I didn't hear Mr. Glines talk about the requirements, so I don't know.

Mr. McGuire - So you don't take any position on that.

Mr. Davis - I don't.

Mr. McGuire - And there is also open space on the north end going across Battery Park, correct? There are sidewalks over there, on both sides of that street.

Mr. Davis - There is a sidewalk on the east side of Battery - I'm sorry - you talking the north end, or what?

Mr. McGuire - Yes, of the building. Battery Park Avenue.

Mr. Davis - The north end of the building would not be on Battery Park. That's the south end of the building.

Mr. McGuire - It would be across looking over to the ... that have light next to the Grove Arcade's expanded sidewalks.

Mr. Davis - There are sidewalks over there. I don't know how wide they are.

Mr. McGuire - But you know there is dining out on them, correct?

Mr. Davis - There is, yes.

Mr. McGuire - And there is - you can walk in between the dining area and the restaurant so it's wider than a normal sidewalk.

Mr. Davis - Well there's a bump-out for dining.

Mr. McGuire - Okay and that makes it - you would call that a plaza?

Mr. Davis - No.

Mr. McGuire - Okay, ... some of the open space.

Mr. Davis - It's a sidewalk.

Mr. McGuire - Which is open space under the walkway example of open space.

Mr. Davis - Only if it's substantially larger than the requirements.

Mr. McGuire - And you have no idea whether any of these sidewalks where they have alfresco dining and so forth is substantially larger.

Mr. Davis - I don't.

Mr. McGuire - You defer to Mr. Glines on that?

Mr. Davis - I didn't hear him testify to that.

Mr. McGuire - You did hear him testify though that he considered open space to be those sidewalks?

Mr. Davis - I did.

Mr. McGuire - Okay. So we did cover that he thought those sidewalks were open space.

Mr. Davis - And he said he didn't think it was a public plaza either.

Mr. McGuire - One other question about the Grove Arcade top. You're aware that there is an agreement in place with the Historic Preservation Society that allows no further building above where it is now.

Mr. Davis - I have reviewed an easement.

Mr. McGuire - Yes.

Mr. Davis - If that's what you're talking about.

Mr. McGuire - Yes, and that easement says no further building up above the top of the building cap.

Mr. Davis - Unless it was changed. The easement restricts that, but easements can be changed.

Mr. McGuire - But it restricts it permanently, correct.

Mr. Davis - Permanent easements can be changed.

Mr. McGuire - But what we're talking about today is what open space there is today, correct?

Mr. Davis - No, we're talking permanent open space. That's the term used in the UDO.

Mr. McGuire - And, how much open space is there between where this building will be and your balcony?

Mr. Davis - I haven't measured it. And that's not open space under the definition in the UDO because it's parking.

Mr. McGuire - Is it all parking?

Mr. Davis - Yes. There's a ramp for vehicular access, which is also excluded as open space.

Mr. McGuire - So, you want to exclude some air and light because you can technically under the UDO ... open space on the other three sides.

Mr. Davis - No, I'm not trying to exclude anything. The UDO excludes it.

Mr. McGuire - That's all."

City Attorney Currin said that Mr. Glines will be cross-examined by Mr. Davis and Mr. McGuire.

Mr. McGuire wanted to make sure that what has been admitted by Mr. Glines, in terms of his report and his exhibits, is actually in evidence (City Exhibit 1 - Staff Report; City Exhibit 4 - Maps and Plans). Mr. Davis had no objection.

The following is a verbatim transcript of the cross-examination:

"Mr. Davis - Mr. Glines, how long have you been with the City of Asheville as a planner?

Mr. Glines - I've been with the City of Asheville since 1997. I was a park planner coming in.

Mr. Davis - Okay. How long have you been an urban planner?

Mr. Glines - Since, I believe the date was 2001.

Mr. Davis - Okay. Roughly 13 years. In that entire 13 years have you ever approved any open space determination based upon the space above a building?

Mr. Glines - I'm trying to remember if we've had a rooftop deck in the past.

Mr. Davis - Or have you?

Mr. Glines - We've had rooftop decks approved in the past, but in the downtown area we don't require open space, so they didn't have to meet any standard besides that they were ...

Mr. Davis - Anywhere in the City of Asheville have you approved open space which includes area above a building?

Mr. Glines - I'm thinking of some other projects. I'm thinking of the Pioneer building on Broadway. I can't remember all of the features of that plan, but they do have a rooftop open area on the top, and they also have space in front. But I can't ... which combination of space on top and which space constitutes the open space.

Mr. Davis - In other words, you don't know.

Mr. Glines - I can think of examples with the buildings developed in the City of Asheville who have rooftop spaces. Whether or not they had to meet technical standards to meet the open space I can't say right off the top of my head.

Mr. Davis - You understand when a developer counts something as open space they essentially dedicate it that way, right?

Mr. Glines - I don't know that. Yes, okay.

Mr. Davis - Well, I mean it's part of their project from there-on. They have to preserve their open space that they dedicate as part of their approval process. Right?

Mr. Glines - If it's a - yes.

Mr. Davis - And so you would know if you had approved a certain amount of open space that was space above a building.

Mr. Glines - Of the building to meet the open space? I can't recall everything that we reviewed years.

Mr. Davis - Did you receive a document request from me for any documents wherein you approved open space as a space above a building?

Mr. Glines - We have seen that. We have not had time to respond to it. It came last week, late.

Mr. Davis - It came last week, but you haven't found anything yet.

Mr. Glines - I haven't had a chance to look.

Mr. Davis - Okay. Let's go back to the types of things you said count as open space for this project. And before we do that, what do you mean by substantial.

Mr. Glines - A good amount. A good amount.

Mr. Davis - A good amount. Are we talking blocks worth? Are we talking thousands of square feet?

Mr. Glines - I think that in this case, studying this site, that you are probably in the thousands of square feet.

Mr. Davis - If you count the tops of buildings, right?

Mr. Glines - And you typically count the ground as well.

Mr. Davis - Let's go into what you said counting here. The first, let me make sure we're looking at the definitions. It might be easier to go back and do this. Let's look at the open space standards and let's start with that. It says the classes of land, enumerated in the subparagraphs below may be utilized to meet the requirements of this section. You understand that is what your UDO Sec. 7-11-4 (d) says, right?

Mr. Glines - Right. Section 11 said that.

Mr. Davis - Right. And then it goes on to say that in no case shall the following land be used for open space; land occupied by streets, drives, parking areas, required landscape buffers, or structure other than recreational structure.

Mr. Glines - I see that written there, sure.

Mr. Davis - And is that something you are familiar with in your practice?

Mr. Glines - You can find that in 7-11-4 of the open space standards of the UDO. Correct.

Mr. Davis - And you did not review this when it came to determining what substantial open space was for the proposed FIRC project?

Mr. Glines - We have considered this and reviewed it.

Mr. Davis - And you have a list of bullets in your staff report that you went through with the City Council a few moments ago and the first one was, substantial sidewalk area surround this property directly adjacent to the site and across the street. Now, are these land use for public sidewalks significantly in excess of the standard sidewalk requirements?

Mr. Glines - I believe that they are.

Mr. Davis - Which ones.

Mr. Glines - I believe that, the downtown standard for sidewalks is 10 feet for new construction and proposed and new sidewalks in all cases will be greater than 10 feet. So, I believe, we have a scaled plan, we can study the exact sidewalk in front of the building as proposed. It will be at least 11 feet. So, is one foot substantial? It's 10% more than the requirement?

Mr. Davis - 11 feet for which one are you talking about?

Mr. Glines - For the Cambria Project proposed.

Mr. Davis - The one that's required for the project itself?

Mr. Glines - Yes.

Mr. Davis - And that's not public sidewalk is it?

Mr. Glines - Oh yes.

Mr. Davis - Well it's public in the sense that.

Mr. Glines - Totally public.

Mr. Davis - The public can use it but the developer is being required to provide it as part of the project approval.

Mr. Glines - Correct, but it is a public sidewalk. And then on Battery Park Avenue, again, adjacent to the building, the sidewalks there are quite substantial. They are at least 15 feet today, and when the site is developed and approved, or developed and built. Five feet more in the downtown area - 5 feet over 10 feet, we are thrilled, I can tell you that as a planner, we're

thrilled to have 15 foot sidewalks anywhere in the downtown area. And that's substantial. In the Grove Arcade, if I can.

Mr. Davis - Let me ask you a question about that. Are those sidewalks.

Mr. McGuire - Let him finish his answer.

Mr. Davis - I was going to ask him a question about what he just said, and then he can continue.

Ms. Currin - Let him finish his answer.

Mr. Davis - Okay.

Mr. Glines - I'll be brief and I apologize. Just, in front of the Grove Arcade, that sidewalk is quite substantial. I took a tape measure out there and did measure it. And, it's 18 feet is the standard width in front of the Grove Arcade. 18 feet. And that includes the dining spaces and the wide isle and the street trees and the benches, all in that terrific public space out front. And that's not counting those dining spaces that have to be ... and some of the other spaces that have bigger bulb-outs on the corner or half way up the block there's greater spaces developed for those, for public amenity space. And that was beautiful improvements done by the Grove Arcade when the Grove Arcade was improved. As I said before, it wasn't dedicated as a plaza, but it is valuable open space.

Mr. Davis - You would consider it a plaza, wouldn't you?

Mr. Glines - I, no I don't consider it a plaza because the Grove Arcade is privately managed. It's not something, that from a public standpoint, we have control over. The Grove Arcade Foundation does.

Mr. Davis - We're going to leave that issue aside. The next bullet that you had was the combination of building step-backs which are required under the UDO for this project. That is land occupied by structures other than recreational structures, correct?

Mr. Glines - I think they're recreational structures. I think they're recreational uses.

Mr. Davis - A hotel is a recreational structure?

Mr. Glines - I think the bar and restaurant are. And I think the outdoor plaza is for the enjoyment of patrons who visit the hotel and stay there.

Mr. Davis - Is that what you would consider recreation? Public recreation in this City?

Mr. Glines - It's private recreation.

Mr. Davis - I bet I recreate some in that capacity myself, but that's not what the UDO considers open space, is it?

Mr. Glines - In this consideration I don't think it's limited that. I think that can be counted.

Mr. Davis - Even though 7-11-4 says in no case shall structures other than recreation structures be considered?

Mr. Glines - You're on top of a building. Is there any other use on top of that building? It's for recreational purposes on top. Can you not have a rooftop deck or other facility? What's a balcony? It's part of a - a balcony is part of.

Mr. Davis - Let me. I know you want to argue your point. You were meeting with Mr. McGuire before you came on for cross-examination. Was he giving you pointers about your testimony?

Mr. Glines - He certainly wasn't.

Mr. Davis - Okay, what were you discussing with Mr. McGuire?

Mr. Glines - Ms. Daniel wanted to talk about in urban settings, .. about the witness, who might be a potential witness, but an urban setting is common to use rooftop decks as open space - to meet open space requirements if you have them to meet.

Mr. Davis - Which is prohibited by 7-11-4. Correct?

Mr. Glines - I don't agree with that. I don't agree with what you're interpreting that up there.

Mr. Davis - I'm just reading words.

Ms. Currin - Let's move along. Asked and answered about 10 times.

Mr. Davis - The next bullet point. The Grove Arcade is height protected. That doesn't comply with 7-11-4. The top of the Grove Arcade.

Mr. Glines - But the definition, the basic definition starting in the beginning of the UDO ... open space means an area that is intended to provide air and light. What does that do in that

roof? Because it's not really built upon it will always provide a western view that provides air and light to everybody that's east of it.

Mr. Davis - Except for people east of the Fraga building, right?

Mr. Glines - Not everybody.

Mr. Davis - But looking at 7-11-4, you would agree that it prohibits the use of structures as open space, correct?

Mr. Glines - But if you have a rooftop deck, is that not designed as a recreational space? You don't think it is.

Mr. Davis - Is there a rooftop deck on the Grove Arcade?

Mr. Glines - I don't think so.

Mr. Davis - Now, onto the next one. The roof of the podium height at the proposed Cambria Hotel building at the third and fourth levels provides a restaurant. You say that serves as open space?

Mr. Glines - I do.

Mr. Davis - That's land occupied by structures other than recreational structures, correct?

Mr. Glines - I would say that is designed to be a recreational space.

Mr. Davis - Is that not a commercial space for the benefit of the patrons of the hotel and the people who frequent the restaurant for the profit of FIRC?

Mr. Glines - I don't think that's a restriction on ... open space. It already says it's private or public. It doesn't have to be free.

Mr. Davis - So dining is recreation in your interpretation?

Mr. Glines - It is.

Ms. Currin - Let's move on. You've asked him that many times. Let's keep going.

Mr. Davis - Sidewalks adjacent to the project site is the location for an urban trail public art piece known as "Grove's Vision." You counted that already, right? You counted the sidewalk already?

Mr. Glines - Yes, but that sidewalk also has a public art component which is part of an urban space amenity.

Mr. Davis - Are you going to count it twice?

Mr. Glines - I'm counting it as a feature that adds to the consideration of that area beginning substantially providing urban open space amenities.

Mr. Davis - The term is substantial open space, I believe. So does that add to the open space?

Mr. Glines - I think it's a special corner and I think we don't have it in every corner. And actually it might be in a bulb-out section of the street section.

Mr. Davis - And then you're next bullet is café spaces along Battery Park Avenue and Page Avenue. You counted those already too, right?

Mr. Glines - If they're open space amenities. So we're making a point of how this area, altogether - there's trees, benches, wider sidewalks, pedestrian crosswalks, wayfinding signage, signage put in for the ... all contribute to open space type of designation.

Mr. Davis - You counted it already. Yes or no.

Mr. Glines - I don't know what you're saying - counted, because I'm not coming up with a number. Are you? I'm not coming up with a number.

Mr. Davis - I'm asking you if you have. I mean, I asked you what substantial was. Are you counting that as substantial an area?

Mr. Glines - If it's a meaningful area, absolutely.

Mr. Davis - Does it add to the substantiality of the area, meaning the area - the square footage of open space.

Mr. Glines - It adds to the usefulness of the area.

Mr. Davis - You counted it all ready as square footage then?

Mr. Glines - I didn't count square footage.

Mr. Davis - Okay. Street trees, wide pedestrian crossings, benches, surrounding landscaping - you counted that already right?

Mr. Glines - Counted or considered it? I think it. I think it.

Mr. Davis - It's replicatitive of the bullet you already had that dealt with the sidewalks.

Mr. Glines - I think it's illustrative of what an urban open space setting should have and that's what our expectation is, which I think is what is provided on the property.

Mr. Davis - It's not adding to the area. You already took that into account.

Mr. Glines - ... additional air - those are air shared spaces for it.

Mr. Davis - The height of the 8th story deck, which is a deck for hotel guests with rooms adjacent to it. You considered that open space too, didn't you?

Mr. Glines - I did.

Mr. Davis - That's land occupied by structures other than recreational structures? Is a hotel a recreational structure?

Mr. Glines - The deck is when it's adjacent to the room. A balcony is when it's adjacent to the room, isn't it?

Mr. Davis - Wouldn't any developer love to have you interpret the UDO this way ...?

Ms. Currin - Please just ask him questions and let's move along.

Mr. Davis - I mean you're setting a precedent here, Mr. Glines. Is this a precedent you think should be set for the City?

Mr. Glines - In the downtown area it's a special environment. The open space is not required to even be on the same site, which is unusual. All over this Section 7-11-4 is expecting it all to be provided on site. In the downtown area, we have special districts where it doesn't have to do that. It can, but it doesn't have to in order to meet the standards. So this is why all the other things are important factors in considering viable useful urban open space in an urban environment. That's the thing we've been trying to create in the downtown area. A viable urban space that has spaces up above and below.

Mr. Davis - Would you like to answer my question please?

Mr. Glines - In the Downtown Master Plan, we talk about vista parks. How do we get more vista parks? This is a goal in the Master Plan. This is kinda how we do it. We're going into the direction of rooftop decks - it's a great thing. It adds to the recreational use.

Mr. Davis - Mr. Glines, you gave this developer a 25% bonus for the open space that you considered to be substantial. Is that a precedent that is being set with this hearing?

Mr. Glines - I think each case.

Ms. Currin - Let me interject. He is not. You're at this hearing to ask this Council to give that bonus. He is not giving the bonus.

Mr. Davis - I withdraw that question. You have another bullet that is your last one that says, by definition the floor plate requirement of the hotel tower above 75 feet is limited to 50% of the lot area under your determination. Then, the other negative space in the same area is open and not built upon above that level. Well, it is built upon, correct? It will be built upon.

Mr. Glines - Not above the level of 75 feet.

Mr. Davis - Okay, but it's not open space because it is land other than recreation structures. I mean, it's not open space but.

Mr. Glines - It's an area of a void, it's a void ...

Mr. Davis - How about building.

Mr. Glines - That supplies what happens with that space - the gap. There's a gap. Mr. Fraga is designing a gap at the podium height. And that gap is open space. It means areas intended to provide light and air. What else would that purpose be for? You can't occupy it but you can enjoy it. It has a lot of scenic quality.

Mr. Davis - It does not meet the definition of open space in the UDO, correct?

Mr. Glines - I believe it could.

Mr. Davis - The entire 50% that is not the tower is now a structure.

Mr. Glines - It's ...

Mr. Davis - Could you let me finish my question?

Mr. Currin - Alright. Let's question and answer and wrap it up because you've asked him the same thing many times. Let's just get it done.

Mr. Davis - I'm getting ... he has presented to you for the first time at this Council meeting. 7-11-4 says that you - in no case shall structures, other than recreational structures be used as open space. This 50% that you're counting again for the FIRC property is a structure other than a recreational structure, correct?

Mr. Glines - It's above areas. It's above areas that will be used in ways that have a recreational component to them. They're for balconies and decks.

Mr. Davis - So, you're going to count that again. You've already counted the balconies and decks.

Mr. Glines - I'm not counting them again.

Mr. Davis - Okay. You've got all these bullet points, but really you're counting the tops of buildings and sidewalks, correct?

Mr. Glines - Yes.

Mr. Davis - And, one thing that I want to clarify too, is the approval from the Planning & Zoning Commission, your staff report and the staff report, I think, for the City Council says that there was a traffic study done for traffic on Battery Park. I'm sorry, on Page Avenue. That traffic study was not in your file. Have you reviewed one?

Mr. Glines - I personally have not reviewed one, and I'll have to look at that note to confirm. To make sure that's ...

Mr. Davis - And one final thing, this,

Mr. Glines - If I might could say that the traffic studies are reviewed by the Transportation Department - the City Engineer.

Mr. Davis - Okay. Now this shadow study that was done that you referred to, you didn't present that today, did you?

Mr. Glines - I did not.

Mr. Davis - And, it only arrived in your office May 6, correct?

Mr. Glines - I don't remember the date, but I could accept that ...

Mr. Davis - And you didn't review it to determine if it was a valid study, did you?

Mr. Glines - I did review it to determine it was a valid study.

Mr. Davis - And how did you do that?

Mr. Glines - I reviewed the incremental images based on point in time information provided ...

Ms. Currin - I think that probably, Mr. McGuire is that going to be presented by your, in your presentation?

Mr. McGuire - Although it really hasn't been made an issue ..

Mr. Davis - I'll withdraw that question, except for. What you're saying is that you just reviewed the images they provided to you, correct?

Mr. Glines - Correct.

Mr. Davis - Okay, that's all I have."

Councilman Bothwell said that according to the presentation heard, the proposed square footage of the tower represent 55% of the surveyed area. Where those numbers on the plans correct? Mr. Glines said they identified early in the staff report that there is a corner parcel that was not originally included in the survey and it wasn't registered by Buncombe County. He said it was his understanding that it was just below 50%.

The following is a verbatim transcript of the cross-examination:

"Mr. McGuire - Mr. Glines, did your answer just explain why there is no question about this project being under subsection (c) rather than (b)?

Mr. Glines - Yes.

Mr. McGuire - Okay. By the way, you said you were a park planner for a number of years?

Mr. Glines - Yes.

Mr. McGuire - On the day when we are celebrating Pritchard Park, who designed Prichard Park, the current Pritchard Park?

Mr. Glines - I had a lot to do with that.

Mr. McGuire - Okay, thank you. Now, in terms of the open space, you were asked if you considered open space above a building. Have you had any building like the Grove Arcade where there was a permanent easement allowing nothing to be built above that air space?

Mr. Glines - I haven't. I can't think of another example.

Mr. McGuire - And is that important that ... if you could consider open space above a building if the air space is permanently protected?

Mr. Glines - I think it's substantial information and quite an unusual situation.

Mr. McGuire - Now, you've actually, you've talked about giving a bonus to Mr. Fraga. You approached this on behalf of the City?

Mr. Glines - Yes.

Mr. McGuire - And in fact you've added requirements to this project, I believe, having to do with the north, south side, sorry, setback?

Mr. Glines - Yes.

Mr. McGuire - Alright. And you've changed the project because you thought it needed to be done so with the UDO.

Mr. Glines - That's correct.

Mr. McGuire - But now, with those changes that have been made, you say this project fully complies with the UDO.

Mr. Davis - ... question. I think it's beyond cross, it's friendly cross.

Ms. Currin - Well, you asked him a lot of questions about whether it complied with the UDO or whether it didn't, so I think he can follow-up with that. If you want to call him as a witness, I think you can do that as well. But we might as well, I think - do you want to use him as a substantive witness as well?

Mr. McGuire - No. Could you please put that standard up, so we can see it again?

Mr. Glines - The definition?

Mr. McGuire - Okay. Now you've heard Mr. Davis say that within an ordinance or a law the same phrase can mean something different in different places?

Mr. Glines - Right.

Mr. McGuire - Is that true of open space standards?

Mr. Glines - I think so in this case.

Mr. McGuire - And, in fact, this standard is more restrictive because it relates to actually designating something as open space. Is that correct?

Mr. Glines - Correct.

Mr. McGuire - Whereas, the standard of open space for the purposes of this project, it doesn't have to be designated, it just has to be considered?

Mr. Glines - That's correct.

Mr. McGuire - So, would you apply this more restrictive standard for an open space designation to the project at issue?

Mr. Glines - No.

Mr. McGuire - Okay. And you say that the patio or deck on the side of this project would be used for recreational purposes?

Mr. Glines - I feel that's recreational purposes.

Mr. McGuire - And you feel that dining out is a recreational purpose?

Mr. Glines - I think it is. Especially in downtown Asheville.

Mr. McGuire - And if you put aside, completely put aside the Grove Arcade and the top of that space that is permanently dedicated to be open - if you put that aside, do you still think there is sufficient open space?

Mr. Glines - I think that, yes. And I think that most areas of downtown would love to have the sidewalk configurations and opportunities for the streetscape that we have at the Grove Arcade and surrounding areas. We are working towards that. That's really a model, it's really a model for downtown is to have the wider sidewalks. We're working on it all the time. Every project we get we try to assure that we're getting minimal, but trying to get more. So, I think it's a model for downtown.

Mr. McGuire - And so, taking out the top of the Grove Arcade, which was one of the nine examples of open space - the other eight are sufficient you feel to look at this and make that consideration and approve the project?

Mr. Glines - I do.

Mr. McGuire - Thank you."

When Vice-Mayor Hunt asked if there is any permanency of open space, Mr. Glines said that the City's most permanent open spaces are street rights-of-way. The City has converted pavement to increase sidewalk space. He used the example of Pritchard Park where the sidewalk along College Street was doubled to 17 feet to increase the open space.

Vice-Mayor Hunt clarified that in Section 7-2-5, the open space requirement definition provides guidance of some examples of open space, but it also uses the phrase that "open space may include, but is not limited to." Mr. Glines said that this is in the unique context of downtown. This is helpful from looking at the general expression of open space and the intent in downtown based on reading the Downtown Master Plan. The purpose of all those extra regulations to restrict development in the downtown area to make sure we had plenty of areas that were not built upon above 75 feet. All projects are studied on a case by case basis.

When Councilman Bothwell questioned the square footage again, Mr. Jeff Hunter, architect for the developer, said that the inconsistency of the square footage is because there are some cut-outs from the dimension in the overall plan.

Councilwoman Wisler asked Mr. Glines if when he looks at evaluating substantial open space, was he looking at the definition in Sec. 7-2-5, and not Sec. 7-11-4, and that would be consistent with what you have considered in the past with downtown properties. Mr. Glines replied yes, for downtown projects, Section 7-2-5 is where he would look.

When Councilman Pelly asked if open space needs to be publicly accessible, Mr. Glines said no, that on the sidewalk level, the public could go to the space, that's true. The test says public or private open space. There is the assumption that you could have a private balcony or deck that no one else could use, such as the hotel guests who have a balcony for their own purpose. If someone wanted to go to the restaurant but not spend money they could enjoy the space, and that would be considered open space. The Downtown Master Plan was trying to get at vista parks, and encouraged rooftop vista parks. That Code did not give us a lot of direction on whether it has to be free, but even if you go to the top of the Empire State Building you're paying for it - it's public but there is a fee.

Councilman Bothwell suggested that in the future the word "substantial" be defined.

Mr. Davis asked Mr. Glines "Let's assume this developer is entitled to use the rooftop of the Grove Arcade as open space as you proposed. Let's say the next developer wants to build a tower on the other side of the Grove Arcade, on the western side of it. Can they use the same open space, the same rooftop as open space? Mr. Glines replied "I think we would study the context of that." Mr. Davis said "Can you answer yes or no." Mr. Glines said "I think it would count. If it were on the west side and they were developing on the west side and they were surrounded on the other side." Mr. Davis said "Using the same open space." Mr. Glines said "The Grove Arcade is useful open space if you're on the west side or east side because the sun is gong to reach your building." Mr. Davis said "The north side or the south side. You can totally surround the Grove Arcade with towers using your definition of open space." Mr. Glines said "The north side already has a tower, so I don't think." Mr. Davis said "The south side." Mr. Glines said "The south side has a City building and I don't know if we have any plans for that." Mr. Davis said "Theoretically you could do that under your definition of open space." Mr. Glines said "I think it's surrounded by."

Vice-Mayor Hunt asked Mr. Glines if there was a green, pristine public park on the side of the Grove Arcade, would it be the intent of the ordinance that that would qualify as open space for any buildings that surrounded it. Mr. Glines replied yes.

At 8:08 p.m., Councilman Smith moved to suspend the hearing for a break. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

Closed Session

At 8:08 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.. G. S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Roger S. Aly; City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in G.S. 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:35 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

At 8:35 p.m., Vice-Mayor Hunt announced that the hearing would proceed.

Mr. Davis said that he has one witness, Mr. Gerald Green, and submitted Mr. Green's resume as Appellant Exhibit 13.

The following is a verbatim transcript of Mr. Green's testimony:

"Mr. Davis - Mr. Green, you state your qualifications please.

Mr. Green - I have a Masters Degree in Planning from the University of Tennessee and I've been fortunate enough to spend the 30 years since I received that degree planning in western North Carolina. I was Planning Director for the City of Brevard in Transylvania County five years. Worked for the City of Asheville 14 years, 5 years as Chief Planner, and for better or for worse, I was the lead author on the UDO. Then I went into private practice for a little over 8 years, with projects by my firm receiving honors of outstanding planning awards from the NCAPA. For the past three years I've been Planning Director for Jackson County, North Carolina.

Mr. Davis - So you're currently serving as Planning Director, is that correct?

Mr. Green - That's correct.

Mr. Davis - Does that include urban planning as well?

Mr. Green - We do the urban planning for the County and the four municipalities in Jackson County.

Mr. Davis - And when you were with the City of Asheville, you would be involved in urban planning?

Mr. Green - Yes.

Mr. Davis - Now, you have testimony that you would like to present that concerns primarily the issue of the UDO requirement for floor plate area?

Mr. Green - Yes. And I'll start by saying it's an honor being back in this room before you. I regret that some of my friends, Lou Bissette I've known for 25 years and have the utmost respect for, Craig Madison, and even my friends and colleagues Alan and Judy. I regret being with a different opinion this time, but I hope this shows that.

Ms. Currin - Let me interrupt for a second. If he's giving an opinion, are you tendering him as an expert witness?

Mr. Davis - I am, yes. And, again not knowing what procedure you wanted to use in court, sometimes in court, in Federal Court, you question the witness about his qualifications and there's no objection if he becomes an expert.

Ms. Currin - Well, what I think we need to do before we get an opinion.

Mr. Green - I'll regret that statement.

Ms. Currin - Is he going to testify and give his expert opinion, or is he going to testify about facts?

Mr. Davis - He's going to give his expert opinion.

Ms. Currin - Okay. What area are you going to qualify him as an expert in?

Mr. Davis - He's an expert in urban planning.

Ms. Currin - Okay, why don't you go ahead and go through that process first so we can know whether he's qualified, so whether we can know he can testify.

Mr. McGuire - We can stipulate that ... is an expert.

Ms. Currin - Alright. It's been stipulated. Are you tendering him as an expert?

Mr. Davis - Who am I tendering him to?

Ms. Currin - The Council.

Mr. Davis - Yes, I am.

Ms. Currin - Okay. Alright. Then he's accepted. Alright. Let's go on.

Mr. Green - Thank you. I'd like to start by clarifying how the UDO works. The definition in Section 7.2.5 of open space, which has been discussed at length here this evening, is used as the opening arena for the discussion of open space. It sets a general standard. Then the standards within 7-11-4 for open space are the more specific standards that apply to the application of those standards and those regulations throughout the City. Now with the incorporation of urban open space, all of 7-11-4 should be looked at as a whole. So the standard you see here do apply. One of the challenges we have in here this evening, is the lack of clarity in some of those standards. The reason that it appears to be a lack of clarify is that some of the people, witnesses, here this evening have taken one section of 7-11-4 and asked you to consider that, without considering all of 7-11-4. Some of the issues that are important to consider as set forth in 7-11-4 include what the open space purpose - it's to meet the recreational needs of residents including, excuse me, improving the aesthetic character of the community, reducing stormwater runoff, and enhancing air quality. Because you think about what is being considered as open space here, remember what those purposes are. Those are in 7-11-4 and dictate the type of properties and areas that should be considered open space. 7-11-4, or 7-11-4 (d) stipulates the types of areas that could be considered for open space. And this applies to all types of open space set forth in 7-11-4. You can't pull one section out from another and not include the entirety. It states that in no case shall the following land be used for open space - land occupied by streets, drives, parking areas, or structures other than recreational structures, and land with a minimum width of less than 24 feet unless part of a greenway system. And that, that again sets some pretty specific standards for open space. That must be considered as you are considering what properties are considered as open space. There is an interesting provision in 7-11-4 that 7-11-4 (f) maintenance that states that the owner or lessee of the property designated as the open space shall be responsible for the maintenance of the open space. We've heard here this evening of a lot of different areas being considered as open space and I would argue in this case that if something is considered open space and there is a requirement for open space to be provided and returned, in this case a bonus, then that land or that area is being designated as open space for the purpose of this project. Who will be responsible for maintaining the area over the Grove Arcade? Are the owners of the Grove Arcade going to be charged with maintaining that for the benefit of the proposed development? Are the sidewalks to be maintained by the taxpayers of Asheville for the benefit of this development? These are questions that come up in considering this. Again, due to the lack of clarity of the standards that have been put into the UDO to deal with urban open space. Some issues with the staff interpretation of open space is considered for this project include a question and a guiding principle, for me, has been that when there is a significant private benefit for a project, increasing the floor plate by 25% is a significant private benefit, there should be a commensurate public benefit to offset that private benefit. I don't know where, I have not been able to find where that public benefit is in this case. Why are we giving them 25% more in the floor plate. I can't answer that question. Is there a public benefit there? And that's just a guiding principle in my terms of this. And the location of open space has not been clearly defined. We've heard that it's the street or sidewalk in front of the Grove Arcade, it's the air space over the Grove Arcade, it's the 50 feet between the 21 Battery Park and the proposed development. For clarity, it would be good to have some type of graphics showing where those open spaces are and how they apply to this

development. Will this open space - once it's identified for this project, and this question was raised by someone else, will it be available for some other project? Can we have the same space used over and over again as open space for other projects. That question was not answered. These are significant questions that now you have to answer as part of this project. The use of public spaces, including sidewalks as open space for the project, has to be based upon a finding that the sidewalk is significantly and excess of the standard sidewalk requirements. There's been an argument here that the wider sidewalks are significantly in excess of the standards. I apologize to the attorneys in the room, but significant, substantial which are two words which have been repeated over and over again here, are fodder for attorneys. And that's what we have - that's what we're having here tonight. A battle among attorneys. Because subjective terms like significant and substantial were used. A guiding principle that another attorney told me while I was working for the City of Asheville was be clear and concise and let the developer know what you want. When you say significant and substantial, that's anyone's interpretation. Depending on who's before you at that time. The use of air space over the proposed building as open space is a question to me and I'm not sure it goes back to this rule here and complies with that or the definition of open space in Section 7-2-5, but there's been enough discussion of that and I won't go into that further other than to raise that question. Counting the street trees, the wider sidewalks relates back to the question of maintenance of those facilities. That the 7-11-4 (f) says that the owner of those have to maintain them as open space for the benefit of this project. Again, is that what you want in this case. I have a big question about the setback of 21 Battery Park - the 50 foot, being used as open space. The standards in 7-11-4 clearly state that the areas used for parking and drives cannot be used as open space. In this case, the interpretation has been made that that is open space because it provides light and air. I think that's quite a leap and if that determination is made, how long before the parking lot at the Asheville Mall is determined to be open space for some development. I think we need clarify and more consistency and more direction with these standards than we have, so that the developer is not faced with these types of challenges and you're not faced with these types of challenges. Counting negative space above 75 feet as open space also fails to meet the purpose of the open space standards. Again, this is the area, the blank or negative space above that 75 foot section of the proposed development. At this hour, I'll try to be quick. I've spent enough long hours in this building so I won't go much further. In summary, in closing I just want to say I think there has been a misinterpretation of the open space standards with regard to this project. The impact on the adjacent properties has not been fully considered with this. The implications for future developments, you're setting a precedent here tonight with your decision. I don't think that the standards are clear enough for you to set that precedent. This project should be put on hold or denied until these inconsistencies, lack of clarity is addressed with better standards in the ordinance that don't conflict with the provisions in the same section of the ordinance. That's all I had.

Mr. Davis - I have a follow-up question on the record. I'm going to refer you, Mr. Green, to you.

Ms. Currin - You might want to talk in the mike.

Mr. Davis - I'm sorry, thank you. Refer you to Exhibit 2, which is 7-8-18 of the UDO, and this particular section deals with the floor plate area that you're familiar with - we've talked about that. And, let me ask, first of all, if (a) or (b) apply of that section, what would the floor plate be restricted to?

Mr. McGuire - Objection. ...

Mr. Davis - As long as you agree to 8,000 square feet.

Ms. Currin - I don't believe anybody's asking to trigger (a) or (b).

Mr. Davis - I know that, but if (a) or (b) applied, what would it be.

Mr. Green - It would be 8,000.

Mr. Davis - And since they used (c) how many square feet are they asking for?

Mr. Green - 50% of the total floor, or land area - 10,500. 10,015.

Mr. Davis - In your opinion, is the tower over 75 feet at the proposed development surrounded by substantial permanent public or private open space that allows for views and access to direct sunlight?

Mr. Green - No.

Mr. Davis - Thank you.
Ms. Currin - Okay, Mr. McGuire.
Mr. McGuire - Mr. Green, you worked with Mr. Glines and Ms. Daniels?
Mr. Green - Yes, I worked for the City with Mr. Glines. And, Ms. Daniels came to the City after..
Mr. McGuire - And they're experts in this as well as you?
Mr. Green - Yes.
Mr. McGuire - There's no question about that. Now you left well before the Master Plan that we're talking about here today got developed?
Mr. Green - That's correct. I attended some of the meetings.
Mr. McGuire - But you didn't have anything to do with writing or revising like Mr. Glines did.
Mr. Green - No, sir.
Mr. McGuire - And in terms of open space, would you think it's fair to say that the difference between open space where you work in Jackson County and in downtown Asheville is.
Mr. Green - Definitely yes.
Mr. McGuire - Now on the floor plate standard again, sorry, is anyone asking that open space be designated in this hearing today? Is that even an issue before the City Council?
Mr. Green - It's an issue because based on that open space provision of open space, the developer is able to exceed what would be the maximum floor plate.
Mr. McGuire - I got that, but in terms of this code about open space standards, nothing is to be designated or not here tonight, is it?
Mr. Green - The requirement is that open space be provided to.
Mr. McGuire - I got that, but nothing is to be designated when it says.
Mr. Green - I would argue that by providing and getting that private benefit that open space is being designated. It's being identified. It's being attached to this project, and in my opinion, that is designating it as open space.
Mr. McGuire - Okay. And, you're big complaint is that the standards are not clear.
Mr. Green - They're not clear.
Mr. McGuire - And do you think a developer should wait until - this is the first time this has come before City Council, right.
Mr. Green - Yes.
Mr. McGuire - And, when you look at this standard for open space designation it actually discounts landscape buffers, right?
Mr. Green - That's correct.
Mr. McGuire - Would woods be a landscape buffer?
Mr. Green - Only if they are required as part of the project and they are shown on the plan as the buffer for that.
Mr. McGuire - But the other definition of open space allows wooded areas to be included.
Mr. Green - The one in 7.
Mr. McGuire - Yes, the one where before the Council tonight actually allows wooded areas is .
Mr. Green - Both of these are before the Council tonight. As I stated earlier, that definition 7-2-5 sets the first level of what can be considered. These standards in 7-11-4 further refine that.
Mr. McGuire - So you don't consider the fact that the definition that Mr. Glines considered allows decorative planting and wooded areas, but this open space designation definition excludes landscape buffers.
Mr. Green - There's a difference between the two.
Mr. McGuire - Exactly. That would be all.
Mr. Green - Okay, thank you."

Mr. Davis said that Mr. Green was his last witness.

The following is a verbatim transcript of Ms. Judy Daniels' testimony:

Mr. McGuire - You would please introduce yourself?

Ms. Currin - Could you ask her the questions in the mike? Sorry, I just don't want to have a bad recording.

Mr. McGuire - Could you please introduce yourself?

Ms. Daniels - Yes, I'm the Planning Director for the City of Asheville.

Mr. McGuire - And how long have you been in that position.

Ms. Daniels - 6 years.

Mr. McGuire - And what are your, I'll short-circuit it because Mr. Green acknowledged that you were an expert as well, but what is your background and where have you worked, opposed to Jackson County.

Ms. Daniels - Well, I have been in urban planning for over 30 years. Went to the University of Memphis. I came to the City of Asheville from Montgomery County, Maryland. The last 5 years I was there I was the lead of the planning group for Bethesda, North Bethesda, Chevy Chase area - very urban area of Montgomery County.

Mr. McGuire - Okay, we would ask that Ms. Daniels be designated an expert in land use planning.

Mr. Davis - No objection.

Ms. Currin - Okay, then we'll accept her as an expert.

Mr. McGuire - Thank you. Now, Ms. Daniels, the report that was presented to City Council that each Council person has reviewed, Mr. Glines prepared it, but was it actually from you?

Ms. Daniels - It is officially from the Planning Director, and of course, I review every report, and edit them, and make sure they are correct and sufficient.

Mr. McGuire - And does Mr. Glines report to you?

Ms. Daniels - Yes, yes he does.

Mr. McGuire - And, when he gave you his earlier report and it discussed open space, tell the Council on how you looked at that from your background in urban planning.

Ms. Daniels - Well, both from my background and from my knowledge of the Downtown Master Plan, which was adopted while I was here and I worked with Alan on adopting the standards that came before the Council, in my background and knowledge before coming here, the common definition of open space in an urban setting is pertaining to the light and air and not own property not designated as public or private - it's all geared around creating light and air in an urban setting. An example might be the Grove Arcade with the air rights, I mean that have been sold, the whole concept of transferring development rights off of buildings, is to protect light and air for urban dwellers. And, it can be considered by any normal definition in perpetuity. New York City pioneered this for that particular purpose.

Mr. McGuire - So you've had experience in looking at whether the top of a building could be considered as open space?

Ms. Daniels - That is commonly done in an urban setting. We approved numerous buildings in Bethesda and Chevy Chase with that type of designation.

Mr. McGuire - And, is my assumption correct, Bethesda is more urban at this point than Asheville is?

Ms. Daniels - Quite.

Mr. McGuire - So it's been ahead of us in terms of looking at open space.

Ms. Daniels - Yes, I think it's worth knowing that the consultants who worked with us on the Master Plan are from Boston. They are used to working in an urban setting. Asheville wanted an urban oriented Master Plan. You need to have this broader definition of open space in order to build an urban environment. You can't build a city and not have built environments that provide light and air, not just trees and grass. We've got to have the trees and grass - that's good too. But this stepping back buildings, all the elements that are in the UDO now that relate to this are - it first says you are not required to have open space, but if you go up and you're stepping back and you meet this floor plate, then you need to be surrounded by things that provide light and air to the urban residents and visitors, but they are not designated in the sense of being land.

Mr. McGuire - So, would you say that this definition is how Council should be guided or not?

Ms. Daniels - Our estimation is that it's not the guideline. Our first line is in the UDO where we have the definition that - such as, but not limited to, and we have the light and air knowledge and then we go to the section related to the downtown Central Business District and Alan went through the list that pertain to that. There is no hard and fast standard. It would be rather hard to do that, and that is not a common practice.

Mr. McGuire - So the open space that Mr. Glines considered has the not limited to.

Ms. Daniels - Yes.

Mr. McGuire - This open space definition for designation is very restrictive.

Ms. Daniels - It's more of a suburban standard.

Mr. McGuire - And is the issue of designating open space before us in anyway tonight?

Ms. Daniels - Well, to me we have fulfilled the requirement of the UDO in addressing, in our staff report, how the step-back tower and the open areas provide the light and air required in the UDO. And recreational spaces.

Mr. McGuire - Now, what of any correlation is there between requiring or having that available to be considered by the Planning Department, with having a setback or a step-back requirement?

Ms. Daniels - The building is step-back in order to increase the light and air around it. The recreational facilities provided, again, open up - or within that urban designation of open space that can be public or private. The public can access it and as we were pointing out - perhaps you can just sit up there, or perhaps you need to order a glass of iced tea or something. But it is accessible for the public. More than that, it provides those recreational opportunities collectively that are part of an urban environment.

Mr. McGuire - So you would find this passive recreation within the definition of open space?

Ms. Daniels - Yes.

Mr. McGuire - And.

Ms. Daniels - And that's not a swimming pool, I think that's just a pond so it's not going to be active.

Mr. McGuire - Right, but it's very fair to consider all of these levels as open space.

Ms. Daniels - Correct, yes.

Mr. McGuire - And, you heard Mr. Glines say that even if you didn't count the top of the Grove Arcade, which you think is open space, but if you didn't' count that the other open space spaces, and we had 8 other including the sidewalks and the step-backs, would you consider all of those the valid ...

Ms. Daniels - I would. I consider the Grove Arcade to be icing on the cake. Again, the height of a building would not - the fact that it's a two story building would not count. That it is a building with it's air rights sold, does make it an important thing to consider.

Mr. McGuire - And is that something you've seen in city urban planning?

Ms. Daniels - Yes. That's why people sell air rights to create permanent light and air-type open space. Sometimes they may have a deck on top. Sometimes they may not.

Mr. McGuire - That would be all the questions."

The following is the verbatim testimony of cross-examination of Ms. Daniels:

"Mr. Davis - Let's keep this up for just a minute. Ms. Daniels, you said that you get your definition of open space from your experience in Maryland or other large cities, right?

Ms. Daniels - No, I got it from the UDO.

Mr. Davis - Well, they have a different definition of open space in some of those cities, correct?

Ms. Daniels - I was going by our definition of open space and I was going by what is in the UDO that was added to it with the Downtown Master Plan, and I was collectively looking at it in terms of how open space is interpreted in urban environments.

Mr. Davis - But the definition you're pointing out does not specifically allow for open space to be built upon land, does it?

Ms. Daniels - It's ... What we went with, which is our standard is a collective - the combination of the definition of open space in the definition section applied in the CBD which

talks about stepping back from the floor plate and going up and then you have to be surrounded by the open areas - I don't have that in front of me - Excuse me. Okay, Central Business District is exempt from open space requirements. The provision before a plate of the tower to reach 50% relies on a finding of being surrounded by substantial permanent public and private open space. Public and private open space can be a number of things as noted in the open space requirements of Section 7-2-5 which is an area intended to provide light and air. It may include, but not limited to, etc.

Mr. Davis - My questions is, no where in there does it mention the space above a built environment.

Ms. Daniels - I don't think that is at issue.

Mr. Davis - Well, Mr. Glines has counted several spaces above buildings as open space.

Ms. Daniels - I think we are counting open spaces as areas that provide light and air and that include, are not limited to these things and what we are including is that sort of space, sidewalk space, the light and air provided by the transfer of the air rights above the Grove Arcade, the collective list that Mr. Glines had in his report.

Mr. Davis - So you would agree with all of his bullets they add to open space.

Ms. Daniels - I agree with all of his bullets in his report.

Mr. Davis - And, as high as you want to go. I mean you can go hundreds of feet in the air and consider that substantial open space.

Ms. Daniels - In this case, for this building, this is what we considered open space.

Mr. Davis - Parking area as open space?

Ms. Daniels - That is clearly not something we need to include. We had a list of what we did include that is pertinent to this project.

Mr. Davis - And you would read out of existence the definition of open space or the further refinements to the definition in Section 7-11-4.

Ms. Daniels - I think 7-11-4 relates more to suburban settings. We have a definition that says open space is an area intended to provide light and air. It may include, but it's not limited to, then we have the guidance in the CBD standards, which says that open space - let's see - surrounded by substantial permanent public and private open space. We consider that open space. It's accessible to the public. We considered the sidewalks accessible to the public. They are providing light and air and recreational opportunities, passive in nature, sitting and enjoying, and for the surrounding buildings having light and air - access to them - that is an urban standard.

Mr. Davis - I understand that is how you are considering it. But it's not reflected in the UDO.

Ms. Daniels - It's not the way you interpret the UDO.

Mr. Davis - It's not written in the UDO.

Ms. Daniels - It's not the way you interpret. The zoning law is subject to interpretation, as I think you said.

Mr. Davis - We understand that, but there is nothing in the UDO that says you can use the area above a building for open space.

Ms. Daniels - There's nothing in the way that you interpret the UDO. We interpret it differently.

Mr. Davis - Okay. I think ultimately the City Council should ...

Ms. Daniels - Absolutely.

Mr. Davis - Just a final thing in terms of a question I asked Mr. Glines. Since you've been at the City of Asheville, you have never used the area above a building for open space.

Ms. Daniels - The City of Asheville has not had many building built until recently. We've been in a recession.

Mr. Davis - Is the answer yes or no.

Ms. Daniels - I am not familiar with every building that's been built in the City. This is the first tall building that has been approved since this UDO, this Master Plan has been adopted. I cannot answer to the past.

Mr. Davis - Any use of the work open space.

Ms. Daniels - We would have to do more research and I am told that the only received this request a week or so ago and we haven't had time to fulfill your request.

Mr. Davis - I'm asking you as the person who approves all the planning reports that come out of your office.

Ms. Daniels - I have been approving planning reports for 6 years and in my experience that I have been here, there haven't been any proposed.

Mr. Davis - There's been no proposed open space one way or the other?

Ms. Daniels - There's been no - that I recall, and you are asking me to recall a body of work or Mr. Glines to recall an extensive body of work on the floor without having the opportunity to do our research.

Mr. Davis - Well, I'm not asking you to do anything, other than answer my question.

Ms. Daniels - You're asking us to recall information we have not had time to research.

Mr. Davis - Okay. But as you stand here today, you are not aware of any.

Ms. Currin - She's answered. She doesn't have the opportunity - She doesn't know on the top of her head I think is her answer.

Ms. Daniels - Correct.

Mr. Davis - Okay, thank you very much."

Mr. McGuire said that he had no further witnesses. He did say that he had the architect here and he felt the issues have been narrowed down to the open space question. But if there are any other questions, other than relate to that, which he felt has been covered adequately, the architects are here and are available to answer questions.

Mr. Mark Mucci, with Minds Eye Architecture in Charlotte North Carolina and architect for the project, spoke in support of the project.

When Councilman Pelly asked if Mr. Mucci has used this a way of fulfilling open space requirements in other cities, Mr. Mucci has not personally used it, but he does have a Masters Degree in Architecture and did extensive studies in urban design and know that it is a common practice in urban environments.

In response to Councilman Davis, Mr. Mucci reiterated that the inconsistency of the square footage is because there are some cut-outs from the dimension in the overall floor plate and confirmed that we are dealing with 50% floor plate.

The following is a verbatim transcript of the cross-examination of Mr. Mucci:

Mr. Davis - I'm sorry, I missed your name, sir.

Mr. Mucci - Mark Mucci.

Mr. Davis - Mr. Mucci, you just testified that this was subject to the 50% floor plate requirement for the limitation of the floor plate area, is that right?

Mr. Mucci - Yes, as approved by.

Mr. Davis - And that's only because of the open space. That's only if substantial open space is provided that you get to that 50%, correct?

Mr. Mucci - That's my understanding.

Mr. Davis - And if it weren't for that substantial open space, which we are asking the Council to make a finding on tonight, it would be restricted to 8,000 square feet, right?

Mr. Mucci - I believe that's correct.

Mr. Davis - And that's the bonus that we've been talking about. Your clients getting an extra 2,000 square feet of floor plate area as the result of providing, in a way we've discussed all night, substantial open space, right?

Mr. Mucci - On individual floors, that's correct.

Mr. Davis - Above 75 feet. The tower.

Mr. Mucci - That's correct.

Mr. Davis - Now, it is feasible to reduce the width of the tower from it's current width of 140 feet to 100 feet, correct?

Mr. Mucci - Yes.

Mr. Davis - And you could go higher than you are currently being allowed to go at 132 feet, correct?

Mr. Mucci - That's not economically feasible though. The structure system that we're using is limited to 8 floors above the podium. And if we increase the height of the building, we would increase the cost of the structure to the point where Mr. Fraga would not want to build it.

Mr. Davis - Under the UDO, you would be permitted to go higher than 132 feet.

Mr. Mucci - That's correct.

Mr. Davis - And approximately how high?

Mr. Mucci - We probably, we could get two more stories, I believe.

Mr. Davis - And how many rooms would you sacrifice if you moved the 140 feet width to the 100 feet width?

Mr. McGuire - ...

Ms. Currin - I agree, you are asking him direct examination.

Mr. Davis - I'll withdraw it. That's all I have."

When City Attorney Currin asked if any members from the public would like to speak, no one spoke.

Mr. Davis and Mr. McGuire were fine to rest.

Vice-Mayor Hunt closed the public hearing at 9:20 p.m.

City Attorney Currin said that the issue before City Council is whether or not to reverse the decision of the Planning & Zoning Commission to approve the Level II site plan. We've heard a lot of things, we know it's zeroed in on the one provision of the UDO, which is whether or not there is an increase in the floor plate that is allowed because the parcel is surrounded by substantial public or private open space that allows for views and access to direct sunlight.

Vice-Mayor Hunt confirmed that this is about Council's interpretation of the UDO as published. City Attorney Currin said that question before Council is did the Planning & Zoning Commission, when they approved this and they applied Section 7-8-18, did they do the right thing. And in doing that, you are going to look at the arguments that have been put before the Council and apply the UDO as written. As Council does that, there are terms and provisions which one side may say means something and the other side may say it means something else. You need to ascertain what the intent of the UDO was. Council has some discretion to do that. When you say substantial open space, Council will have to make that call, based on what they heard.

Councilman Davis said he was very involved in the Downtown Master Plan. The Downtown Master Plan changed a lot of the UDO. If the Downtown Master Plan was not adopted, this project would have come to City Council for review. The intent in the Central Business District, and especially in the core, is to build density and offer good projects. He felt open space is for the purpose of air and light and in an urban environment you're not going to have the opportunity to build pocket parks, as you build hotels. He felt that designated open space is what is around it, e.g., wider sidewalks. This is the kind of project we are looking to design. He felt it was logical how the Planning & Zoning approved the project.

Councilman Davis moved to uphold the decision of the Planning & Zoning Commission. This motion was seconded by Councilman Pelly.

Councilman Bothwell felt that we may need to revisit the Downtown Master Plan to see if there are places we need to adjust. He was uncomfortable with the Master Plan raising the threshold of Level III projects. At it reads, it seem to him that if there is substantial open space, the planner may permit up to 50%. That puts an awful lot on the planner, and that may be a decision Mr. Glines shouldn't be burdened with. He felt that's really a policy choice. Personally

he didn't think that it's substantial, but as the UDO is written, he would have to support the motion.

City Attorney Currin said that Council has to independently determine whether it's substantial. Councilman Bothwell felt the definition is not clear enough to say whether it is or it's not. But under the written language, he didn't think that he could say that this is not substantial.

Councilman Smith said that Council adopted the Downtown Master Plan in an effort to create more clarify and predictability. Even the best laid plans have grey areas that are being revealed though this process. He would also support revisiting the Plan. Above all, open space being about light and air in our urban environment, in our downtown core, and making it livable in that sense to where we don't end up shadowing all our streets, I think that was the intention behind it. He would be supportive of the motion.

Councilman Pelly agreed there is some ambiguity built into defining open space, but hearing all the evidence, he felt that this project has met the standards.

City Attorney Currin said that the law requires that Council adopt written findings of fact and conclusions of law. She would draft that document and it will come back to Council at their May 27 meeting for approval. Any appeal time would be 30 days after adoption of that document.

The motion made by Councilman Davis to uphold the decision of the Planning & Zoning Commission, and seconded by Councilman Pelly carried unanimously.

At 9:35 p.m., Councilman Smith moved to excuse Mayor Manheimer from the remainder of the meeting. This motion was seconded by Councilwoman Wisler and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-107 - RESOLUTION ADOPTING THE CITY COUNCIL 2014-15 STRATEGIC OPERATING PLAN

City Manager Jackson said that this is the consideration of a resolution adopting City Council's Strategic Operating Plan for Fiscal Year 2014-2015.

At the February 7-8, 2014, Council Retreat, Asheville City Council discussed and prioritized focus areas for the coming year. During the retreat, it was noted that presenting goals in a way that highlights the interconnected nature of Council's strategic goals would be ideal. The 2014-2015 strategic focus areas are broken into three broad categories that relate to economic systems, social systems and environmental systems.

The focus areas are:

Economic Growth & Sustainability - Seek to ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work and invest.

Affordability & Economic Mobility - Seek to ensure a sustainable future for Asheville through a standard of living that is affordable and attainable for people of all incomes, life stages and abilities.

High Quality of Life - Seek to ensure a sustainable future for Asheville by promoting a safe environment where basic needs are met and all people can enjoy a high quality of life.

City Manager will produce a comprehensive quarterly report and Committee Chairs will produce updates on policy initiatives designed to further achievement of strategic goals for Economic Growth and Sustainability, Affordability and Economic Mobility, and High Quality of Life.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution adopting Council's Strategic Operating Plan.

When Vice-Mayor Hunt asked for public comments, none were received.

Vice-Mayor Hunt said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-107. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 204

B. BOARDS & COMMISSIONS

Regarding the Community Relations Council (CRC), it was the consensus of City Council to continue the vacancy for an additional month (pursuant to the request of the CRC).

RESOLUTION NO. 14-108 – RESOLUTION APPOINTING A MEMBER TO THE DOWNTOWN COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Downtown Commission.

Mr. Matt Sprouse has resigned from the Downtown Commission, thus leaving an unexpired term until December 31, 2015.

The following individuals applied for the vacancy: Keaton Edwards, Pamela Winkler, and Ryan Israel.

It was the consensus of the Boards & Commissions Committee to appoint Pamela Winkler, who was recommended by the Downtown Commission.

After speaking about the qualifications of all candidates, Councilman Davis moved to appoint Pamela Winkler to serve the unexpired term of Mr. Sprouse, term to expire December 31, 2015, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler commented about (1) if City taxpayer money was used for the parade for Caleb Johnson on Haywood Road; (2) need for maintenance of the restrooms at the Transit Center; and (3) Up-to-date calendar on the City's website of boards & commissions.

Mr. Todd Stimson, Ms. Kerry Trammel, and Ms. Ariel Stimson urged City Council to educate the public about medical use of cannabis for cancer patients. They also felt there is a bad stigma attached to requests for medical use of cannabis. In addition, they asked for Council to support House Bill 941 which is to require the Legislative Research Commission to study issues related to the medical use of cannabis. Councilman Smith and Councilman Bothwell felt asking the Council to support having this move to the Research Commission is a reasonable request. Vice-Mayor Hunt said that entire Council will consider this when they discuss what they will advocate at the legislative level.

Ms. Jeanie Rosenthal provided a number of documents to Council "to better understand the Partner Property Management handling of the smoking problem in the supposedly non-smoking The Griffin apartment building." She asked council to work to ensure a local management company be hired to make the apartments truly smoke-free and healthier.

Mr. Gilian Kearns was concerned about the dangers of pedestrians on Haywood Road.

Councilwoman Wisler encouraged the public to find ways to "Strive Not To Drive."

VIII. ADJOURNMENT:

Vice-Mayor Hunt adjourned the meeting at 10:13 p.m.

Magdalen Bowlesson
CITY CLERK

MAYOR

Tuesday – May 27, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

When Brother Christopher Chiaronmonte raised a point of order regarding City Council not allowing prayer at the beginning of the meeting, Mayor Manheimer said that she has taken the invocation off the agenda, but that does not mean that prayer is not allowed.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 27, 2014, AS "USS ASHEVILLE SSN 759 DAY"

Mayor Manheimer read the proclamation proclaiming May 27, 2014, as "USS ASHEVILLE SSN 759 Day" in the City of Asheville. She presented the proclamation to Commander Douglas Bradley, who thanked City Council for this recognition and presented Mayor Manheimer with gifts to refresh the USS ASHEVILLE exhibit on the First Floor of City Hall.

B. PROCLAMATION PROCLAIMING JUNE 2-8, 2014, AS "HEMP HISTORY WEEK"

Mayor Manheimer read the proclamation proclaiming June 2-8, 2014, as "Hemp History Week" in the City of Asheville. She presented the proclamation to Mr. Timothy Sadler, and others, who explained some activities that would take place over the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 13, 2014

B. RESOLUTION NO. 14-109 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW ANCHOR EVENTS AND PRITCHARD PARK CULTURAL ARTS PROGRAM THROUGH REDESIGNED EVENT PARTNERSHIP AGREEMENTS, AND CONTINUATION OF FEE DISCOUNTS TO NON-PROFIT ORGANIZATIONS

Summary: The consideration of a resolution authorizing the City Manager to renew anchor events and Pritchard Park Cultural Arts Program through redesigned event partnership agreements, and continuation of fee discounts to non-profit organizations.

The City of Asheville charges everyone a fee to permit and have priority use of parks, permitted amenities, or public facilities. These fees cover extra operational expenses associated with events and guarantee space for the permittee. At the same time, some events produced by non-profit agencies or other sister organizations - such as concerts, art shows, cultural

celebrations, theater performances, health fairs, sports events, and others – can also directly further the City's core programs. Consequently, reducing or waiving permit fees and considering in-kind support from city operational departments (i.e., Public Works, Asheville Police Department, Asheville Fire Department) can be an opportunity to leverage the City's ability to provide these programs while reaching a wider and more diverse audience, thus serving a public purpose. As a result, in recognition of the value these events bring the city of Asheville and the broader community, the city has historically offered support to events that meet certain criteria.

In March 2010, City Council authorized staff to enter into three-year agreements to sponsor five anchor events (Asheville Drum Circle, Asheville Holiday Parade, Downtown After 5, Goombay, and Shindig on the Green) in the form of full permit fee waivers and in-kind labor support (police, sanitation, etc.) valued at $102,211. In November 2012 City Council authorized staff to extend the existing agreements with the anchor event organizations using the same terms for an additional year, FY13-14 while an evaluation was conducted on the City's overall event programming strategy. A summary of the annual support approved for the anchor events is provided in Table A, below.

TABLE A

Anchor Events	Fee Waivers	Labor Support	Total Support
Asheville Drum Circle	$3,875	$0	$3,875
Asheville Holiday Parade	$1,562	$39,462	$41,024
Downtown After 5	$2,143	$14,780	$16,923
Goombay Festival	$2,942	$26,869	$29,811
Shindig on the Green	$7,414	$3,164	$10,578
Anchor Event Support			**$102,211**

In addition to the anchor events, City Council approved a discount for property use and permit fees, which amounted to a 75% reduction, for events that were produced by a registered 501c non-profit verified through documentation; open to the general public; and remained responsible for general liability insurance and other related event costs including police coverage, barricades, parking meter closures, etc. Staff has executed those agreements with FY 13-14 as the concluding year.

In May 2011, City Council unanimously voted to provide public support for a period of three years for cultural art programs at Pritchard Park produced by the Asheville Downtown Association at a maximum estimated value of $18,775 not included in the above table. Referenced as the Pritchard Park Cultural Arts Program (PPCAP), the events have included a weekly exercise program, weekly music performances, and have helped foster additional community partnerships. The programming has been successful in adding positive experiences to a challenged public space and serves a public purpose through promoting economic and community development. The combined support value provided to the anchor events and the Pritchard Park Cultural Arts Program is shown in Table B, below.

TABLE B

Anchor Events & PPCAP	Fee Waivers	Labor Support	Total Support
Pritchard Park Cultural Arts Program	$18,775	$0	$18,775
Anchor Event Support (Table A)			$102,211
Total Combined Event Support			**$120,986**

Current State: In October 2013, outdoor special event programming was transitioned to the Office of Economic Development. Staff was tasked with cultivating strategic partnerships to capitalize on the benefits of special events, leverage city resources to help achieve City Council goals in a manner that is both fiscally responsible and achieves maximum economic and community development returns, and that helps chart a long term course for outdoor special events to move towards fiscal self sustainability.

There is significant community standing, cultural benefit and value leveraged through the City's investment in anchor events (Asheville Drum Circle, Asheville Holiday Parade, Downtown After 5, Goombay, Shindig on the Green) and in the Pritchard Park Cultural Arts Program. Staff recommends continued support of these events through consolidated partnership agreements with three non-profit organizations. This revised agreement structure will continue to ask the partner organizations, in the form of an annual application, to outline their performance objectives for each anchor event; to define any significant variances expected in the anchor event programming goals set for each organization, and to submit an annual report which the city and the partner organization can use as a shared tool to gauge and track the effectiveness of mutual investments. The partnership structure also encourages reinvestment in additional mutually agreed programming opportunity achieved as a result of high output achieved by reducing barriers specific to an event, increasing flexibility while compounding the overall benefits provided through synergistic opportunities.

The total event support value for partner organizations for conducting anchor events and Pritchard Park Programming, as referenced in Table B, has been rounded at a minimal increase to accommodate programming enhancements, event growth and fee increases. A summary of the proposed structure for calendar years 2014-2016 is provided in Table C, below.

TABLE C

2014 – 2016 Cultural Event Partnership Agreements	Maximum Annual In-Kind Support Value
Asheville Downtown Association	$82,000
FHC via Community Betterment Foundation (or future 501c non-profit designee)	$13,000
YMI Cultural Center	$30,000
Total Support	**$125,000**

This item was presented to the Planning & Economic Development Committee for consideration on May 20, 2014, and they voted unanimously to recommend approval of the resolution to City Council, with modifications that added provisions for an annual application process and annual report as outlined in this staff report.

Pros:

- Allows the city to leverage programming and events to reach a wider and more diverse audience
- Converts prior event sponsorships into goal-driven organizational partnerships that encourage higher output by reducing barriers
- Meets strategic operating plan goals of leveraging investment in special event partnerships
- Supports non-profit organizations
- Stimulates the local economy while providing quality cultural programming and diversity
- Provides multi-year consistency

Cons:

- Events produced under partnerships result in department staff costs for the utilization of in-kind services including Police, Fire and Public Works
- Events produced under partnerships result in lost revenue for permits, parking fees and rentals
- The 75% reduction in permit fees for non-profit organizations results in lost revenue for the city; however, the city does not budget for this revenue since it tends to fluctuate from year to year.

Partnership agreements and fee discounts result in lost revenue, and labor support results in increased personnel expenses (as summarized in Table A). In-kind labor costs for anchor events have been included in the City's budget during the agreement period. If these agreements are extended for calendar years 2014-2016, associated expense and revenue impacts will be included in the City's budget.

City staff recommends a three-year continuation of a 75% reduction in property use and event permit fees for outdoor special events that are open to the public and produced on public property by a registered 501c non-profit organization under the criteria as described herein.

City staff recommends that City Council pass a resolution authorizing the city manager or his designee to allow the Office of Economic Development to establish three-year partnership agreements with the Asheville Downtown Association, the YMI Cultural Center, and a non-profit organization supporting Shindig on the Green under the criteria as described herein.

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C. RESOLUTION NO. 14-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A RENEWAL OF THE ADOPT-A-PARK AGREEMENT WITH JUST FOLKS INCLUDING A WAIVER FOR PARK USE FEES FOR TRIANGLE PARK FOR FISCAL YEAR 2014-15

Summary: The consideration of a resolution authorizing the City Manager to sign a renewal of the Adopt-a-Park Agreement with Just Folks including a waiver for park use fees for Triangle Park for FY 2014-2015.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area known as "The Block". The members of the Board of Directors are residents who grew up in the area and are actively engaged in efforts to improve the environment in the area by supporting more positive uses of the park. Their focus on Triangle Park began eight (8) years ago and for the past three (3) years City Council has authorized the City Manager to sign an Adopt-a-Park agreement with Just Folks that included a waiver of park use and permit fees for up to $2,500. This amount is based on the group receiving the 75% non-profit discount for event permitting fees. The waiver has made it possible for them to produce events that activate Triangle Park by providing a variety of positive activities including music festivals, community cookouts and other community-building events in the Park May to December on Saturdays and Sundays.

During FY 2013-2014, Just Folks has fulfilled the terms of their Adopt-a-Park agreement with the following accomplishments:

- Conducting regular clean-ups;
- Partnering with community members and the Asheville Design Center to complete installation of a mural depicting the history of "The Block";
- Weeding and maintaining the planted beds;
- Mulching paths and planting beds;
- Providing volunteers to participate in these and other projects;

- Providing the tools and materials to carry out regular maintenance and special approved projects;
- Conducting fund raising activities to support programs and maintenance of the park;
- Holding a minimum of two (2) events each weekend during the months of May through December. Events included approximately 145 hours of concerts, programs, and community cookouts that were free and open to all members of the community.

The presence of Just Folks members and their programming in the park continues to contribute to the reduction of nuisance behaviors in and around the park and an improved appearance for the park. Over the past three (3) years their efforts have made the park safer and more attractive to downtown visitors and community members and helped the city meet specific City Council goals for economic and community development.

Just Folks is requesting that their Adopt-a-Park agreement with the city be renewed for FY 2014-2015, to include a continuance of waivers for park usage and event permitting fees at the same level of $2,500 approved for FY 2013-2014.

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee wavier requests related to this group's events.
- This action is consistent with other partnerships the City has entered into for park programming in key community development areas.

Con:

- The reduction in permit fees result in lost revenue for the city; however, the city has not budgeted for this revenue in FY 2013-2014.

The estimated value of the waived park usage fees is $2,500; however, this revenue has not been included in the FY 2014-2015 budget.

Staff recommends that City Council authorize the City Manager to sign an Adopt-a-Park Agreement with Just Folks including a fee waiver for park usage fees associated with programming in Triangle Park.

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D. RESOLUTION NO. 14-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO INCREASE THE CONTRACT AMOUNT FOR THE AGREEMENT WITH FORSYTH INITIATIVE FOR RESIDENTIAL SELF HELP TREATMENT INC. FOR TEMPORARY LABOR SERVICES

Summary: The consideration of a resolution to increase the contract amount for master service contract number 91400113 with Forsyth Initiative for Residential Self Help Treatment Inc., (F.I.R.S.T.), authorized by Resolution Number 13-386, dated August 27, 2013

The City of Asheville uses temporary workers to perform a variety of tasks including unskilled work in concrete, asphalt, drainage, traffic control, building maintenance, trash and brush collection, event preparation and other like work in the Public Works and U.S. Cellular Center Departments. Master service contract number 91400113 was issued to F.I.R.S.T. in the amount not to exceed $155,000.

F.I.R.S.T. is a local non-profit organization operating from 32 Knox Road in Ridgecrest, NC. F.I.R.S.T. offers a combination of therapeutic treatment, vocational training and life skills

development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized F.I.R.S.T. participants for the past 10 years with excellent results.

The Sanitation Division has experienced a higher need for temporary workers due to lengthy staff vacancies and higher than anticipated spring brush volumes. The U.S. Cellular Center has also experienced a higher need for temporary workers due to an increase of events booked FY14. The Sanitation Division is requesting an additional $10,000 and the U.S. Cellular Center is requesting an additional $50,000 totaling $60,000, increasing the master service contract number 91400113, from $155,000 to $215,000 for FY14. Funds have been identified in existing FY14 accounts to cover this increase, without any adverse effects to existing programs.

Pros:

- Supports employment opportunities for at risk youth and adults
- Reduced expenses for recruiting, hiring and benefits for full-time employees
- Reduced expense for temporary labor as opposed to traditional temporary labor agencies
- Carpooling will reduce the negative impact to the environment
- Supports diversified job growth and business development
- Enhances diversity in the City as an organization so that the workforce more closely resembles the community

Con:

- None

The requested increase of $60,000 to master service contact number 91400113 has been identified in the U.S. Cellular Center Department and the Sanitation Division's FY14 budgets accounts to cover this increase, without any adverse effects to existing programs.

Staff recommends City Council adopt a resolution to increase the contract amount for master service contract number 91400113 with Forsyth Initiative for Residential Self Help Treatment Inc., from $155,000 to $215,000 for FY14

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E. RESOLUTION NO. 14-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TRAFFIC AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION APPROVING A PROJECT FOR THE FABRICATION AND INSTALLATION OF A DIRECTIONAL SIGN FOR THE RIVER ARTS DISTRICT ALONG I-240 EASTBOUND IN ADVANCE OF THE AMBOY ROAD EXIT IN WEST ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to execute a traffic agreement with the N.C. Dept. of Transportation approving a project for the fabrication and installation of a directional sign for the River Arts District along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

Through the efforts of the Asheville Area Riverfront Redevelopment Commission (AARRC), the N.C. Dept. of Transportation (NCDOT) has agreed to install a directional sign bearing the message "River Arts District" along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

The City of Asheville has agreed to provide the funds for the fabrication and installation of the sign and after the sign is installed, the NCDOT will be responsible for general maintenance

activities including cleaning and vegetation removal. The City will be responsible to provide funds for the re-fabrication and installation of a replacement sign if the original sign loses its reflectivity, is stolen, destroyed or otherwise damaged.

Pros:

- A directional sign for the River Arts District will be installed along I-240 Eastbound.
- The NCDOT and the City of Asheville are partnering to accomplish the subject project.

Cons:

- The City is responsible to fund the fabrication and installation of the sign.
- The City is responsible to fund the re-fabrication and installation of any replacement signs.

The total estimated cost of the subject project is $1,500 and the funds will come from the current Transportation Department operating budget.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a traffic agreement with the NCDOT approving a project for the fabrication and installation of a directional sign for the River Arts District along I-240 eastbound in advance of the Amboy Road exit in West Asheville.

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F. RESOLUTION NO. 14-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO INCREASE THE CONSTRUCTION CONTRACT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE HENDERSONVILLE ROAD WATER LINE CONSOLIDATION PROJECT

ORDINANCE NO. 4310 - BUDGET AMENDMENT FOR THE HENDERSONVILLE ROAD WATER LINE CONSOLIDATION PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to execute a change order in the amount of $88,771.54 to increase the construction contract with Cooper Construction Company, Inc., from $441,266.00 to $530,037.54 for the Hendersonville Road Water Line Consolidation Project; and a budget amendment in the amount of $44,645.00 from savings in another capital project.

On January 28, 2014, City Council awarded the construction contract to Cooper Construction Company, Inc., for the Hendersonville Road Water Line Consolidation Project. The project consists of abandonment of a problematic 6-inch cast iron water line located on the east side of Hendersonville Road. Water services attached to the 6-inch water line will be transferred to the 24-inch ductile iron water line located on the west side of Hendersonville Road. Abandonment and removal of existing vacant services are also a part of the project scope.

In order to complete the construction and close out the project, a change order is needed to increase the contract amount by an additional $88,771.54 for a total contract amount of $530,037.54. The change order is needed because of overruns to the original quantities estimated and the addition of areas to be patched in preparation for paving.

Pro:

- Approval of the change order will allow the City to complete construction of the water system and close out the project, which replaces old, undersized failing lines with new lines to improve service, reduce maintenance cost and provide better fire protection.

Con:

- If the change order is not approved, then the project cannot be finished in time to meet NCDOT's paving schedule.

The Water Resources Department currently has $485,393.00 budgeted for this project. The remaining funds of $44,645.00 needed for the change order will be transferred from the Monte Vista / Sand Hill Road Master Plan capital project. The Monte Vista project has been reduced in scope, allowing funds to be transferred out to other projects as needed. In order to use the funds in the Monte Vista project, a budget amendment is necessary.

Original Construction Amount	$485,393.00
Amount Needed for Change Order	$ 44,645.00
Total Amount for Project	$530,038.00

The amount remaining in the Monte Vista / Sand Hill Road Master Plan capital project will remain in the project budget to complete the project.

City staff recommends City Council approval of the City Manager to execute a change order in the amount of $88,771.54 to increase the construction contract with Cooper Construction Company, Inc., from a total in the amount of $441,266.00 to $530,037.54 for the Hendersonville Road Water Line Consolidation Project; and a budget amendment in the amount of $44,645.00 from savings in another capital project.

RESOLUTION BOOK NO. 36 - PAGE 214
ORDINANCE BOOK NO. 29 - PAGE 70

G. RESOLUTION NO. 14-114 - RESOLUTION SUPPORTING THE N.C. DEPT. OF TRANSPORTATION IN DESIGNING AND CONSTRUCTING A PROJECT TO MAKE STORM DRAINAGE IMPROVEMENTS ALONG THE NORTH SIDE OF US 70 (TUNNEL ROAD) BETWEEN KENILWORTH ROAD AND BUCKSTONE PLACE

Summary: The consideration of a resolution supporting the N.C. Dept. of Transportation in designing and constructing a project to make storm drainage improvements along the north side of US 70 (Tunnel Road) between Kenilworth Road and Buckstone Place.

The North Carolina Department of Transportation (NCDOT) has prepared plans to construct a project making much needed storm drainage improvements along the north side of US 70 (Tunnel Road) including resurfacing all four travel lanes using Small Construction Funds. The total estimated cost of the project is $248,000 and it is anticipated that the Board of Transportation will approve the project at its regularly scheduled meeting during June 2014.

Since Small Construction Funds are involved, a resolution of support from the affected city is required or the funds might be "lost". All of the work will be contained within the public right-of-way for US 70 (Tunnel Road) and it will be accomplished by the NCDOT and/or its contractor.

Pros:

- Much needed storm drainage improvements will be made along a section of US 70 (Tunnel Road).
- The NCDOT will fully fund and construct the project.
- After completion of the project, the NCDOT will maintain the improvements.
- The NCDOT and the City of Asheville are partnering to accomplish the subject project.

Con:

- None

There is no fiscal impact to the City of Asheville.

Staff recommends that City Council approve a resolution supporting the NCDOT in designing and constructing a project to make storm drainage improvements along the north side of US 70 (Tunnel Road) between Kenilworth Road and Buckstone Place.

RESOLUTION BOOK NO. 36 - PAGE 215

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Pelly moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. DOWNTOWN POLICE ENHANCEMENT PLAN

Police Chief William Anderson gave a brief review of the background of the Downtown Police Enhancement Plan: (1) During the months of July and August 2013, the Central Business District (CBD) saw a significant increase in crime as compared to the same period in 2012; (2) Violent crime increased 52%; (3) Property crime increased 34%; and (4) Complaints related to nuisance behaviors also increased.

The APD implemented the "Downtown Enhancement Plan" to address increased criminal behavior. The Downtown Unit (DTU) took a more proactive enforcement approach through physical arrests, citations and additional staffing. The mission of the Downtown Unit remained one based on Community Oriented Policing; however, enforcement of criminal violations took precedent.

The goal of the Downtown Enhancement Plan was to reduce crime and increase public safety. The pros were (1) Increased law enforcement presence in the Central Business District; and (2) Reduction in crime and nuisance behavior in the Central Business District. The cost of increased enforcement and APD presence was absorbed within the Police Department's existing budget.

The 90-day evaluation period of 09/08/13 – 12/07/13 was compared against the same time frame for 2012. Crime Statistics include: Robbery decreased by 22%; Aggravated assault decreased by 36%; Overall violent crime decreased by 24%; and Burglary decreased by 36%. The overall property crime decreased by 23%. The DTU officers issued 185 citations and made 249 arrests during the evaluation period. The DTU increased their business checks by 236%, increasing the number of self-initiated "check business" calls from 187 to 628. The DTU increased their crime prevention efforts by 77%, evaluating and acting on recognized issues in the CBD. Through self-initiation, crime prevention calls for service increased from 95 to 168.

Strategies currently utilized by the APD in an effort to continue to reduce criminal activity and improve public safety throughout the Central Business District of Asheville include: (1) Homeless / Transient Outreach Program (a) Program designed to provide written outline of available resources and strategies to ensure these populations are made aware of the Police Department's strategy in dealing with criminal behavior; (b) Roll Call training (conducted in April 2014); (c) CIT training for all officers; and (d) Continued partnership with Resource Providers; (2)

APD Policy on Homeless Persons (a) Purpose of directive is to outline standard operating procedures to be used in the interaction with homeless individuals, homeless camp protocols, and information on outreach assistance to social service resources; (3) Ongoing Meetings with the ABC/ALE and Establishments Who Serve Alcohol (a) Most recent one held March 31, 2014, which included drug-induced sexual assault training; (4) Volunteer Program at 29 Haywood Street (a) Hours are Wednesday – Friday from 12-4 p.m.; and (b) Duties: Greet walk-ins, answer phone, provide directions, provide information on community resources, contact district officers when needed for reports or other police related information; (5) Street Entertainer Ordinance (a) Reviewing ordinance with the COA Legal Dept.; (6) Park Wardens (a) Looking at schedules, responsibilities, etc.; (7) Updated Shoplifter and Graffiti Guide (a) Includes prevention tips as well as reporting information; (8) FTO Program (a) Trainees will now be assigned to the DTU during their field training phase; (9) Safe Cam Initiative (a) Program that encourages business and property owners in the CBD to utilize their surveillance camera systems to make areas safer for shoppers and the community while providing a public service to the citizens of Asheville; and (10) Augment Schedule (a) Frequent review of current patrol schedule to ensure both efficiency, effectiveness, and proper manning .

In summary, the mission of the Downtown Unit will remain one based on Community Oriented Policing; however, enforcement of criminal violations will continue to take precedent. Continued enforcement will consist of proactive enforcement of criminal violations, which includes proactive arrests verses citations for repeated nuisance and alcohol related crimes.

In response to Councilwoman Wisler, Chief Anderson said that we are also reaching out to other areas in the City regarding graffiti.

Councilman Davis, downtown business owner, said that he has seen benefits from implementation of the Plan.

B. QUARTERLY REPORTS

Strategic Operating Plan

A report submitted by City Manager Jackson was provided to Council on the short and long term goals at the 2013 strategic planning retreat, and staff is providing its 3rd Quarter progress of the three focus areas.

The 3rd Quarter report provides a comprehensive update to in all focus areas, to include quarterly progress over the past 6 months, as noted by the Q2 and Q3 designations, respectively. The summary document provides City Council the opportunity to review in detail operational efforts from all departments in city government.

This information is to update City Council on key operational initiatives specific to the Strategic Operating Plan. No action is necessary at this time.

Financial Report

A report by the Budget Manager Tony McDowell was provided to Council as follows:

"The following financial information reflects the City's overall financial position for the fiscal year through March 2014.

"Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of $95,861,764 along with eleven budget amendments approved by City Council. A summary of the budget amendments that were approved as of March 31, 2014, is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk. The total fund balance appropriation as of March 31 was $600,453.

Adopted Budget	95,861,764
Budget Amendments:	
Technical: Move Changing Together to Grant Fund	(79,060)
Technical: Move Computer Purch. to Capital Fund	(350,000)
Add School Resource Officer	49,842
Senior Op Center/Harvest House Grant	7,786
Energy Efficiency Rebates	11,229
Norfolk Southern Haz Mat Gift	1,400
Lyman Street Quiet Zone Payment*	15,000
Moogfest Contribution*	40,000
Storm Control Expenses*	150,000
Outside Legal Expenses*	95,000
Release Water Contingency Funds*	300,453
3/31/2014 Budget	$96,103,414

*Fund Balance Appropriation

"Revenues. Through March 31, 2014, the City has collected $81.3 million in General Fund revenue, which represents approximately 85% of the total General Fund revenue budget. Revenue collections through the first three quarters of this fiscal year are running slightly ahead of where they were one year ago in terms of budget versus actual. The City has received eight months of sales tax revenue, and collections are up 3.3% compared to the prior year. Sales tax revenue growth in the current year has been slower than in the prior year and less than projected when the budget was developed last spring. As a result, staff is projecting that sales tax revenue will come in under budget by $350,000. Development Services (DSD) revenue continues to perform well; as of the end of March, DSD revenues had already exceeded budget estimates. With the bulk of property tax revenue received in December and January, that revenue source is now at 97% of budget, which is typical for this point in the fiscal year. Overall, staff is currently projecting that *FY 2013-14 General Fund revenue will come in right on budget.*

"Expenditures. General Fund expenditures through March 31, 2014 totaled $60.0 million or 61% of budget, which is slightly under where they were at this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are at budget through the first three quarters. Expenditures for fuel, fleet maintenance, health care, and utilities continue to perform better than budget through the first three quarters. ***Based on the trends noted above, staff is projecting that expenditures (excluding contract and purchase order commitments) will finish the year under budget by $4.6 million (95% of budget).***

"Fund Balance. The City ended FY 2012-13 with available fund balance of $15.4 million, which equated to 17.6% of FY 2012-13 expenditures. Based on *current revenue and expenditure projections for FY 2013-14, staff estimates that available fund balance at June 30, 2014 will be $16.7 million or 17.7% of estimated expenditures."*

C. PRESENTATION OF THE 2014-15 ANNUAL OPERATING BUDGET

Director of Finance Barbara Whitehorn said that the three budget goals are (1) Begin Implementation of the Police Strategic Plan; (2) Address Employee Compensation; and (3) Transit System Improvement. Other Council Strategic Goals include implementing Graffiti initiative and developing the Capital Improvement Plan.

Budget priority goals include (1) Police Strategic Plan, with four *key component (a)* Compensation; (b) Vehicle Replacement; (c) Take-Home Vehicle Program; and (d) Management Structure Changes; and (2) Employee Compensation (a) Budgeted 3% increase pool - $1.5

million; and (b) Managed Savings in Current Fiscal Year - COLA Funded by Identified Savings in FY 2014-2015; and Fund Balance maintained at desired level.

Using a chart, Ms. Whitehorn then reviewed the General Fund Fund Balance.

Additional budget priority goals include (1) Transit Improvements (a) *Sunday Service* - Limited Sunday transit service will be added in January, 2015; and (b) *Route C* - A reengineering of Route C to address transfer wait times will be implemented in January, 2015; and (2) Graffiti Initiative (a) *Graffiti Ordinance* - Adopted in April, 2014; and (b) *90-Day graffiti removal initiative (i)* City assistance with removal; (ii) July 1-September 30, 2014; and (iii) General Fund Balance allocation of $300,000.

Legislative assumptions include (1) Disposition of the City of Asheville's water system: The budget assumes continued operation and management of the system because the outcome of the legal challenge remains unknown; and (2) Privilege License Tax (PLT) Reform: The final outcome of tax reform is not yet determined. *Current Version of HB 1050 (5/23/2014)* PLT repealed entirely as of July 1, 2015. 2014-2015 PLT levied only on businesses with a physical location inside the City.

Using a chart, she reviewed the revenues and expenditures of the 2013-14 adopted budget, the 2013-14 revised budget, the 2013-14 estimated budget, and the 2014-15 proposed budget.

Enterprise Funds include (1) Water Fund (a) Continued Stable Performance; (b) Rate adjustment based on long-term model adopted April 8; and (c) $10.1 million pay-go investment in water capital improvements; (2) Stormwater Fund (a) Stormwater fee structure - Proposed tiered approach; and (b) Additional funds to be used for capital improvements; (3) Transit Fund (a) Continued Financial Pressure; (b) Addition of Limited Sunday Service; (c) Reengineering of Route C; and (d) General Fund Support increasing $534k; (4) Parking Fund (a) Strong revenue growth; (b) No adjustment to existing rates; and (c) Maintaining $616k in support to Transit Fund; and (5) US Cellular Center Fund (a) Strong performance in FY 2013-2014 - High event load anticipated to continue; (b) Anticipated savings from outsourcing custodial operations; and (c) No increase in General Fund Support.

She then reviewed the 2014 adopted, 2014 revised and 2015 proposed employees and positions.

Regarding Capital Improvement Program, she reviewed the definitions. *Capital Improvement Program* - The overall program developed for City of Asheville capital improvement; *Capital Improvement Plan* - The five-year rolling project schedule; and *Capital (Improvement) Budget* - The single-year budget adopted annually.

She then explained the 2,2,2 - **2¢** - In the 2013-14 Budget City Council adopted a $.02 tax increase to fund capital improvements (and $.01 for capital maintenance); **$2.2 million (additional tax per penny = $1.1m)** - Staff worked with DEC Associates and Parker Poe to determine debt capacity and design a working model; and **2 Days** - Key staff and DEC Associates met to prioritize projects and develop the first draft of a five-year plan.

Ms. Whitehorn reviewed the following Capital Improvements for 2014: RADTIP Transportation Project (multimodal improvements) - $2,208,000; Downtown Recycling & Trash Containers - $175,000; Eagle/Market (Affordable/Workforce Housing) - $2,249,500; Handy Park Demo - $413,978; Park Street Bridge (multimodal improvements) - $30,000; Park Place Capital Maintenance - $2,000,000; Azalea/Lake Craig (multimodal improvements) - $1,037,588; and Multimodal Transportation Plan (multimodal improvements) - $86,000. Total is $8,200,066.

She explained why to leverage the funds? Pay-Go only: $2.2 million in additional projects can be funded annually; or $2.2 million saved annually over time to fund one large project every 10-15 years. She then explained that we will do the Draw Program (1) Using Pay-Go, Installment Financing and Special Obligation Bonds - $90 million capacity over 5 years; and (2) External Sources of Funds (a) Grants; and (b) Partnerships. Total Cost of Projects Planned for 2015-2019: $132 million.

She explained the following project criteria for the Capital Improvement Program - (1) Safety; (2) Council Strategic Goals (a) Economic Growth and Sustainability; (b) Affordable Housing & Community Development; and (c) High Quality of Life; (3) Outside Funding Sources; and (4) Return on Investment (a) Social, Environmental and Financial.

The 2014-19 project summary for the Capital Improvement Program is as follows: Affordable Housing - $8,949,500; Public Safety - $15,751,000; Multimodal Transportation - $49,051,623; Economic Development - $7,696,050; Quality of Life - $9,175,000; and Maintenance - $41,899,193. The total of $132,522,366 does not include anticipated revenue offsets of $44,394,132. She then reviewed the 2015 capital budget reconciliation.

In summary: the 2014-15 budget is (1) Continuation Budget; (2) Meets Council Key Goals; (3) No Tax Rate Increase; and (4) Capital Improvement Program.

Ms. Whitehorn said that the public hearing on the budget will be on June 10, 2014, and adoption of the budget is scheduled for June 24, 2014.

When City Council requested additional information on the following items, City Manager Jackson said that for those questions not readily answerable, he would provide that information between now and the next meeting/public hearing: what is the status of the transit management contract that is up for renewal; unable to reconcile the new Economic Development budget by $55,000; what is the plan to enforce short-term rentals; in non-departmental public safety where the City pays 50% of the costs of the Police ID Bureau and Crimestoppers Programs, do other municipalities in Buncombe County contribute and are those programs effective; need understanding in non-departmental community development of reduction of $140,000; regarding employee raises, will 3% be built into the budget each year, or will Council look at this on an annual basis; Council consideration (between now and the fall) of where we want to be with the Housing Trust Fund and broader goals for affordable housing; regarding the proposed tiered rate structure for stormwater fees, how will the the square footage be determined; and, what is staff's analysis of the claim that changes in the state sales tax law will make up for the money the City will lose when the Bill to end privilege license fees takes effect.

D. LEGISLATIVE UPDATE

City Manager Jackson introduced Paul Fetherston, new Assistant City Manager.

Mr. Fetherston said that the legislative "Short Session" began on May 14, 2014, and is the extension of the regular session, which adjourned in July. Eligible bills in the short session include (1) Crossover bills; (2) Study bills; and (3) Local bills that meet certain requirements. He then highlighted the following bills: (1) Environmental Issues - S729 - Governor's Coal Ash Action Plan (Addresses notification requirements for discharges and dam repairs, impoundment water monitoring and inspections, emergency action plans, and establishes requirements for coal combustion products impoundment closure; (2) Environmental Issues - S786 - Energy Modernization Act (This drilling and hydraulic fracturing bill contained a provision to cap the amount property tax revenue could increase from year to year by 8%. That provision has been replaced with a study); (3) Local Governmental Authority - H150/S139 - Zoning Design & Aesthetic Controls (Restricts local governments' ability to institute design and aesthetic controls on 1 and 2 family dwellings); (4) Local Governmental Authority - S734/H1136 - Authority to Adopt Certain Ordinances (Repeals section of H74, passed in the "long session," limiting local

governments from enacting environmental ordinances); (5) Local Governmental Authority - H1191 - Authority to Adopt Local Ordinances (Prevents local governments from regulating fertilizer or the removal, replacement, and preservation of trees on private property within its jurisdiction); (6) Revenue - H1050 - Omnibus Tax Law Changes (Passed the House with $100 privilege license tax (PLT) cap per physical location. Current Senate version includes reform that: (a) Repeals cities' authority to levy PLT in FY15/16; (b) Limits FY 14/15 PLT to businesses with a physical location inside a city; and (c) Limits PLTs for FY 14/15 to FY 13/14 rate); and (8) Graffiti - no bill at this time.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET

RESOLUTION NO. 14-115 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF SOUTH ANN STREET

Director of Public Works Greg Shuler said that this is the consideration of a resolution to permanently close an unnamed alley off South Ann Street. This public hearing was advertised on March 28, April 4, 11 and 18, 2014. On April 22, 2014, this public hearing was continued to this date at City staff's request.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, property owner Shalin Patel has requested the City of Asheville to permanently close an unnamed alley off of South Ann Street.

The Multimodal Transportation Commission met on February 26, 2014, and voted unanimously to support the closure of the unnamed alley off of South Ann Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent property
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley off of South Ann Street.

Mayor Manheimer opened the public hearing at 6:16 p.m., and when no one spoke, she closed the public hearing at 6:16 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-115. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 216

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 20 AND A PORTION OF 28 DEAVERVIEW ROAD FROM RS-8

RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A DENTAL CLINIC, INCLUDING A REQUEST FOR MODIFICATIONS TO THE LANDSCAPING AND PARKING

ORDINANCE NO. 4311 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 20 AND A PORTION OF 28 DEAVERVIEW ROAD FROM RS-8 RESIDENTIAL SINGLE FAMILY HIGH DENSITY DISTRICT AND HIGHWAY BUSINESS DISTRICT OFFICE DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A DENTAL CLINIC

Urban Planner Julia Fields that this is the consideration of an ordinance to conditionally zone property located at 20 and a portion of 28 Deaverview Road from RS-8 Residential Single Family High Density District and Highway Business District to Office District/Conditional Zoning for the construction of a dental clinic, including a request for modifications to the landscaping and parking. This public hearing was advertised on May 16 and 23, 2014.

Ms. Fields said that the applicant is requesting review of a conditional zoning submittal proposing to rezone property from Highway Business District and RS-8 Residential Single-Family High Density District to Office District/Conditional Zoning in accordance with Section 7-7-8 of the UDO, for the construction of a dental clinic/office facility.

The subject property consists of a .21 acre parcel located at 20 Deaverview Road and a portion (.378 acre) of a .6 acre parcel located at 28 Deaverview Road in West Asheville. The property contains a dental clinic and parking at 20 Deaverview Road, zoned Highway Business (HB) District with additional parking for the clinic and a single-family home located at 28 Deaverview Road, zoned Residential Single-Family High Density District (RS-8).

The applicant, Dr. Thomas L. Morton, Jr., proposes to construct a new dental clinic to the south of the requested rezoning site with accompanying parking largely located along Deaverview Road. A small parking area (2 spaces) and parking garage (2 spaces) are proposed to access off of Green Hill Avenue for employee parking. The two properties will be recombined to subdivide off the single-family home which will remain and will continue to be zoned RS-8. The requested conditional zoning (Office) is for the remainder of the property which will house the new dental clinic and associated parking. It is proposed that the existing practice will remain in operation while the new clinic is being constructed. The practice will close briefly while the existing building and parking is demolished and new parking and storm drainage are constructed.

The new building will be one-story in height with a basement containing storage/flex office space and the garage. The building has a gross floor area of 6,800 square feet and a 3,400 square foot footprint. It is planned to contain 3,350 square feet of space for the clinic with 2,850 square feet of flex office and storage space.

Principal access to the site is proposed to be from Deaverview Road where there are currently two entrances to the property and dental clinic. This proposed principal access leads to a parking area containing fifteen parking spaces and a drop off circle with Porte-cochere. A secondary access for employees is shown off of Greenhill Avenue. This secondary access leads to two parking spaces and a two vehicle parking garage. A modification is requested for parking (two spaces). Twenty-one spaces are required; nineteen are provided. Sidewalks are to be provided along Deaverview Road (existing but to be improved) with a fee in lieu of sidewalk approved for the frontage along Greenhill Avenue. Parking for a single bicycle and handicapped parking (two spaces) is shown on the site plan.

Landscaping is required for this project and includes street trees, street buffer, parking lot landscaping, property line bufferyards, and building impact landscaping. Landscaping shown on the submitted plans is compliant with the exception of the property line along Greenhill Avenue.

A modification is requested to allow a small portion of the driveway to encroach into the property line buffer in this area.

The proposal was approved with conditions by the Technical Review Committee on April 7, 2014. A number of TRC comments have been addressed in the submittal received by the City Council.

The Asheville Planning and Zoning Commission held a public hearing on this matter at their meeting on May 7, 2014. Three people (either owning or residing at an adjacent property – 34 Deaverview Road) spoke concerned about traffic and stormwater runoff issues. Following the hearing, the Commission voted 5-0 to recommend approval to Asheville City Council including support for the requested modifications.

While the location of the new dental clinic building is on property currently zoned RS-8, it is adjacent to property zoned HB. The existing dental clinic has been on the property to be zoned Office CZ for many years. Some of the parking for the existing clinic is currently located on the RS-8 zoned parcel. The site is bordered by properties zoned HB to the east and south (containing a medical equipment/clinic facility and parking for a restaurant located on Patton Avenue). To the north and west the property abuts or is across a street from parcels largely zoned RS8 and containing single family homes.

Conditional Zoning Findings: 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   There are no significant natural or topographic features on the site or in the immediate vicinity.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   A dental clinic and accompanying parking are already located on the subject property so the proposed use should not injure the value of adjoining or abutting property. The landscaping and site improvements proposed should enhance the area. The Office District has operations standards limiting activities associated with non-residential uses.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   The development proposed abuts commercial uses on two sides and single-family homes on the other sides. Buffering will be provided against the single-family zoned properties. The scale of the proposed new structure is in keeping with the buildings in close proximity.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The proposed development supports the land use goal of pursuing compatible redevelopment in appropriate areas.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The development site is located just off of Patton Avenue in West Asheville. The W3 transit line services the area. Adequate water supply, police protection, waste disposal and similar facilities are verified during the TRC review process.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The proposed use of the property is the same as the existing use located there. Although there will be limited access to the site via Greenhill Drive (existing access is only off of Deaverview Road) it is not anticipated that this will cause traffic issues.

The proposed development supports the land use goal stated in the *Asheville City Development Plan 2025* of pursuing compatible redevelopment in appropriate areas.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The proposal is for the redevelopment of a property to support the same use type as currently exists.
- The proposal shows enhanced landscaping and site improvements to the property.
- There will be limited vehicular access off of Greenhill Drive.

Staff recommends approval of the request to conditionally zone the proposed site (.588 acres) to Office District/Conditional Zoning. Staff also recommends support for the modifications to the landscaping and parking standards as requested. Staff finds the request is reasonable and consistent with the Comprehensive Plan and other adopted plans in that (1) The proposed development supports the land use goal stated in the *Asheville City Development Plan 2025* of pursuing compatible redevelopment in appropriate areas; and, (2) The proposal is for the redevelopment of property to support the same use type as currently exists at the site but with enhanced landscaping and site improvements.

Mayor Manheimer opened the public hearing at 6:22 p.m.

Mr. Long, tenant and son of owners of 34 Deaverview Road, expressed concerns with the proposed conditional zoning in that it will eliminate a portion of mature trees behind his home, existing stormwater runoff onto his property will increase, new configuration will cut his garden behind his home in half, and will affect his income because he won't be able to rent the house with these problems. He asked that a fence be installed between the properties and that the stormwater runoff be addressed.

Mr. Mark Wilson, registered landscape architect for the applicant, clarified that there will be no parking in the landscaped area in which they are requesting a modification. He said they have a stormwater design that will accommodate every adequately everything the site is contributing currently and will in the future. They are producing no more impervious surfaces now than what are already on the site. The topographical survey, provided by licensed surveyor, indicates that even though there may be a minor area where stormwater is going onto the neighbor's property, primarily the majority of the stormwater is on the owner's own property.

Mr. Timothy Sadler urged the applicant and the property owner to find good middle ground.

Dr. Thomas Morton Jr., applicant, explained that he has tried to work with Mr. Long in the past about the drainage issues. Mr. Long wanted to construct a wall between the properties split the cost of $25,000. Instead, Dr. Morton said that he constructed a nice curb on this property to make sure that any water would flow back onto his property. His new plan will stop all access on his neighbor's driveway, except for their renters. His initial plan was to keep the mature trees, but due to City regulations, some had to be cut. He intends to keep as many trees as possible.

In response to Vice-Mayor Hunt, Ms. Fields said that the plan is conceptual in nature because we don't want an applicant to fully engineer a site before they receive approval for what is a legislative decision from City Council. This did go to the Technical Review Committee before it went to the Planning & Zoning Commission. While staff looks conceptually at drainage issues, the fully engineering drawings of both grading and stormwater will take place post-approval, should the project be approved. The project will go back for final Technical Review Committee and at that time they will need to have the fully engineered drawings and be compliant with all our stormwater regulations, and get both grading and stormwater approval. There are provisions to divert the water onto the site, whereas, now there doesn't seem to be any water control, other than what the applicant has tried to do. There will be less impervious surface under this plan. She said that those are the reasons why staff is supportive of the plan.

Director of Development Services Shannon Tuch said that the applicant is redrawing their property lines and the residential piece of property will remain RS-8. Staff doesn't review the portion of the property that remains residential because it's not included in the scope of the work. From the stormwater prospective, the impervious surface in the project area that currently exists will be reduced. As a result of the reduction of impervious surface, they are not required to do stormwater quality, only quantity. They have to control the flow of the water which is what they are doing. In looking at this preliminarily, we don't anticipate an increase in water flow off the property - we anticipate a decrease in water flow off the property.

In response to Councilwoman Wisler, Ms. Tuch said that staff welcomes the property owner to retain as many trees as possible.

When Councilman Pelly asked what recourse Mr. Long would have after the project is built and the stormwater runoff still exists, Ms. Tuch said that if the water is from the neighbor's property, it's a civil issue between private property owners. If after the project is built and staff discovers that something is not working according to the plan, then they go back to the property owner for correction.

Ms. Elizabeth Morosani, spouse of Dr. Morton, noted that their survey shows that most of Mr. Long's garden is on their property.

Mr. Joseph Malkie felt that someone should ensure that the agricultural integrity is protected.

Mayor Manheimer closed the public hearing at 6:47 p.m.

When Councilman Smith asked if Ms. Fields has heard any comment from the urban farm people on the other side of Greenhill Avenue, she replied no.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the

master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4311 to conditionally zone property located at 20 and a portion of 28 Deaverview Road from RS-8 Residential Single Family High Density District and Highway Business District to Office District/Conditional Zoning for the construction of a dental clinic, with approval for the modifications to the landscaping and and parking standards, subject to the following conditions: (1) The project shall comply with all conditions outlined in the TRC staff report; (2) This project will undergo final review by the TRC prior to issuance of any required permits; (3) All site lighting must comply with the City's Lighting Ordinance, Section 7-11-10, of the Unified Development Ordinance. A detailed lighting plan illustrating compliance with the ordinance will be required upon submittal of detailed plans to be reviewed by the Technical Review Committee; (4) All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans; (5) A subdivision recombination will have to be approved and recorded prior to permit issuance; and (6) Per the UDO (Office District), all activities associated with non-residential uses, including deliveries and refuse collection, shall be conducted between the hours of 7:00 a.m. and 9:00 p.m. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 72

V. UNFINISHED BUSINESS:

A. APPROVAL OF FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CAMBRIA HOTEL SUITES - LEVEL II PROJECT SITE PLAN APPEAL

At the request of Mayor Manheimer, Councilman Smith moved to rescue Mayor Manheimer from participating in the matter due to a conflict of interest. This motion was seconded by Vice-Mayor Hunt and carried unanimously. At this time, Mayor Manheimer handed over the gavel to Vice-Mayor Hunt to proceed with the meeting.

Vice-Mayor Hunt said that the public hearing on this matter was held on May 13, 2014, and no further comment would be accepted.

City Attorney Currin said that the appeal that was heard on May 13, 2014, was a quasi-judicial matter so there was evidence presented under oath and exhibits presented. City Council reached a decision to affirm the decision of the Planning & Zoning Commission and approve the site plan. The decision has to be reduced to writing and Council is charged with resolving disputed issues of fact and making findings of fact and conclusions of law based on what was heard at the hearing. She took the evidence and prepared a proposed findings of fact and conclusions of law which memorialize that decision. Those are in front of the Council at this meeting. When those findings and conclusions are approved, that is the time when the decision becomes official, and it is provided to the applicant and appellant. If there is any legal challenge or appeal, that is when the 30 day period begins to run. If the findings and conclusions are acceptable to City Council, she suggested approval.

Vice-Mayor Hunt said that members of Council have been previously furnished with a copy of the findings of fact and conclusions of law and it would not be read.

Councilwoman Wisler moved to adopt the findings of fact and conclusions of law for the Cambria Hotel Suites Level II Project - Site Plan Appeal. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused).

City Attorney Currin also noted that the appellant submitted several objections and suggestions that he had for the proposed findings. Those objections and suggestions were provided to City Council for review prior to final approval.

At this time, Vice-Mayor Hunt returned the gavel to Mayor Manheimer to continue presiding at the meeting.

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Ken Michalove spoke against the City using tax funds to support the Art Museum. He provided City Council with a letter dated May 27, 2014, in which several budgeting questions were raised for Pack Place and the Asheville Art Museum.

Mr. Roger McCredie asked if Vice-Mayor Hunt and City Manager Jackson were authorized by City Council, at their April 8, 2014, closed session, to demand at the April 9, 2014, Pack Place Board of Directors meeting that the Pack Place Board adopt a resolution asking for a 60-day extension of its existing lease (ends on June 30, 2014) in order to tie up loose ends and settles its affairs. Mayor Manheimer asked that City Attorney Currin look into the process of lease extensions and report back to Mr. McCredie.

Brother Christopher Chiaronmonte felt that Asheville won't repent because they took out the prayers at the Council meetings.

Mr. Timothy Sadler encouraged a thorough review of the transit management contract prior to renewal.

Mr. Joseph Malkie commented about customer service of the bus drivers and suggested a review of the injustice of the routes.

Closed Session

At 7:12 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to a lawsuit involving the following parties: State of North Carolina and City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:54 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:54 p.m.

Magdalen Bowerson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 10, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Deputy City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF RUN FOR THE WALL XXVI

On behalf of City Council, Councilman Davis thanked City Manager Gary Jackson, Executive Director of Planning & Multimodal Transportation Cathy Ball, Director of Communication & Public Engagement Dawa Hitch and Economic Development Specialist Jon Fillman for their participation in the Run for the Wall XXVI. He also said that the City of Asheville was awarded a plaque for their participation.

B. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY STUDENTS

Mayor Manheimer said that seven years ago, Mayor Bellamy and the Asheville City Council envisioned a new program that would place students with meaningful summer internships with City departments and partnering organizations throughout Asheville. This program would empower its students to get involved in their communities, support them in their quest for college, and reward them with a generous scholarship. Last year, 56 students at Asheville High School applied to the CAYLA program. After a rigorous application process, 24 students were selected. CAYLA's prestigious summer internships enable our students to explore careers and learn from caring adult professionals. Members of the CAYLA Class of 2014 interned with valuable community partners, including the Asheville Area Chamber of Commerce, the United Way, MAHEC, and Moog Music. Each Friday during the summer, the students attended day-long leadership workshops on a range of topics, including financial literacy, communication skills, and building consensus. Of the graduating seniors, all will be attending four-year colleges this fall – and many have earned significant merit scholarships. Since last June, the group has completed 26 different community service projects, with organizations including ABCCM, MANNA Foodbank, the Salvation Army, Brother Wolf, and Habitat for Humanity. Over the years, CAYLA students have given more than 2,800 volunteer hours. In recognition of their accomplishments and the critical role they will play in Asheville's future, the City of Asheville awards each CAYLA student a scholarship in the amount of $2,000.

With that, she read the names of the CAYLA students who were in the meeting this evening: Kanaje Allen, Brittany Boseman, Brandy Burgin, Jonaca Crooks, Markevis Davis, Michael Davis, Emmanuel Figaro, Jalyn Folston, Jahni Gilliland, Raekwon Griffin, Caleah Hallum, Ella Heldreth-Schmitt, Tyshaun Johnson, Phoenix Keyser, Mariah Lee, Brianca Livingston, Manny Lomeli-Garcia, Diana Marquez, Oscar Marquez, A.J. Mitchiner, Randesha Neely, Owen Ruth, Symone' Simmons and Promyss Watley.

Mayor Manheimer praised Erika Germer for her hard work on this program.

C. PROCLAMATION PROCLAIMING JUNE 10, 2014, AS "LIANA MURRAY DAY"

Mayor Manheimer read the proclamation proclaiming June 10, 2014, as "Liana Murray Day" in the City of Asheville. She presented the proclamation to Ms. Murray, 2014 Class from Asheville High School, who will represent North Carolina on Capitol Hill as part of the 2014 U.S. Presidential Scholars.

D. PROCLAMATION PROCLAIMING JUNE 13-22, 2014, AS "POLLINATION CELEBRATION WEEK"

Councilman Bothwell read the proclamation proclaiming June 13-22, 2014, as "Pollination Celebration Week" in the City of Asheville. He presented the proclamation to Ms. Phyllis Stiles, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 27, 2014

B. RESOLUTION NO. 14-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH PATTON CONSTRUCTION GROUP INC. FOR THE SUMMER 2013 WATER SYSTEMS IMPROVEMENTS PROJECT

ORDINANCE NO. 4312 - BUDGET AMENDMENT FOR THE SUMMER 2013 WATER SYSTEMS IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction agreement with Patton Construction Group, Inc., for the bid amount of $870,358.00 plus a contingency amount of $130,556.00 for a total project budget of $1,000,914.00 for the Summer 2013 Water System Improvements Project; and a budget amendment in the amount of $950,914.00 from savings in other capital projects that were completed under budget.

On April 25, 2014, the Water Resources Department issued an Invitation for Bids for the Summer 2013 Water System Improvements Project. This project consists of several job sites: (1) Hookers Gap and Wade Dr, which includes the installation of approximately 610 Linear Feet (LF) of 6-inch Ductile Iron Pipe (DIP); (2) Craig Circle, which includes the installation of approximately 1,630 LF of 6-inch DIP; (3) Ridge Avenue and Alta Ave, which includes the installation of approximately 1,580 LF of 6-inch DIP; (4) Dogwood Road (south) and White Pine Circle, which includes the installation of approximately 1,600 LF of 6-inch DIP; and (5) South Lexington Avenue, which includes the installation of approximately 650 LF of 8-inch DIP. All water line installations will include the installation of related appurtenances and materials required in order to complete the work. This project will replace existing undersized and failing waterlines in order to improve hydraulics, improve fire protection, and increase reliability. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received four (4) bids.

Companies responding were:

1. Buckeye Bridge LLC – Canton, NC
2. Cooper Construction Company, Inc. – Hendersonville, NC
3. Patton Construction Group, Inc. – Asheville, NC
4. T&K Utilities, Inc. – Asheville, NC

The bids were reviewed by City Staff and Patton Construction Group, Inc., was selected as the lowest responsible bidder at a bid of $870,358.00. A contingency amount of $130,556.00 has been added for a total project budget of $1,000,914.00.

Pros:

- This project will replace existing, undersized waterlines with a durable, reliable water system for the project neighborhoods.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would prevent the completion of this waterline system improvement and goal of continued investment in our infrastructure.

All of the projects except for Dogwood Road (south) were originally intended to be completed by an in-house Construction Crew funded through the Water operating budget. The crew, however, was dissolved so the projects will now be contracted out and funded through the Water CIP budget. As noted, the only location budgeted in the CIP Budget was Dogwood Road (south) for $50,000.00. The remaining funds of $950,914.00 needed to fund the full project will be transferred from the completed NCDOT Brevard Road and McIntosh Road Water Line Replacements projects. In order to transfer funds from these completed capital projects, a budget amendment is necessary.

Amount in Project Budget	$ 50,000.00
Amount Needed for Construction Contract	$ 950,914.00
Total Amount for Project	$1,000,914.00

City staff recommends City Council approval of the City Manager to enter into a construction agreement with Patton Construction Group, Inc., for the bid amount of $870,358.00 plus a contingency amount of $130,556.00 for a total project budget of $1,000,914.00 for the Summer 2013 Water System Improvements Project; and a budget amendment in the amount of $950,914.00 from savings in other capital projects that were completed under budget.

RESOLUTION BOOK NO. 36 - PAGE 219
ORDINANCE BOOK NO. 29 - PAGE 96

C. RESOLUTION NO. 14-117 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE 2014 BYRNE JUSTICE ASSISTANCE GRANT THROUGH THE US DEPT. OF JUSTICE

Summary: The consideration of a resolution authorizing the City to apply for funds through the 2014 Byrne Justice Assistance Grant – Local Solicitation in the amount of $56,677.

The Asheville Police Department requests authorization to apply for the 2014 Byrne JAG – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. If the grant is approved the Asheville Police Department and Buncombe County Sheriff's Department will be allocated $56,677 based on the award matrix, with Asheville receiving $42,143 and Buncombe County receiving $14,534. The distribution of funds would be approved through a signed MOU.

APD plans to purchase in-car video systems to place in patrol cars. These recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases. However, these recordings could also be used to aid in resolving allegations of wrongdoing by

officers. This would allow for an even greater level of protection of officers and citizens. The digital cameras provide high quality and high resolution video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers. Recordings captured with these cameras could potentially aid in mitigating potential civil liability for the City of Asheville by illustrating in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system create a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Department plans to purchase thermal imaging equipment. This thermal technology is useful during night time applications when trying to locate a suspect or an endangered person. This equipment could be used in a variety of ways to save lives and apprehend suspects, while helping protect the officers engaged in the pursuit.

There will be an expense of $42,143 by the APD for the in-car video systems. The Buncombe County Sheriff's Department will expend $14,534 for the purchase of thermal imaging equipment. This accounts for the total allocation of $56,677 for this Grant.

This is a 100% funded non-local match grant that will enable the APD to greatly enhance documentation of patrol related activities such as vehicle stops, pursuits, etc. The video evidence will prove to be very valuable in court for both civil and criminal offenses. Additionally, such evidence will be valuable to for internal investigations into officer actions and encounters. This will enhance accountability for officer actions and increase officer and public safety.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.

Con:

- Additional burden on the electronic secure storage capacity for storage of the videos
- Maintenance and replacement costs for the camera equipment which has an expected average service life of five years

There is a minimal fiscal impact at this time for City Council to approve the resolution authorizing the City to apply for the grant. If the grant is awarded, there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets. Additionally, funding will be needed to provide additional secure server/storage space to maintain the evidentiary video.

City staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through US Office of Justice Programs in the amount of $56,677.

RESOLUTION BOOK NO. 36 - PAGE 221

D. RESOLUTION NO. 14-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUPPLEMENTAL UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE RELOCATION AND ADJUSTMENT OF MUNICIPALLY OWNED WATERLINES WITHIN THE I-26 / NC 280 (AIRPORT ROAD) INTERCHANGE PROJECT AREA

Summary: The consideration of a resolution authorizing the City Manager to execute a Supplemental Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area; the adjusted estimate for the relocation and adjustment of the waterlines is $196,900.

On July 23, 2013, City Council authorized the City Manager to execute a Municipal Utility Agreement with NCDOT for the I-26 / NC 280 Interchange Project (No. I-5501) in the amount of $164,000. The Water Resources Department was recently informed that the cost of the project has been increased to $196,900. Since the City of Asheville owns and maintains municipal waterlines within the right-of-way of the project area, the Water Resources Department is responsible for 100% of the cost associated with adjustment or relocation of the waterlines.

Pros:

- Execution of the agreement allows the City of Asheville Water Resources Department to meet its obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Execution of the agreement allows the required adjustment or relocation of municipal waterlines to be performed under the NCDOT construction contract, which will provide construction efficiencies producing cost savings and allow construction schedules to be met.

Cons:

- Failure to execute the agreement hinders the City of Asheville Water Resources Department ability to meet obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Failure to execute the agreement prevents the required adjustment or relocation of municipal waterlines from being performed under the NCDOT construction contract. This will create difficulties with construction coordination, create a lack of efficiencies and add to the overall cost of the construction.

The funding needed for this agreement is currently allocated within the NCDOT I-26 Widening Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a Supplemental Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area; the adjusted estimate for the relocation and adjustment of the waterlines is $196,900.

RESOLUTION BOOK NO. 36 - PAGE 222

E. RESOLUTION NO. 14-119 - RESOLUTION APPROVING THE STRATEGIC PARTNERSHIP FUND (FORMERLY THE OUTSIDE AGENCY PROGRAM) AWARDS

Summary: The consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for the 2015 Strategic Partnership Fund (formerly Outside Agency Grants).

The HCD Committee received applications from 14 eligible organizations for Strategic Partnership Funds for 2015. One application was withdrawn after submittal. The Committee considered these applications at their meeting on May 20, 2014, and now recommends 11 applications for funding. The recommendations are:

Agency	Funding Support Purpose	2015 Funding Recommendation
Appalachian Sustainable Agriculture Project	Funds will expand the reach and impact of the Growing Minds at Market (GM@M) to vulnerable children and families in the Asheville area.	5,000

Asheville Area Arts Council	Funds will support the Creative Industry Entrepreneurship Program, which offers professional and workforce development services through an array of business management training opportunities and the Artist's Resource Center.	10,000
Asheville Design Center	Funds will support Phase II (hard-scaping) of the Hall Fletcher Elementary Outdoor Learning Center.	4,000
Asheville Greenworks	Funds will support the on-going mission of the organization to clean up litter, reduce graffiti, recycle and reduce waste, and beautify with tree plantings, park restorations and flower beds.	10,000
Child Abuse Prevention Services, Inc.	Funds will help reduce and prevent child abuse, strengthen families and assist children and families who have experiences abuse through prevention education, parenting education, and crisis intervention/counseling.	5,000
Children First	Funds will support the Learning Center program in Pisgah View, Deaverview and Woodbridge apartment complexes.	20,000
Green Opportunities	Funds will assist in the creation and management of a community garden at the newly renovated W.C. Reid Center.	10,000
Homeward Bound	Funds will support the A-HOPE Day Center outreach, intake and support for homeless persons, and provide support for weekend operations.	25,000
One Youth At A Time	Funds will provide mentoring and tutoring, guided growth activities, job training and placement assistance to at-risk and critically at-risk youth ages 8-19.	4,400
Partners Unlimited	Funding will be used to pay for 16 NovaNET site licenses, program registration fees for low-income students, and personnel costs.	2,500
United Way 2-1-1	Funds will support 2-1-1, a community service information line that connects people to community resources. 2-1-1 is a free confidential service available by phone 24/7 to speakers of all languages. Its database of public and non-profit services is also available online and via mobile devices.	2,500

Total recommended funding is $98,400. This amount is unchanged from last year's Outside Agency Program, when funding for agencies now allocated through department line-item budgeting is factored into the total.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.

- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funded from the City's general fund. The funding recommendations do not exceed the fiscal limits included in the FY 2014-2015 Proposed Budget of $98,400.

The HCD Committee recommends approval of the 2015 Strategic Partnership Fund grants as presented.

RESOLUTION BOOK NO. 36 - PAGE 223

F. RESOLUTION NO. 14-120 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE THE SALE OF A REMNANT PIECE OF PROPERTY OFF COXE AVENUE TO SOUTH SLOPE HOLDINGS, LLC

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 512 square feet of remnant real property located off of Coxe Avenue to South Slope Holdings, LLC.

A recent title search of private property located at 185 Coxe Avenue discovered that the City of Asheville holds title to a 4 feet by 128 feet strip of vacant property located at the southern boundary line of 185 Coxe Avenue. The City of Asheville was deeded this strip of property in 1923 for a walkway to connect to the former Asheland Avenue School that operated in the 1930's and 1940's. The school was closed in the 1950's.

At this time, the property 185 Coxe Avenue has been purchased by South Slope Holdings, LLC for redevelopment and the company wishes to purchase this remnant property. Being that the property has limited practical utility, the method to establish fair market value is the upset bid process set forth in NCGS 160A-269. South Slope Holdings, LLC has put forth a bid of $1,000 for the property. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $1,000. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $1,100 or higher.) Since the function of the upset bid process is to confirm fair market value, the resolution provides that if no qualifying, competing bid is received, then City Council agrees to convey this parcel to South Slope Holdings, LLC for $1,000.

The Parks Department and Transportation Department have confirmed that this property in not needed for future multi-modal transportation infrastructure.

Pros:

- Private sale will convert public land into taxable real property.

Cons:

- None.

Financial proceeds associated with the real property disposition are to benefit the Economic and Community Development Capital Improvement Project budget.

Staff recommends adoption of the resolution directing the City Clerk to advertise for upset bids for a property located off of Coxe Avenue.

RESOLUTION BOOK NO. 36 - PAGE 224

G. RESOLUTION NO. 14-121 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE THE SALE OF A REMNANT PIECE OF PROPERTY OFF HAZZARD STREET TO HELEN LINDBERG AND C.C. COURTNEY

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 0.06 acres (approx. 2600 square feet) of remnant real property located off of Hazzard Street to Helen Lindberg and C.C. Courtney.

The City of Asheville owns two parcels of remnant property located off of Hazzard Street that measure 0.03 acres each, for a total of 0.06 acres (PIN # 9648-69-9941 & 9648-79-0902). These parcels were deeded to the City by the Housing Authority in 1995 at the end of the Urban Renewal program. The parcels are configured in a flag-lot shape and have limited utility to the broad market of buyers. The adjacent property owners have put forth an offer of $3,000 to purchase both parcels.

Being that the property has limited practical utility, the method to establish fair market value is the upset bid process set forth in NCGS 160A-269. Helen Lindberg and C.C. Courtney have put forth a bid of $3,000 for the properties. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $3,000. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $3,200 or higher.) Since the function of the upset bid process is to confirm fair market value, the resolution provides that if no qualifying, competing bid is received, then City Council agrees to convey this parcel to Helen Lindberg and C.C. Courtney for $3,000.

The Parks Department and Transportation Department have confirmed that this property in not needed for future multi-modal transportation infrastructure.

Pros:

- Private sale will convert public land into taxable real property and will relieve the City of ongoing maintenance responsibility.

Cons:

- None.

Because this property is associated with Federal Funds via Urban Renewal, the financial proceeds are to benefit the Community Development Block Grant fund.

Staff recommends adoption of the resolution directing the City Clerk to advertise for upset bids for a property located off of Hazzard Street.

RESOLUTION BOOK NO. 36 - PAGE 225

H. RESOLUTION NO. 14-122 - RESOLUTION ADOPTING THE CITY OF ASHEVILLE'S FINANCIAL POLICY TO INCLUDE HEALTH FUND RATES AND A REVISION TO THE DEBT POLICY

Summary: The consideration of a resolution adopting changes to the City of Asheville's Financial Policy to include Health Fund rates and a revision to the Debt policy.

National Advisory Council on State and Local Budgeting (NACSLB) and the Government Finance Officers Association (GFOA) recommend that local governments adopt a financial policy to help frame resource allocation decisions and guide financial management. Staff annually reviews the policy to ensure its continued relevance and to identify any gaps that need to be addressed by City Council. As part of this annual review process, staff is recommending that Council consider approving an updated policy.

The two most significant updates to the policy include the addition of a section on "Internal Service Fund" and an expansion of the section on "Debt". Each of these areas is described further below.

1. I. Internal Service Fund – Health Insurance Fund
   In February 2011 City Council appointed five (5) members of the community to serve on the Healthcare Task Force Committee. Council directed the group to conduct a broad review of health insurance benefits extended to City employees. Among the committee's recommendations was stabilization of the Health Insurance Fund to mitigate unforeseen catastrophic claims, larger than expected medical inflation trends, Incurred But Not Reported (IBNR) claims liability and the impact of the Affordable Care Act. The policy's objective is to establish mechanisms for rate setting, budgeting, and reserve requirements that will sustain the City's self-funded health insurance program.

2. J. Debt
   Revisions to the debt policy were endorsed by the City's Bond Counsel and Financial Advisor in order to 1) comply with federal tax law, and to 2) demonstrate to ratings agencies City Council's intent to preserve or improve the City's bond ratings through sound debt management.

   On May 27, 2014, the City Council Finance Committee endorsed the amendments.

Pro:

- Adoption of the revised Financial Policies codifies City Council's intent to maintain sound financial management practices.

Con:

- None.

City staff recommends that Council adopt a resolution adopting changes to the City of Asheville's Financial Policy to include Health Fund rates and a revision to the Debt policy.

RESOLUTION BOOK NO. 36 - PAGE 226

I. ORDINANCE NO. 4313 - ORDINANCE DESIGNATING A 25 MPH SPEED LIMIT ON GALAX AVENUE FROM VIRGINIA AVENUE TO THE END OF CITY MAINTENANCE; MINERAL SPRINGS ROAD FROM BEAUCATCHER ROAD TO TUNNEL ROAD; AND STANCLIFF DRIVE FROM OVERLOOK ROAD TO PHEASANT DRIVE

Summary: The consideration of an ordinance to enact and/or change the speed limits to 25 mph on Galax Avenue from Virginia Avenue to the End of City Maintenance, Mineral Springs Road from Beaucatcher Road to Tunnel Road, and Stancliff Drive from Overlook Road to Pheasant Drive.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit would be reasonable and safe on Galax Avenue from Virginia Avenue to the End of City Maintenance, Mineral Springs Road from Beaucatcher Road to Tunnel Road, and Stancliff Drive from Overlook Road to Pheasant Drive.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $150.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $150.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance changing the speed limit to 25 mph speed limit on Galax Avenue from Virginia Avenue to the End of City Maintenance, Mineral Springs Road from Beaucatcher Road to Tunnel Road, and Stancliff Drive from Overlook Road to Pheasant Drive.

ORDINANCE NO. 29 - PAGE 98

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Assistant City Manager Paul Fetherston highlighted the following bills: S786 - Energy Modernization Act; HB1050 - Omnibus Tax Law Changes; includes Privilege License Tax reform; S729 - Governor's Coal Ash Action Plan; H150/S139 - Zoning Design & Aesthetic Controls; S734/H1136 - Authority to Adopt Certain Ordinances; H1191 - Authority to Adopt Local Ordinances; H531 - ETJ/Zoning - Weaverville & Buncombe/Correction; H1113 - Bent Creek Property Sullivan Act Exemptions; S743/H1031 - NC Economic Development Partnership Modifications; and H1142 - Modify Film/Historic Rehab Tax Credits. He also mentioned Town Hall Day; and the Water Update: SL 2013-50 (H488: Regionalization of Public Utilities) - on June 9, 2013, the Wake County Superior Court found in the City's favor of the Water System lawsuit.

Mayor Manheimer gave a brief update on their meetings during Town Hall Day in Raleigh last week. She was also pleased to reiterate that the Wake County Superior Court Judge found

in the City's favor of the Water System lawsuit. We will find out whether that is appealed within the next 30 days.

Councilman Bothwell thanked Barry Summers for his relentless work on the water issue.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 1 SUNSET PARKWAY FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT TO OFFICE II DISTRICT/ CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF A RESIDENCE AND A CANINE REHABILITATION CENTER, WITH REQUESTED LANDSCAPE AND PARKING MODIFICATIONS

Mayor Manheimer announced that the applicant has requested a continuance until July 22, 2014. Councilman Smith moved to continue this matter until July 22, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

B. PUBLIC HEARING TO CONSIDER ADOPTION OF THE FISCAL YEAR 2014-15 ANNUAL OPERATING BUDGET

PUBLIC HEARING TO CONSIDER REVISING THE STORMWATER UTILITY FEE

Finance Director Barbara Whitehorn said that conducts a public hearing each year to receive public input on the Proposed Annual Operating Budget prior to adoption of the Annual Budget Ordinance and the revision to the stormwater utility fee to allow a 3-tiered fee structure. This public hearing was advertised on May 30 and June 6, 2014.

The Fiscal 2014/2015 Proposed Annual Operating Budget was presented to City Council on May 27, 2014. The Fiscal Year 2014/2015 Proposed Budget is balanced while maintaining the current Ad Valorem tax rate of $0.46 per $100 of assessed value. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. The Proposed Budget is also available for viewing on the City's website (www.ashevillenc.gov).

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 30 and June 6, 2014. Adoption of the Fiscal 2014/2015 Budget Ordinance is scheduled for June 24, 2014, at the regularly scheduled City Council meeting. The Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which cannot be changed once the Budget is adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2014/2015 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

Ms. Whitehorn explained the two legislative developments (1) Privilege License Tax Update (a) repeal effective Fiscal Year 2015-16; and (b) minor changes in Fiscal year 2014-15; and (2) City prevailed in the Water System lawsuit judgment. She then reviewed the Neighborhood Sidewalk Program, noting that the Multimodal Transportation Team recommendation is $550,000 over five years with CIP, and reductions in other project allocations. She then showed a chart of the revisions. The Program is funded at $100,000 for Fiscal Year 2015 and will be reevaluated for funding and program in the Fiscal Year 2016 budget process.

She recapped that this is a continuation budget, it meets City Council's key goals, there is no tax rate increase, and there is included a Capital Improvement Program.

Transportation Director Ken Putnam responded to various questions from Council, some being, but are not limited to: why are we not using the existing sidewalk criteria; how much sidewalk will we be able to get built for $550,000 over 5 years; what is the status of the Pedestrian Master Plan; and when is the Multimodal Transportation Plan expected for adoption.

At the suggestion of Councilwoman Wisler, and consensus of Council, the Finance Committee was directed to include in their work plan for the year to do an analysis of the Buncombe County tax collections process to see if there are other options, e.g., the City doing the collection in-house.

Mayor Manheimer opened the public hearing for the budget and the stormwater utility fee structure at 5:56 p.m.

Mr. Chris Peterson acknowledged that there would not be a property tax increase next fiscal year; but was concerned that City Council is taxing the citizens in other ways, e.g., the stormwater utility fee increase. He felt the high administrative costs to administer the fee should be reviewed.

Mr. Saul Chase felt that there was not enough money allocated for neighborhood sidewalks.

Ms. Amy Cantrell thanked City Council for recognizing that public transportation needs to be a priority. She presented Council with a petition containing 349 signatures thanking Council for Sunday bus service, later night service, and changes to the C route.

Ms. Itiyopiya Ewart thanked City Council for their support of transit services, including Sunday bus service, and neighborhood sidewalks.

Mr. Steve Olin spoke in support of additional neighborhood sidewalks.

A bicyclist suggested revising the budget so people can get a clear sense of how much the City is allocating to bicycling.

Mr. Ken Michalove was not satisfied with the City's response to his budget questions regarding Pack Place and the Asheville Art Museum. He raised concerns of Council's lack of due diligence as it pertains to the leasing of Pack Place and contributions to the Asheville Art Museum.

Mr. Roy Harris spoke in support of Sunday bus service and neighborhood sidewalks.

Mayor Manheimer closed the public hearing at 6:20 p.m.

Councilman Pelly acknowledged that the budget will bring significant improvements to our community; however, $550,000 for neighborhood sidewalks over 5 years won't go far - roughly 1 mile of sidewalk. He acknowledged that we can't have sidewalks on every street, but he felt that the connector streets are the streets that we need to target in the future. He was concerned that with a $132 Million Capital Improvement budget, only $550,000 is being allocated for neighborhood sidewalks. He felt that amount was inadequate and hoped that, as important as the rest of the Capital Improvement Program is, this will be something that Council would re-consider allocating additional funds.

Councilman Bothwell agreed with Councilman Pelly. He explained the need for stormwater management as incidents of high volume water events are increasing. He noted that

the fee proposed does not affect homes 2,000 square feet and under. He said the increase ranges from $2.80 to $5.50 a month (on a 5-6,000 square foot home). He felt it's an essential safety matter and the City Council is trying to address the need.

Mayor Manheimer noted that the stormwater fee we are proposing is far less than other cities across the state, noting that we are a little more challenged than other cities in terms of managing stormwater. There are very large infrastructure projects that this fee will be used for that are more regional in nature. This is a needed step to develop a strong stormwater system for the future.

Deputy City Attorney McGlohon said that when the amendment to the Fees & Charges Manual is adopted that it will have to have a delayed implementation time of 60-90 days for the residential increases.

Councilman Smith agreed with Councilman Pelly about our values being reflected in the budget. The budget looks at a way to provide adequate economic stability, and also looking at economic mobility. The City has to keep getting as creative as they can.

Mayor Manheimer said that adoption of the Fiscal Year 2014-15 Annual Operating Budget will occur on June 24, 2014. In addition, the ordinance amending the Fees & Charges Manual regarding a 3-tiered stormwater fee structure will be considered on June 24, 2014, with the public hearing on the amendment to the stormwater ordinance in August, 2014.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS

At the request of City staff, Councilwoman Wisler moved this public hearing be continued until July 22, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Greater Asheville Regional Airport Authority, the following individual applied for the vacancy: Gary Herndon. It was the consensus of Council to postpone action for two weeks on this appointment.

Regarding the Citizens-Police Advisory Committee, the following individual applied for a vacancy: Buck Bragg. It was the consensus of Council to postpone action on these appointments, noting that all members are appointed until their successors have been appointed.

Regarding the Civic Center Commission, the following individuals applied for the vacancy: Nick King, Sheila Surrett, Gary Herndon, Geoff Mohney, Yvonne Cook-Riley and Greg Duff. It was the consensus of Council to re-advertise one additional month.

Regarding the Community Relations Council, the following individuals applied for the vacancy: Sandra Houts, Brandee Boggs and Fyffe Aschenbrenner. It was the consensus of Council to re-advertise for one additional month.

Regarding the Multimodal Transportation Commission, it was the recommendation of the Boards & Commissions Committee, and consensus of Council to amend the membership composition of the Multimodal Transportation Commission to have 2 members representing

transit interests, 2 members representing greenway interests, 2 members representing bicycle/pedestrian interests, and 3 at-large members; and advertise for vacant seats.

Regarding the Neighborhood Advisory Committee, the following individuals applied for a vacancy: Nick King, Teddy Jordan and Julie Hansbury. It was the consensus of Council to (1) reappoint Robert Roepnack, Barber Melton and Elaine Poovey; and interview Teddy Jordan and Julie Hansbury.

Regarding the Public Art and Cultural Commission, the following individuals applied for a vacancy: Denise Drury, Jay Fields, Jenny Bowen and Jay Miller. It was the consensus of Council to (1) reappoint Victor Palomino, Jaan Ferree, Gwynne Rukenbrod and Guillermo Rodriguez; and (2) interview Denise Drury, Jay Fields, Jenny Bowen and Jay Miller.

RESOLUTION NO. 14-123 – RESOLUTION APPOINTING THE CHAIRMAN TO THE CIVIL SERVICE BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a Chair to the Civil Service Board to serve until June 25, 2015, or until their successor is appointed, whichever occurs first.

It is the responsibility of City Council to appoint the Chair of the Civil Service Board and the Chair of the Civil Service Board shall be appointed annually by City Council.

On August 27, 2013, City Council adopted Resolution No. 13-179 which appointed Mr. Marvin Rosen to serve as Chair for one year (June 25, 2014) or until his successor was duly appointed by Council, whichever occurred first.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

At the Civil Service Board meeting in May, 2014, all members were advised to contact City Clerk Burleson if they were interested in serving as Chair. Mr. Rosen was the only interested member.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Rosen as Chair.

Vice-Mayor Hunt moved to reappoint Mr. Marvin Rosen as Chairman of the Civil Service Board to serve a one-year term, term to expire June 25, 2015, or until his successor is duly and annually appointed by the City Council, as provided by law. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 232

RESOLUTION NO. 14-124 – RESOLUTION APPOINTING A MEMBER TO THE WNC REGIONAL AIR QUALITY AGENCY

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the WNC Regional Air Quality Agency.

The term of Dean Kahl expires on July 1, 2014.

No one applied for the vacancy.

It was the consensus of the Boards & Commissions Committee to reappoint Dr. Kahl.

Mayor Manheimer moved to reappoint Dean Kahl to serve an additional six-year term, term to expire July 1, 2020, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 233

RESOLUTION NO. 14-125 – RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE CRIME-STOPPERS BOARD OF DIRECTORS

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville-Buncombe Crime-Stoppers Board of Directors.

The terms of Anthony Mitchell and Karl Katterjohn expire on June 30, 2014.

The following individual applied for the vacancy: Tom Fisher.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Mitchell and Mr. Katterjohn.

Vice-Mayor Hunt moved to reappoint Anthony Mitchell and Karl Katterjohn to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 234

RESOLUTION NO. 14-126 – RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville-Buncombe Historic Resources Commission.

The terms of Brendan Ross and Richard Fast expire on July 1, 2014.

The following individuals applied for the vacancy: Tom Hartwell, Keaton Edwards, Jesse James, Gary Herndon, Patricia Darcy, Kendra Turner and Geoff Mohney.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. Ross and Mr. Fast.

Vice-Mayor Hunt moved to reappoint Brendan Ross and Richard Fast to each serve a three-year term, terms to expire July 1, 2017, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 235

RESOLUTION NO. 14-127 – RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Recreation Board.

The terms of Todd Dunnuck, Mildred Nance-Carson, Josh O'Conner and Jordan Veale expire on June 30, 2014.

The following individuals have applied for a vacancy: Kimberly Reed, Mary Michael and Patrick Dennehy.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Dunnuck and Mr. O'Conner; and appoint Kimberly Reed and Patrick Dennehy.

Councilman Smith moved to (1) reappoint Todd Dunnuck and Josh O'Conner to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed; and (2) appoint Kimberly Reed and Patrick Dennehy to serve a three year term respectively, terms to begin July 1, 2014, and expire June 30, 2017, or until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 236

RESOLUTION NO. 14-128 – RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mayor Esther Manheimer has has to resign from the Asheville Area Riverfront Redevelopment Commission, thus leaving a vacancy for the City Council ex-officio voting member.

Vice-Mayor Hunt moved to appoint Councilman Jan Davis to serve on the Asheville Area Riverfront Redevelopment Commission in an ex-officio voting capacity until he is no longer a member of the Asheville City Council. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 237

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Jeanie Rosenthal updated City Council on the inactivity of Partnership Property Management to enforce people not smoking at least 25 feet from their apartment complexes. She provided Council with an article on the negative impact of e-cigarette smoking.

Mr. Bob Spitzen asked for Council's assistance to see if a lis pendens has been served on his son who owns 76 Lanvale Avenue. Deputy City Attorney McGlohon stated that the City Attorney's Office is familiar with Mr. Spitzen's issue and is trying to resolve the issue.

Ms. Itiyopiya Ewart thanked City Council for their support of transit services, including Sunday bus service, and neighborhood sidewalks.

Mr. Timothy Sadler thanked Council for their work on the water system lawsuit and asked, under the Freedom of Information Act, how many employee hours went into the establishment of the Cultural Recreation Authority and the Water System lawsuit.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:51 p.m.

Magdalen Bruleson
CITY CLERK

Esther G Manheimer
MAYOR

Tuesday – June 24, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Rev. Christopher Chiaronmonte raised a point of order regarding prayer at Council meetings.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of City staff, (1) Consent Agenda Item "F" will be continued until July 22, 2014; (2) Consent Agenda Item "J" was removed from the Consent Agenda for an individual vote; (3) Consent Agenda Item "L" was removed from the Consent Agenda entirely until a further date; and (4) Consent Agenda Item "O" was removed from the Consent Agenda for discussion and/or individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 10, 2014

B. RESOLUTION NO. 14-129 - REIMBURSEMENT UPDATING THE FY 2013-14 DEBT REIMBURSEMENT RESOLUTION ADOPTED BY CITY COUNCIL ON AUGUST 27, 2013, DECLARING THE INTENT OF THE CITY TO REIMBURSE ITSELF FROM DEBT PROCEEDS FOR EXPENDITURES INCURRED IN CONNECTION WITH THE DEMOLITION OF CITY PROPERTY ON HAYWOOD ROAD (HANDY PARK) AND THE CONSTRUCTION OF A RETAINING WALL ON THE SITE

RESOLUTION NO. 14-130 - RESOLUTION DESIGNATING THE CITY MANAGER AND CHIEF FINANCIAL OFFICER AS AUTHORIZED OFFICERS TO DECLARE THE INTENT OF THE CITY TO REIMBURSE ITSELF FOR FUTURE CAPITAL EXPENDITURES INCURRED IN CONNECTION WITH DEBT OBLIGATIONS

Summary: The consideration of: 1) a resolution updating the FY 2013-14 debt reimbursement resolution adopted by City Council on August 27, 2013, declaring the intent of the City to reimburse itself from debt proceeds for expenditures incurred in connection with the demolition of City property on Haywood Street (Handy Park) and the construction of a retaining wall on the site; and 2) a Resolution designating the City Manager and Chief Financial Officer as authorized officers to declare the intent of the City to reimburse itself for future capital expenditures incurred in connection with debt obligations.

City Council adopted a debt reimbursement resolution on August 27, 2013, declaring its intent to reimburse itself with debt proceeds for certain capital projects and

equipment expenditures that were authorized in the FY 2014 budget. These expenditures included the construction and improvement of streets, bridges, sidewalks and multimodal facilities, the renovations and improvements to City Hall, Pack Place, and park/athletic facilities, the acquisition and construction of park facilities and greenways, the acquisition, construction and improvement of workforce housing, the acquisition of vehicles and equipment and utility improvements.

In February 11, 2014, City Council approved a contract for the Handy Park Building Demolition and Retaining Wall Construction. As outlined in the staff report at the time, the contract will be funded with debt proceeds as part of the Community and Economic Development Capital Improvement Program (EDCIP). Since this project was not included as part of the original debt reimbursement resolution adopted last August, staff recommends that Council adopt an updated reimbursement resolution.

In addition, staff is also seeking Council approval of a resolution designating the City Manager and Chief Financial Officer as authorized officers to declare the intent of the City to reimburse itself for future capital expenditures incurred in connection with debt obligations. Currently, all reimbursement resolutions must be approved by City Council. Staff is requesting that Council approve a resolution delegating this approval authority to the City Manager and the Chief Financial Officer. The purpose of the reimbursement resolution is to provide the City with the ability to move forward with the projects and reimburse its accounts upon the issuance of the debt. The reimbursement resolution itself does not specifically authorize the issuance of the debt. Those resolutions will be drafted in connection with the actual debt issuance and will be approved by City Council.

Pro:

- Enables the City to begin spending money on the Council's approved capital projects, vehicles and equipment that were to be financed from debt proceeds.

Con:

- Lost opportunity to earn interest (although at very low interest rates in the range of 1/10 of 1% to 1/4 of 1%) on the City's unrestricted cash and investments which are temporarily diverted to pay for the capital projects pending reimbursement from the debt issuance.

The Reimbursement Resolution will result in some minimal loss of interest income. Bidding and proceeding with the authorized capital projects may result in better pricing thus lower the actual amount of the debt financing. The repayment of the debt issuance is incorporated in the debt management plan.

Staff recommends City Council adopt: 1) a resolution updating the FY 2013-14 debt reimbursement resolution adopted by City Council on August 27, 2013 declaring the intent of the City to reimburse itself from debt proceeds for expenditures incurred in connection with the demolition of City property on Haywood Street (Handy Park) and the construction of a retaining wall on the site; and 2) a resolution designating the City Manager and Chief Financial Officer as authorized officers to declare the intent of the City to reimburse itself for future capital expenditures incurred in connection with debt obligations.

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RESOLUTION NO. 14-130 - RESOLUTION BOOK NO. 36 - PAGE 239

C. RESOLUTION NO. 14-131 - RESOLUTION APPROVING AN INSTALLMENT FINANCING AGREEMENT TO FINANCE VEHICLES AND EQUIPMENT AND DELIVERY THEREOF AND PROVIDING FOR CERTAIN OTHER RELATED MATTERS

Summary: The consideration of a resolution authorizing execution of a $1,810,000 installment financing contract for FY2014 CIP Vehicles and Computer Equipment.

Appropriations for FY2014 include $1,810,000 for various vehicles and computer equipment, with the capital expenditures financed through debt proceeds.

The City distributed on May 30, 2014, a Request for Proposal ("RFP") seeking competitive bids for the financing. Twelve proposals were received, the most favorable of which was submitted by Wells Fargo Bank (the "Bank") at an interest rate of 1.22% per annum for a term of 48 months (computer equipment) and 59 months (vehicles). The loan is structured with level principal payments and semiannual payments.

The proposed resolution authorizes an installment financing contract between the City of Asheville and the Bank for the purchase of the vehicles and computer equipment, and it authorizes the City Manager, City Attorney, Finance Director and City Clerk to execute and deliver any and all necessary documents. The contract will place a security interest in the vehicles and computer equipment in favor of the Bank in order to secure the City's obligation under the contract. Pursuant to a previously adopted reimbursement resolution, proceeds from this financing contract will allow the City to reimburse itself for the cost of the vehicles and computer equipment which have already been procured.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over several years of the useful life of the asset.
- Reimbursing this capital purchase with the proceeds of the financing, as opposed to paying for the purchase by using the City's available cash balances, increases currently available funds through restoration of fund balance.
- The financing conforms to the approved Financing Plan for capital expenditures.

Con:

- Financing the purchase increases nominally the lifetime cost of the acquisition due to the payment of interest and closing costs on the amount financed.

The annual debt service payments for this financing range between approximately $403,000 in the first year and approximately $284,000 in the fifth year. Funds are included in the City's FY 2014-15 proposed debt service budget to cover this cost.

City staff recommends that City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with Wells Fargo Bank for the acquisition of the vehicles and computer equipment.

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D. RESOLUTION NO. 14-132 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH TENNOCA CONSTRUCTION COMPANY INC. FOR THE CRAVEN STREET IMPROVEMENTS PROJECT

ORDINANCE NO. 4321 - BUDGET AMENDMENT FOR THE CRAVEN STREET IMPROVEMENTS PROJECT

RESOLUTION NO. 14-142 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE NEGOTIATIONS WITH NEW BELGIUM BREWERY AND MODIFY THE EXISTING MEMORANDUM OF

UNDERSTANDING TO ALLOW FOR COST SAVING PARTNERSHIPS DURING THE CONSTRUCTION PROCESS

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with Tennoca Construction Company, Inc. for the construction services necessary to complete the Craven Street Improvements Project; and (2) a budget amendment in the amount of $6,901,570.66, which includes pay-go, debt, and grant resources from the Water Resources Fund, Stormwater Fund, Parking Fund, and the General Fund CIP, to fund the contract and a 15% contingency.

In addition, City staff is requesting City Council consideration of a resolution authorizing the City Manager to revise the Memorandum of Understanding with New Belgium Brewery to include construction partnerships that will mutually benefit both the City of Asheville and New Belgium Brewery.

On June 12, 2012 City Council approved a contract with ColeJenest & Stone for professional services for the design of the Craven Street Improvement project. This project includes improvements to the existing two lane roadway by implementing a complete street approach to the design. The new facility will include bike lanes, sidewalk, stormwater improvements, stream restoration, greenway, parking areas and two-way vehicular traffic. The bids for the project were opened on June 17, 2014. Three bids were received as follows:

- NHM Constructors, Asheville, N.C. - Bid - $6,243,708.81
- Tennoca Construction, Candler, N.C. - Bid - $6,001,365.79
- Buchanan and Sons, Whittier, N.C. - Bid - $6,531,727.77

The City of Asheville determined Tennoca Construction Company to be the lowest responsive and responsible bidder for the project.

The City has three funding partners on this project: (1) Golden Leaf Foundation has provided $300,000; (2) the Economic Development Administration from the Department of Commerce has partnered to provide approximately $1.12M; and (2) the Clean Water Management Trust Fund through RiverLink has provided $365,000. The remaining cost of the project will be paid through the Stormwater, Water, and Parking Funds and General Fund utilizing a combination of pay-go funds and debt proceeds.

Within the scope of the project, Tennoca will perform the construction services necessary to provide improved transportation connections (including pedestrian, bike and vehicular) to the Craven Street area. New Belgium Brewery is continuing their project and anticipates being complete in the winter of 2015.

The City and NBB has an existing MOU in place, with the different elements of the construction project. The City and NBB desire to amend the MOU to allow for cost saving measures, to include but not limited to: grading, Stormwater BMP's and Stream Restoration. Further, the cost saving will address the large box culvert that is partially located within the City's right-of-way and on NBB property. A revision to the MOU will be necessary for the City to be able to complete this work and receive reimbursements.

This action meets Council goals by enhancing the city's long-term financial commitment to infrastructure maintenance and capital improvements. Additionally, this project leverages internal and external partnerships for pursuing capital improvements and infrastructure projects.

This project follows the commitment made to New Belgium Brewery to make the necessary improvements in this area. The project also further enhances the environment by placing Stormwater Best Management Practices devices to provide water quality treatment in the area. The stream restoration is part of the project.

This project complies with the Council's Strategic Plan to promote Financial Sustainability by partnering with other organizations such as Clean Water Management Trust Fund, Economic Development Administration, and the Golden Leaf Fund; and promotes a High Quality of Life by providing a safe community for our citizens. This action also meets Council goals by enhancing the City's long-term financial commitment to infrastructure maintenance and capital improvements.

Pros:

- Improvements to the transportation facility in this area, including vehicles, pedestrians and bike facilities.
- The project moves forward with a timely opening date of December 2015.
- Provides safe access for the citizens that visit this area.
- Promotes the environment through water quality devices and the stream restoration.
- Makes safety improvements to the Hazel Mill and Craven Street intersection

Cons:

- Construction will be disruptive to the area for approximately 1 year.
- Continued coordination of the project will be time consuming.

The design budget for the project, which was previously approved by Council totaled $852,604. The construction contract amount, along with the 15% contingency that is being approved and budgeted tonight totals $6,901,570.66, which brings the total budget for the project to $7,754,174.66. As mentioned above, the City has secured $1,787,401 in funding from partner agencies for this project. The remaining budget amount of $5,966,773.66 will be divided between the General Fund, Stormwater Utility Fund, Parking Fund, and Water Resources Fund based on the cost of the various elements of the project. A complete summary of the budget for the project is shown below.

Revenue Sources:	
EDA Grant	1,122,401.00
Golden Leaf Grant	300,000.00
CWMTF Grant	365,000.00
Water Fund Pay-Go	344,860.75
Parking Fund Debt Proceeds	381,883.50
Parking Fund Pay-Go	97,362.00
Stormwater Fund Debt Proceeds	1,112,833.95
Stormwater Fund Pay-Go	206,810.96
General Fund Debt Proceeds	3,732,879.50
General Fund Pay-Go	90,143.00
Total Revenue	**7,754,174.66**
Expenses:	
Design	852,604.00
Construction	6,901,570.66
Total Expenses	**7,754,174.66**

City staff recommends City Council approve (1) a resolution authorizing the City Manager to complete negotiations and sign a contract with Tennoca Construction Company, for the

construction services necessary for completion the Craven Street Project $6,001,365.79, and to enter into change orders to this contract not to exceed 15% of the original contract or $900,204.87; and (2) a budget amendment, in the amount of $6,901,570.66, which includes pay-go, debt, and grant resources from the Water Resources Fund, Stormwater Fund, Parking Fund, and the General Fund CIP, to fund the contract and a 15% contingency.

In addition, City staff recommends City Council approve a resolution authorizing the City Manager to modify the existing Memorandum of Understanding with New Belgium Brewery to allow for cost saving partnerships during the construction process.

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E. **RESOLUTION NO. 14-133 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE INGLE'S INDEPENDENCE DAY CELEBRATION ON JULY 4, 2014**

RESOLUTION NO. 14-134 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERFEST ON AUGUST 9, 2014

RESOLUTION NO. 14-135 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE NEW BELGIUM CLIPS BEER & FILM TOUR ON SEPTEMBER 5, 2014

RESOLUTION NO. 14-136 - RESOLUTION AUTHORIZING THE SALE AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST ON SEPTEMBER 7, 2014

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Ingle's Independence Day Celebration on July 4, 2014; Riverfest on August 9, 2014; New Belgium Clips Beer & Film Tour on September 5, 2014; and Organicfest on September 7, 2014.

- The Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at the Ingle's Independence Day Celebration and allow for consumption at this event.

  The Ingle's Independence Day Celebration will be held on Friday, July 4, 2014 from 2:00 p.m. – 10:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- Riverlink has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Riverfest and allow for consumption at this event.

  Riverfest will be held on Saturday, August 9, 2014, from 1:00 p.m. – 7:00 p.m. at French Broad River Park as per the event area limits referenced on the accompanying site map.

- Asheville on Bikes has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at the New Belgium Clips Beer & Film Tour and allow for consumption at this event.

The New Belgium Clips Beer & Film Tour will be held on Friday, September 5, 2014, from 7:30 p.m. – 10:30 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- Asheville Greenworks has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Organicfest and allow for consumption at this event.

  Organicfest will be held on Sunday, September 7, 2014, from 10:00 a.m. – 6:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for the Asheville Downtown Association, Riverlink, Asheville on Bikes, and Asheville Greenworks

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Ingle's Independence Day Celebration, Riverfest, New Belgium Clips Beer & Film Tour, and Organicfest.

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F. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH ROYAL PINES CENTER FOR REAL PROPERTY AT JAKE RUSHER PARK AT 139 PEACH TREE STREET, ASHEVILLE, NORTH CAROLINA

This item has been moved until July 22, 2014.

G. RESOLUTION NO. 14-138 - RESOLUTION TO ESTABLISH THE CRITERIA FOR A DESIGN-BUILD DELIVERY METHOD FOR CONSTRUCTION CONTRACTS AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO REVIEW AND APPROVE THE WRITTEN CRITERIA FOR EACH INDIVIDUAL DESIGN-BUILD PROJECT

RESOLUTION NO. 14-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO USE THE DESIGN-BUILD DELIVERY METHOD FOR CONSTRUCTION OF THE NATURE CENTER PAVILION AND RESTROOM PROJECT

Summary: The consideration of (1) a resolution establishing the criteria for a Design-Build Method for Construction Contracts, and authorizing the City Manager or his designee to review and approve the written criteria for each individual design-build project to ensure compliance with these adopted criteria; and (2) a resolution authorizing the City Manager to use the Design-Build Delivery Method for construction of the Nature Center Pavilion and Restroom Project.

Prior to the enactment of North Carolina General Statutes 143-128.1A (formerly Session Law 2013-401 and HB 857), state law authorized four contracting methods for large building construction projects: single-prime, separate-prime (also referred to as multi-prime), dual-bidding (bidding both sing- and separate-prime simultaneously), and construction management at risk.

Design-build was considered an alternative construction method requiring either State Building Commission approval or legislative authorization. While design-build was not statutorily restricted for either building construction projects costing up to $300,000 or for construction projects that did not involve a building, the competitive bidding requirements of NCGS Article 8 of Chapter 143 made entering in those type of contract both legally and practically unwieldy. Consequently it was not uncommon for local governments in NC to request, and the General Assembly to enact, local bills authorizing individual local governments to use design-build for specific projects. Session Law 2013-401 eliminated the need for these types of local acts for future projects.

The design-build method is an integrated approach to a construction project that delivers both design (architectural and engineering) and construction services under one contract with a single point of responsibility. Under this delivery method, the City is provided the benefit of the design team and contractor working together to achieve the City's objectives under a single contract. That is, a designer works directly with the contractor instead of working separately for the City.

Under the design-build method, project specifications are not drawn prior to initiating the contracting process. Instead, the City advertises general information about the project and selects the design-builder based on its qualifications to design and construct the project. Once under contract, the design-builder works with the City to design the project based on the City's project criteria, usually by preparing a preliminary design followed by detailed specifications after the City's approval of the preliminary design.

To initiate the contracting process, the City must establish written criteria for determining when design-build is appropriate for a project. Further, *the statute requires that the City adopt the criteria for each individual project.* The next section of this staff report defines in Part 1 the criteria to be used for each individual project. Part 2 then applies this set of criteria to the Nature Center Pavilion and Restroom Project.

Though the statute requires that written criteria be adopted for each project that utilizes the design-build method, it does not specifically require governing board approval of such criteria. However, from a compliance standpoint, some from of higher level approval is advisable and therefore Part 1 requests authorization for the City Manager to approve individual project criteria on all future projects.

Criteria for Determining Whether the Design-Build Delivery Method is Appropriate for a Project:

Part 1 – Establishment of Criteria

Criteria 1: The extent to which the City can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications (RFQ) for a design-builder. The design-build method may be used if it is determined that, for the project, the City has professional staff that are both qualified and experienced to thoroughly define project requirements prior to the issuance of a request for qualifications (RFQ) for a design-builder. Consideration will be given to the qualifications and experience of City staff and the availability of professional staff in the areas of purchasing, finance and legal to assist in the development of an RFQ.

Criteria 2: The time constraints for the delivery of the project. The design-build delivery method may be used if a project has a firm date by which a facility must be operational and the normal delivery method (i.e. RFQ, study, design, bid and construct) is likely not to be timely. The size and cost of a project will dictate complexity and schedule.

Criteria 3: The ability to ensure that a quality project can be delivered. The design-build delivery method may be used if it is determined that, for the project, the City has professional and experienced staff to ensure that the design-build firm will provide a quality project within the

budget constraints established by Council. Consideration will be given to the qualifications and experience of City staff charged with management of the project.

Criteria 4: The capability of the City to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery. The design-build delivery method may be used if it is determined that, for the project, the City has professional and experienced staff that are knowledgeable of design-build projects or, in the alternative, experienced consultants local to Asheville are available to be retained to perform the construction management of a design-build contract.

Criteria 5: A good-faith effort to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), and to recruit and select small business entities. The design-build delivery method may be used if it is determined that, for the project, requirements will be imposed which ensure that contractors will comply with the M/WBE goals set by Council.

Criteria 6: The criteria utilized by the City, including a comparison of the costs and benefits of using the design-build delivery method of a given project in lieu of the other delivery methods identified. The criteria utilized by the City when considering a design-build delivery method for a project will be as follows:

- Is the project well defined and does it include qualitative and quantitative characteristics that make a design-build contract more appropriate than other methods of delivery?
- Is the project timeline overly constrained and will it be necessary to have the facility complete and operational within a short timeframe?
- Will it be necessary to have beneficial use of a portion of the facility while it is under construction?
- Given the scope of the project, is there a maximum budget that must be adhered to in order to allow negotiations and flexibility to make appropriate decisions on scope as the project progresses?
- Does the design-build delivery method meet the ultimate operational goals established for a given facility and the quality of product achieved as a result of a more fluid and flexible delivery method?

In general terms, if it is determined that the expected expense of a design-build project will be no more than ten (10%) greater than the expected expense of a traditional RFQ, study, design, bid and construct project, the design-build delivery method may be utilized.

Part 2 – Application of the Criteria to the Nature Center Pavilion and Restroom Project

Criteria 1: The extent to which the City can adequately and thoroughly define the project requirements prior to the issuance of the request for qualifications (RFQ) for a design-builder. Within the Parks & Recreation Department's Planning and Development Division the City has professional personnel with extensive experience in project solicitation, project management, construction design, and contract management. Additionally professional personnel are available in the areas of purchasing, finance, risk management, minority business, and legal to assist in the development of an RFQ.

Criteria 2: The time constraints for the delivery of the project. Through the State of North Carolina the WNC Nature Center will receive grant funding that requires the funds to be encumbered within FY14-15. Construction of the restroom and pavilion will be complete by winter 2014-15. By utilizing the design-build method the City is able to combine RFQ and contractor selection into one-step reducing the overall project schedule by at least one month,

and reduce staff resources by preparing one solicitation. Additionally, if the design and construction phases can take place simultaneously the overall project schedule could be reduced by another month, allowing the project timeline to be compressed by 60 days or more.

Criteria 3: The ability to ensure that a quality project can be delivered. Within the Parks & Recreation Department's Planning and Development Division the City has professional personnel with extensive experience in project management, construction design and management. The division's staff has a proven history in budget and construction/design project management to ensure that the design-build firm will provide a quality project within the budget constraints established by Council.

Criteria 4: The capability of the City to manage and oversee the project, including the availability of experienced staff or outside consultants who are experienced with the design-build method of project delivery. Within the Parks & Recreation Department's Planning and Development Division the City has professional and experienced personnel that are knowledgeable of design-build projects. Should it become necessary to contract the construction management of a design-build contract, there are experienced consultants available.

Criteria 5: A good-faith effort to comply with historically underutilized business participation requirements (NCGS 143-128.2, NCGS 143-128.4), and to recruit and select small business entities. The City of Asheville has adopted a Minority Business Plan to encourage participation by minority businesses in the award of contacts. Bidders are hereby notified that this bid is subject to the provisions of that Plan. It is the policy of the City to (1) provide minorities an equal opportunity to participate in all aspects of its contracting and procurement programs, and (2) prohibit any and all discrimination against persons or businesses in pursuit of these opportunities.

Criteria 6: The criteria utilized by the City, including a comparison of the costs and benefits of using the design-build delivery method of a given project in lieu of the other delivery methods identified. As noted under criteria #2, one of the benefits of the design-build method is that it may reduce overall project timeline by more than 60 days. This has a direct fiscal impact on the project budget. The design- build delivery method is not expected to involve any additional expenses beyond those necessary to deliver a complete project through the traditional RFQ, study, design, bid, and construct project method. The budget for the proposed project is $100,000, including preliminary planning, provided the scope of design services can be reduced. This enables more of the approved project budget to go directly towards the physical improvements of the facilities. It is expected that the design-build process will enable approximately 5% of the available funds (about $5,000) to be allocated to the construction over what a typical design-bid-build process would allow. These benefits to both the project schedule and cost make the design- build option more appealing than the more conventional design-bid-build in this instance.

Pros:

- Criteria provides a means to determine the applicability of the Design-Build Delivery Method to any City project
- Application of the criteria to the Nature Center Pavilion and Restroom Project will expedite delivery of the finished project

Cons:

- n/a

Project is budgeted and there is no additional financial impact.

Staff recommends that City Council adopt (1) a resolution establishing the criteria for a Design-Build Method for Construction Contracts, and authorizing the City Manager or his designee to review and approve the written criteria for each individual design-build project to

ensure compliance with these adopted criteria; and (2) a resolution authorizing the City Manager to use the Design-Build Delivery Method for construction of the Nature Center Pavilion and Restroom Project.

RESOLUTION NO. 14-138 - RESOLUTION BOOK NO. 36 - PAGE 256
RESOLUTION NO. 14-149 - RESOLUTION BOOK NO. 26 - PAGE 268

H. ORDINANCE NO. 4314 - ORDINANCE AMENDING THE COMPOSITION OF THE MULTIMODAL TRANSPORTATION COMMISSION

Summary: A report on the Multimodal Transportation Commission's first year of operations; and consideration of an ordinance amending the membership composition of the Multimodal Transportation Commission.

The Multimodal Transportation Commission (MMTC) was constituted by Council on May 14, 2013. The Commission first meeting was in August 28, 2014, and it has been meeting monthly since then.

The membership is composed by three members of the Transit Subcommittee ; three members of the Greenway Subcommittee; three members of the Bike and Ped Task Force; and three ex-officio members - one each from the Planning and Zoning Commission, Neighborhood Advisory Committee and Sustainability Advisory Committee on Energy and the Environment.

During this year the Commission has worked on a variety of topics:

- Adoption of bylaws and Rules and Procedures.
- Reinstatement of the Transit and Greenway Committees, as subcommittees of the MMTC and appointed members to those sub-committees.
- Some members have participated in different procurement processes, helping staff in the hiring process; this includes the Multimodal Transportation Plan and the French Broad River Greenway and Amboy Bridge Connection.
- Members have provided valuable input and endorsed different transportation plans: Greenways Master Plan, East of the Riverway Transportation Plan, Transit operation improvements for FY15.
- Members have reviewed street closures.

Staff considers the MMTC work paramount to advance the City's multimodal transportation goals. This first year has proven to be very productive; even when there are very different backgrounds the commission is speaking with one voice, it is a very cohesive group of people and members understand the big picture. Their guidance will be very important as the City embarks in the development of the Multimodal Transportation Plan.

There have been questions about how the membership is chosen and with Legal's advice the language has been revised to make clear that it is Council's prerogative to decide the MMTC membership. The current voting membership is as follows: Three members representing transit interests; three members representing greenway interests; and three members representing Bicycle/Pedestrian interests.

The Boards & Commissions Committee, at their June 10, 2014, meeting reviewed the membership and recommended the following: Two members representing transit interests; two members representing greenway interests; two members representing bicycle/pedestrian interests; and three at-large members.

All members shall be City residents and appointed by City Council with advice from the Commission.

Candidates who are current members of the standing Subcommittees (Transit and Greenway) or active members of the Bicycle/Pedestrian Task Force and who are recommended by their respective Subcommittee or Task Force shall receive preference in the selection process but shall not be guaranteed a slot. All candidates must submit an application for consideration of appointment to the Multimodal Transportation Commission.

All Commission members selected to represent Greenway or Transit interests shall, upon appointment to the Commission, automatically be deemed members of the appropriate Subcommittee. Members selected to represent Bicycle/Pedestrian interests, if not already active in the Bicycle/Pedestrian Task Force, shall be encouraged to do so.

There is no change recommended for the three ex officio non-voting members: one member of the Planning and Zoning Commission; one member of the Sustainability Advisory Committee on Energy and the Environment; and one member of the Neighborhood Advisory Committee. The ex officio members shall be selected by their respective commissions.

Staff and the MMTC recommend adding this language for guidance into the existing ordinance.

Pro:

- The MMTC mission is aligned with City goals and their advisory role will help staff shaping the future of the City's transportation network.

Con:

- None.

Staff recommends City Council amend the membership composition of the Multimodal Transportation Commission as follows: (1) Two members representing transit interests; (2) Two members representing greenway interests; (3) Two members representing bicycle/pedestrian interests; (4) Three at-large members; and (5) Three ex-officio non-voting members (a) one member of the Planning & Zoning Commission; (b) one member of the Sustainability Advisory Committee on Energy & the Environment; and (c) one member of the Neighborhood Advisory Committee.

ORDINANCE BOOK NO. 29 - PAGE 89

I. RESOLUTION NO. 14-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT THE ASHEVILLE SAFECAM PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to implement the Asheville SafeCam Program.

The purpose of the SafeCam Program is to encourage business and property owners within the City of Asheville to utilize their surveillance cameras and make areas safer for shoppers and the community while providing a public service to the citizens.

The program allows owners of commercial buildings to register their existing camera systems free of charge, with the Asheville Police Department, and assist in criminal investigations by providing the digital recordings upon request. This is expected to assist in identifying offenders in such crimes as vandalism, assaults, shoplifting, and other crimes. The camera system must be installed on the outside of the building to provide surveillance for the business and the public space.

In order to be eligible, applicants must be the owner of a commercially occupied property or an operating tenant business with the approval of the property owner, or an established

business association or community based organization representing a number of businesses in a particular area.

During the course of an investigation of an incident, an investigator would make contact with the person listed on the registration form. Arrangements would be made to obtain a copy of the video to assist in the investigation.

The application process will be handled at the Asheville Police Department at the Police Information Desk.

This was reviewed by the Public Safety Committee on June 2, 2014, and was unanimously supported.

Pros:

- Assist with criminal investigations
- No cost for businesses
- Proven effectiveness in other cities
- Possible crime deterrent
- Another partnership opportunity for police and community

Con:

- Staff time to review applications and register SafeCam participants

City staff recommends City Council authorize the City Manager to implement the Asheville SafeCam Program

RESOLUTION BOOK NO. 36 - PAGE 258

J. RESOLUTION NAMING FIRE STATION 1 AFTER CHARLES AUGUSTUS WERHAN

This item was removed from the Consent Agenda for an individual vote.

K. RESOLUTION NO. 14-141 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE JULY 29, 2014, COMMUNITY MEETING

RESOLUTION BOOK NO. 36 - PAGE 260

L. RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF 1.3 ACRES OF REAL PROPERTY LOCATED OFF OF RESERVOIR ROAD TO BEAUCATCHER HEIGHTS DEVELOPMENT CORPORATION

This matter was removed from consideration until a further date.

M. RESOLUTION NO. 14-143 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT CURVE STREET TO DAVID WILLIAMSON FOR A RESIDENTIAL DRIVEWAY EASEMENT

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of City-owned property at Curve Street to David Williamson for a residential driveway easement.

The City of Asheville owns real property at PIN 964868587800000 on Curve Street and the parcel is used for right-of-way purposes. Curve Street runs through the center of the parcel, with additional land area on either side of the street. The total parcel measures 0.17 acres. The highest and best use of this parcel is right-of-way, given the placement of the roadway and the limited residual value of the remaining land.

One of the adjacent vacant lots is currently being developed for a single-family residence. The owner of this lot, David Williamson, has requested an easement to install a driveway to his vacant lot. The area needed for this driveway easement is not currently being utilized by the city, and presents no apparent conflict with future use.

The proposed easement area is approximately 435.6 square feet. As set forth in the City's Right of Way policy, the method for calculating the value of this easement is equal to 50% of the underlying land value. Based on the tax assessed value, the total fee for the easement is $200.

Pro:

- The easement is appropriate for the current use of the right-of-way and would not interfere with any relevant future plans.

Con:

- None noted.

Financial proceeds associated with the real property disposition are to benefit the Economic and Community Development Capital Improvement Project budget.

Staff recommends that City Council approve a resolution authorizing the City Manager to convey a 435.6 square foot easement over a portion of City-owned property at Curve Street to David Williamson.

RESOLUTION BOOK NO. 36 - PAGE 262

N. RESOLUTION NO. 14-144 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FUNDS DONATED TO THE ASHEVILLE POLICE DEPARTMENT

ORDINANCE NO. 4315 - BUDGET AMENDMENT TO APPROPRIATE FUNDS DONATED TO THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds donated to the Asheville Police Department; and (2) a budget amendment in the amount of $1,100 to appropriate these funds into the City's Special Revenue Fund budget.

The Asheville Police Department (APD) has received $1,000 in donated funds from the Brooks-Howell Home and $100 from Parker's Karat Patch, Inc. In order for APD to be able to spend these funds, Council must first approve a budget amendment authorizing use of those funds in the City's Special Revenue fund. These funds are to be used by the APD as needed for specific purposes. The APD has requested that these funds be applied to the APD Private Donations project account to assist with the APD Shop With a Cop Program. The APD wishes to acknowledge the generosity, and express gratitude to, the Brooks-Howell Home and Parker's Karat Patch, for their support of the Asheville Police Department.

Pros:

- Acceptance of gift from various citizen groups;
- Enhancement of the APD North Asheville Community Policing efforts.

Con:

- None

Appropriating these donations in the Special Revenue Fund has no fiscal impact on the City's General Fund Budget.

City staff recommends City Council approve: (1) a resolution authorizing the City Manager to accept funds donated to the Asheville Police Department; and (2) a budget amendment in the amount of $1,100 to appropriate these funds into the City's Special Revenue Fund budget.

RESOLUTION BOOK NO. 36 - PAGE 263
ORDINANCE BOOK NO. 29 - PAGE 90

O. RESOLUTION AUTHORIZING THE CITY STAFF TO PROCEED WITH THE STATUTORY CONDEMNATION PROCESS FOR PROPERTY LOCATED AT 61 HAYWOOD ROAD, ASHEVILLE, N.C., FOR THE PUBLIC PURPOSE OF CONSTRUCTION OF A SIDEWALK

This item was removed from the Consent Agenda for discussion and/or individual vote.

P. RESOLUTION NO. 14-146 - RESOLUTION REVISING THE EXISTING CONTRACT WITH PINNACLE LANDSCAPING LLC FOR GROUND MAINTENANCE SERVICES AT PACK SQUARE PARK

Summary: The consideration of a technical resolution revision to the existing contract resolution with Pinnacle Landscaping, LCC for ground maintenance services at Pack Square Park.

On July 23, 2013, City Council approved the contract between the City and Pinnacle Landscaping, LCC in the amount of $115,795 for a twelve (12) month period with an option for two (2) twelve (12) month renewals based on contractor performance.

The contract also included 1) $10,000 contingency for unit cost associated with repairs to landscaping, irrigation, and seasonal maintenance items such as snow removal for a total of $125,795; and 2) the City Manager's authorization to approve change orders not to exceed the approved contract budget. However when the contract was approved, these items were not included in the resolution.

In order for the resolution to 1) reflect the actual terms of the contract, 2) to be authorized to spend the $10,000 contingency, and 3) for the City Manager to be authorized to approve change orders, staff is requesting City Council to approve a technical resolution revision to the existing contract with Pinnacle Landscaping, LCC for ground maintenance services at Pack Square Park.

This action complies with the City Council Strategic Operating Plan in that it supports Park Maintenance operations at the highest levels of fiscal responsibility as well as enhances a basic city service. It also complies with the Parks, Recreation & Cultural Arts Master Plan in that it provides ongoing maintenance and care for the City's park system.

Pro:

- Supports the efficient delivery of core park maintenance services.

Con:

- None

$125,795 for the contract and any necessary change orders between the city and Pinnacle Landscaping, LCC for ground maintenance in Pack Square Park is already budgeted in the Parks and Recreation Department operating budget for Pack Square Park. Thus, there is no additional impact to the City's General Fund budget from this action.

City staff recommends City Council adopt a technical resolution revision authorizing $10,000 contingency, and authorizing the City Manager to approve change orders to the existing contract with Pinnacle Landscaping, LCC for ground maintenance services at Pack Square Park.

RESOLUTION BOOK NO. 36 - PAGE 265

Q. ORDINANCE NO. 4316 - BUDGET AMENDMENTS FOR PARK MAINTENANCE RELOCATION PROJECT AND FIRE STATION LAND PURCHASE PROJECT

Summary: The consideration of two year-end FY2014 capital budget amendments: 1) Park Maintenance Relocation project in the amount of $40,000; and 2) Fire Station Land Purchase project in the amount of $11,400. Both projects will be funded with proceeds from debt issuance.

The City's FY2015 Capital Improvement Budget, which Council is scheduled to adopt at its June 24, 2014 meeting, includes funding for both the Park Maintenance Facility Relocation project and the Fire Station Land Purchase project. However, based on the timelines for those projects, the City expects to incur some minor expenses associated with those projects prior to the end of FY2014. In order to provide budget authorization for those FY 2014 expenses, staff is requesting that Council approve the budget amendments.

Pros:

- Provides budget authorization for FY2014 project expenses.
- Conforms the City's financial records with generally accepted accounting and reporting standards.

Con:

- None.

As noted above, the Park Maintenance Facility Relocation project and the Fire Station Land Purchase project are both part of the FY2015 Capital Improvement Budget, and their full expenses are included in the City's five-year capital improvement financial model. Both projects will be funded with debt proceeds.

City staff recommends City Council adopt the two year-end FY2014 capital budget amendments: 1) Park Maintenance Relocation project in the amount of $40,000; and 2) Fire Station Land Purchase project in the amount of $11,400.

ORDINANCE BOOK NO. 29 - PAGE 92

R. RESOLUTION NO. 14-147 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NHM CONSTRUCTORS, LLC, FOR THE BENT TREE ROAD RETAINING WALL CONSTRUCTION PROJECT

ORDINANCE NO. 4322 - BUDGET AMENDMENT FOR THE BENT TREE ROAD RETAINING WALL CONSTRUCTION PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $594,567.50 plus a contingency of

10% ($59,456.75) with NHM Constructors, LLC for the project known as Bent Tree Road Retaining Wall Construction; and (2) a budget amendment in the amount of $37,994 from Federal Emergency Management Agency and the North Carolina Department of Public Safety funds to increase the existing project budget to cover the contract and the 10% contingency.

From January 1, 2013 to July 8, 2013, the Asheville area received 41.67 inches or rainfall, exceeding the City's normal annual rainfall for the same time period by 4.68 inches. More specifically, the Asheville area received almost 5 inches of rain within the 24-hour period from July 3 to July 4, 2013. During this 24-hour period stormwater runoff rapidly undermined steep soil banks, causing damage to the asphalt/pavement shoulders of many City roads due to the wearing pressure of the high-velocity stormwater flow. In particular, the stretch of Bent Tree Rd. adjacent to and above the property located at 36 Bent Tree Rd. experienced significant structural damage to the soils underlying the road surface.

Several large and complicated landslides required consultation outside the City workforce, and several consultants were chosen for the more extensively damaged areas. To reinforce the road surface, a design including a soldier pile and lagging retaining wall, bookended by soil nail slopes, was chosen for this site, and includes an extensive road rebuild. The project was advertised on May 27, 2014.

Bids were opened on June 19, 2014, with two bids received as follows:

- NHM Constructors of Asheville, NC. Bid - $594,567.50.
- Uretek Mid-Atlantic of Colfax, NC. Bid - $778,009.20.

NHM Constructors, LLC was the lowest responsible bidder with a bid of $594,567.50. A 10% contingency ($59,456.75) has been added to allow payment for any unforeseen costs that typically arise during construction. A large portion of this work will be reimbursable under federal emergency grant funding; however, City funds will need to be expended prior to reimbursement. The work produced from this contract would resolve liability issues associated with a deteriorating road structure and rebuild the road's underlying support.

Pros:

- Will remove a potential liability issue from the City's transportation network.
- Improve access to an area of valuable residences, improving the City's tax base.

Cons:

- Project management and contract administration will consume staff time.
- Temporary financial obligations of project work.

As noted above, this project will be funded as part of the reimbursements from the Federal Emergency Management Agency and the North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC.

City staff recommends City Council adopt: 1) the resolution awarding the contract to NHM Constructors, LLC and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $594,567.50 plus a contingency of 10% ($59,456.75), for a total of $654,024.25, with NHM Constructors, LLC for the project known as Bent Tree Road Retaining Wall Construction; and 2) a budget amendment in the amount of $37,994 from Federal Emergency Management Agency and the North Carolina Department of Public Safety funds to increase the existing project budget to cover the contract and the 10% contingency.

RESOLUTION BOOK NO. 36 - PAGE 266
ORDINANCE BOOK NO. 29 - PAGE 116

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

When Mr. Ken Michalove asked if there was anything on the Consent Agenda about Pack Place or the Asheville Art Museum, Mayor Manheimer replied there was none.

Councilman Bothwell moved for the adoption of the Consent Agenda, (1) with the continuance of Item F to July 22, 2014; (2) with an individual vote for Item J; (3) with the deletion entirely of Item L; and (4) with discussion and/or individual vote for Item O. This motion was seconded by Councilwoman Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 14-140 - RESOLUTION NAMING FIRE STATION 1 AFTER CHARLES AUGUSTUS WERHAN

Summary: The consideration of naming Fire Station 1 after City of Asheville Firefighter Gus Werhan.

City of Asheville Firefighter Charles "Gus" Werhan tragically lost his life on December 9th, 1963, while fighting a fire at 23 Biltmore Ave. The Werhan family has requested that Gus be honored by naming City of Asheville Fire Station 1 after Charles Augustus Werhan.

Pros:

- Having a City of Asheville owned facility that has been named to honor a public servant who has died in the line of duty is an ultimate recognition of public service.

Cons:

- None have been identified or known at this time.

The purchase of a plaque commemorating the naming would be the associated expense to this consideration.

Staff recommends that the Asheville City Council name Fire Station 1 after Charles Augustus Werhan.

Fire Chief Scott Burnette was pleased to introduce Mr. Werhan's wife, daughter and brother.

Councilman Bothwell moved for the adoption of Resolution No. 14-145. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 259

O. RESOLUTION NO. 14-145 - RESOLUTION AUTHORIZING THE CITY STAFF TO PROCEED WITH THE STATUTORY CONDEMNATION PROCESS FOR PROPERTY LOCATED AT 61 HAYWOOD ROAD, ASHEVILLE, N.C., FOR THE PUBLIC PURPOSE OF CONSTRUCTION OF A SIDEWALK

Summary: The consideration of a resolution authorizing City staff to proceed with the statutory condemnation process as set forth in Article 3 of Chapter 40A of the N.C. General Statutes for the property located at 61 Haywood Road, Asheville North Carolina, for the public purpose of construction of a sidewalk.

The City of Asheville is planning to make multi-modal improvements to a portion of Haywood Road, from Craven St. to the new traffic signal at Beechum's curve. This project has

garnered strong support from many in the community. The public meeting that was held on November 21, 2013, had a good turnout, with all present being in favor of the proposed work. All of the easements necessary for the project to proceed have been obtained except for the one at 61 Haywood Rd. The property owner and/or his representative have been contacted numerous times by certified letter, email, telephone and face to face meetings. After many attempts at negotiations, the property owner was not willing to donate the easement, so the City made an offer of $3,259.05, per our Sidewalks and Related Infrastructure Right of Way Acquisitions Policy and Procedures. The owner refused to respond to the offer within the time allotted. Later, the property owner counter-offered with $25,000. An appraisal of the property was conducted according to North Carolina General Statutes by a certified MAI appraiser. The appraised value of the easement was found to be $6,950. An offer of $6,950 was made to the property owner, but the owner refused and counter-offered with $10,000. The property owner has been informed of our intent to condemn a portion of the property for the easement needed to construct the sidewalk.

This action complies with the Sidewalks and Related Infrastructure Right of Way Acquisitions Policy and Procedure and the City Council Strategic Operating Plan in that it will continue construction and maintenance of pedestrian and bicycle infrastructure.

Pros:

- Will allow for approximately 1,600 linear feet of new sidewalk within the Asheville City limits.
- Will allow for approximately 2,800 linear feet of new bike lane within the Asheville City limits.
- Project will improve pedestrian and bicyclist safety.
- Project encourages walking and biking, thereby reducing carbon emissions.

Cons:

- The condemnation cost will be taken from the project budget.
- The condemnation process will consume staff time.
- Condemning properties can create a negative image of the City.

The funds needed for the condemnation will come from the project budget of $220,000. Once bids for the project are received, staff will evaluate the need for additional funding.

City staff recommends City Council adopt the resolution approving: (1) Condemnation to acquire an easement across the property at 61 Haywood Rd. Asheville, North Carolina, for public use and benefit as set forth in Article 3 of Chapter 40A of the North Carolina General Statutes; (2) The City Attorney's Office and/or designee, is directed to institute the necessary proceedings under applicable provisions of the North Carolina General Statutes to acquire the property interest herein described; and (3) The City Manager to execute any necessary documents related to the easement acquisition by condemnation of property.

When Mayor Manheimer asked for comments from the public on this matter, no one spoke.

Councilwoman Wisler moved for the adoption of Resolution No. 14-145. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 264

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Assistant City Manager Paul Fetherston highlighted the following bills: S729 - Governor's Coal Ash Action Plan; H150/S139 - Zoning Design & Aesthetic Controls; S734/H1136 - Authority to Adopt Certain Ordinances; H1191 - Authority to Adopt Local Ordinances; H531 - ETJ/Zoning - Weaverville & Buncombe/Correction; S594 - Omnibus Justice Amendments; H1145 - Registration Required for Mopeds; H1113 - Bent Creek Property Sullivan Act Exemptions; H1247 - Asheville Regional Airport; S743/H1031 - NC Economic Development Partnership Modifications; S493 - 2014 Regulatory Reform Act; Extension of historic building rehabilitation tax credits included in the House's budget, but not the Senate's; and Various proposals for film incentives have appeared in the House and Senate and negotiations are ongoing. Bills of Significance signed into law are as follows: H1050 - Omnibus Tax Law Changes; includes Privilege License Tax reform; and S786 - Energy Modernization Act.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 573 FAIRVIEW ROAD FROM NEIGHBORHOOD BUSINESS DISTRICT TO COMMUNITY BUSINESS I DISTRICT/ CONDITIONAL ZONING FOR AN ART INSTRUCTION FACILITY, WITH REQUESTED LANDSCAPING MODIFICATIONS

ORDINANCE NO. 4317 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED 573 FAIRVIEW ROAD FROM NEIGHBORHOOD BUSINESS DISTRICT TO COMMUNITY BUSINESS I DISTRICT/ CONDITIONAL ZONING FOR AN ART INSTRUCTION FACILITY WITH LANDSCAPE MODIFICATIONS

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located on 573 Fairview Road from Neighborhood Business District to Community Business I District/Conditional Zoning for the use of an existing building as an art instruction facility, with landscape modifications. This public hearing was advertised on June 13 and 20, 2014.

The project area consists of a single 0.985-acre parcel located at 573 Fairview Road with secondary frontage along Shannon Drive. The parcel is currently zoned Neighborhood Business (NB) and contains an existing building that has most recently been used for offices. The site is primarily surrounded by residential uses and residential zoning to the south, southwest and east (RS-8) as well as a number of commercial uses adjacent along Fairview Road, also zoned NB (north and west).

The proposal is to utilize the existing building and site layout for the Roots & Wings School of Art and Design, which provides instructional services to all ages, but with an emphasis on youth, including morning pre-school, artist studios and office space. The existing structure has frontage on Fairview Road and contains 8,756 square feet, primarily single-story but with a small two-story portion. There is also a small storage shed behind the building.

Access and parking will remain in the same general location as the present configuration with the exception that the driveway onto Fairview Road will become one-way egress (currently two-way). Visitors will access the site from Shannon Drive and exit onto Fairview Road.

The *minimum* number of parking spaces required when all three uses (preschool, office and studios/instruction) are active is 22. A total of 23 parking spaces are shown on plans. While the plan meets the minimum for parking, it is worth noting that uses in the CBI district are allowed a 25% reduction in number of required parking spaces (not being utilized). The proposal also

includes an accessible space as well as a loading berth and bike parking on site. On-street parking will not be permitted along either Fairview Road or Shannon Drive.

There are existing five-foot wide sidewalks along Fairview Road that will remain. A new five-foot sidewalk will be provided along Shannon Drive.

Landscaping is required for this project and includes a property line buffer, street buffer, street trees, parking lot landscaping and building impact landscaping. The applicant is requesting modifications to the property line buffer due to the reuse of the existing site layout and contextual design considerations. The proposed alternative compliance is detailed below.

Open space not technically required for this project because the lot is less than one acre in size; however with the grassed recreation area and playground, 0.17 acres of open space is provided.

Modifications:

1. Property line buffer – a type B (30 foot wide) property line buffer is required adjacent to RS-8 zoned properties to the south and southwest of the site as well as along Shannon Drive.
    1. There is a small portion of the southern property line directly behind the building (approximately 50 feet) where the location of the existing building is too close to the property line to provide the landscape buffer. No planting is possible in this area. *Staff is supportive of this modification due to existing site constraints.*
    2. Around the south and west sides of the grass field and playground (adjacent to RS-8), the applicant is proposing to reduce the width and materials of the property line buffer by fifty percent to 15 feet. *Staff is supportive of this modification because it is along the open space, which is a low impact area and provides an additional separation from the more active portion on the front of the site.*
    3. As a street-facing property line with RS-8 across the ROW, a 30 foot wide buffer would be required along Shannon Drive as well. The applicant is proposing to add a five-foot wide sidewalk along the entire street frontage to create a more pedestrian friendly environment. The layout will incorporate a four-foot grassed strip, the five-foot sidewalk and then an additional planting strip to accommodate street trees, the street buffer against the parking lot and additional evergreen shrubs for screening. The planting strip will be four-feet wide between Fairview Road and the entrance drive and widened to six-feet to the rear of the property, along the grass field. *Staff is supportive of this modification because it accommodates the sidewalk installation and existing utility poles along Shannon Drive. Also, street trees and shrubs in a planting strip are a more integrated and contextually-appropriate streetscape pattern in a neighborhood setting than a full property line buffer would be in this location.*

This proposal was approved with conditions by the Technical Review Committee on May 19, 2014, and requires review Final TRC review prior to zoning approval. The Planning & Zoning Commission evaluated this request at their meeting on June 4, 2014, and voted unanimously to support the conditional zoning and proposed modifications. Numerous letters of support have been received by staff. Although not technically required, the applicant held a community meeting on May 29 to present the proposal to the neighborhood and receive feedback.

The applicant is proposing to conditionally rezone the site from Neighborhood Business to Community Business I due to the fact that the current zoning designation does not permit instructional services, schools, artist studios or day care/pre-school uses. Community Business I is a similar zoning district to NB in that it is intended for smaller-scale, neighborhood-centered uses and the proposed uses listed above would be permitted. All of the uses proposed are identified in the UDO's impact table as "low."

There are a number of commercial uses located along this stretch of Fairview Road in the Neighborhood Business zone, intermixed with single-family residential uses (both in the NB zone as well as RS8). Typically this is an appropriate mix as long as the non-residential uses are community-based and low-impact. The uses proposed in this application are expected to be compatible with the residential neighbors and proposed landscaping should both improve the site and provide some buffering for the single-family homes to the east across Shannon Drive and behind the parcel. The open space provides an additional separation between the parking area and the neighbors. Utilizing the existing site layout, the parking remains closer to Fairview Road and the front of the parcel and by reconfiguring the access so that all cars leave from Fairview Road, impact to adjacent neighbors should be minimized.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The applicant is proposing to reuse the existing building and general site layout. There are no significant topographic features on the site. Improvements that will be undertaken to provide sidewalks and define the drive aprons on both frontages will improve access. Existing mature trees will remain on site and significant landscaping will be added.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The proposed use of the land for preschool, art studio/instruction space and associated offices is not expected to injure the value of adjoining or abutting properties. The uses will be contained within an existing building and are along a section of corridor permitted for low-impact, non-residential uses. Improvements to the site, including sidewalks and landscaping, are expected to be an enhancement.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   The proposed uses for this site (preschool, art studio/instruction and associated offices) are considered to be in harmony with the scale, bulk and coverage of the area in that they are re-using an existing building and site layout and site improvements proposed (sidewalks, landscaping) will enhance the appearance of the site and mitigate impacts to neighbors. The character of the area is largely single-family residential but this site is within a portion of the Fairview Road corridor that is already zoned for (and contains) non-residential uses. Community-based, low-impact uses such as those included in the application are considered to be appropriate and compatible adjacent to neighborhoods. The proposed traffic flow change for all vehicles to exit onto Fairview Road should further protect the neighbors on Shannon Drive.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
   As enumerated below, the proposal complies with policies adopted by the City in several ways, most notably through the reuse of an existing building, the installation of new sidewalks and site improvements that will add native vegetation and preserve open space.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
   This project does not propose new construction and has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is located on the "C" transit line, with a stop right at Shannon Drive and Fairview Road.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
   The proposed uses on the site are not expected to create undue traffic congestion or create a traffic hazard. The number of trips anticipated per day was not sufficient to warrant a Traffic Impact Study and Fairview Road can easily accommodate the new users. Enhancements proposed to the site should improve access and internal flow. Also, sidewalks along Fairview Road and Shannon Drive will increase pedestrian safety.

The proposal complies with policies adopted by the City in several ways. As stated in the *City Development Plan 2025,* reusing older buildings is "the most sustainable construction" and helps to preserve and protect neighborhood vitality (pg. 74, 149) and appropriately-scaled non-residential uses should be allowed in appropriate locations (pg. 152). The addition of street trees, sidewalks and bike parking on-site as well as the location along a transit route supports users of multimodal transportation; the streetscape will be enhanced and automobile dependence may be minimized (pg. 74, 159, 163). A large amount of the site will be left as an open grassed field and additional, native landscaping will be added to the parking field, adding to sustainability and environmental goals (pg. 75, 96).

This proposal aligns with City Council's focus area on providing a "High Quality of Life" for residents by adding sidewalks that enhance safety and also reusing an existing building to provide opportunities for education, art and creativity.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes the reuse of an existing building and generally using the same site layout, with improvements to access and traffic flow.
- Sidewalks will be provided along Shannon Drive and a small portion of new sidewalk along Fairview Road.
- Trees will be preserved and additional landscaping will be added throughout the site to soften the streetscape and provide buffering to adjacent properties.
- Although not technically required, open space is preserved on the rear portion of the site.

Staff recommends approval of the proposed conditional zoning to allow for the preschool, studio/instruction space and associated offices to use the existing building at 573 Fairview Road and to improve the site with landscaping, sidewalks and access changes as proposed, inclusive of the landscape modifications as detailed above, finding that the request is consistent with City-adopted plans and strategic goals.

Ms. Bernstein said that the petition has requested that the City eliminate the description of being an "art-based" preschool and just call it a preschool in case the basis for the curriculum changes slightly over time. City staff has no problems with that.

Mayor Manheimer opened the public hearing at 5:27 p.m., and when no one spoke, she closed the public hearing at 5:27 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City in the following ways (1) Low-impact community-based uses such as those proposed are considered appropriate along corridors such as this location; (2) Reuse of the existing building and general site layout minimizes disturbance to neighbors; (3) Access to and from the site will be reconfigured to have less impact on Shannon Drive residents; (4) Sidewalks will be provided along both road frontages; (5) Open space and existing trees will be preserved on site and (6) Additional landscaping will be provided around and within the site, and moved for the adoption of Ordinance No. 4317 to conditionally zone property located on 573 Fairview Road from Neighborhood Business District to Community Business I District/Conditional Zoning for the use of an existing building as an art instruction facility, with landscape modifications, subject to the following conditions:

1. Approval is for the reuse of an existing building for offices, instructional services, art studios and preschool.
2. Signage shall be separately permitted and shall meet the standards of the City of Asheville Sign Ordinance (Article XIII of Chapter 7 of the Code of Ordinances).
3. All site lighting must comply with the City's Lighting Standards (Section 7-11-10 of the Code of Ordinances). Proposed lighting plans must be submitted at Final TRC.
4. All landscaping must meet the minimum size requirements set forth in Section 7-11-3(f)(3) of the UDO. All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans.
5. The property line buffer is modified in the following ways:
    a. Elimination of buffer behind existing building due to existing site constraints.
    b. 50% reduction in width and materials along the south and west boundaries.
    c. Four-foot grass strip, five-foot sidewalk and four to six foot planting strip behind the sidewalk along Shannon Drive to accommodate street trees, street buffer and additional evergreens.
6. Traffic flow will be restricted to entry-only on Shannon Drive and exit-only on Fairview Road.
7. New sidewalks will be provided along Shannon Drive and a portion of new curb and sidewalk will be constructed on Fairview Road in front of the existing building.
8. On-street parking for the uses will not be permitted along either Fairview Road or Shannon Drive.
9. The applicant is providing 0.17 acres of open space via a grass field and playground area.
10. All activities associated with the uses will occur between the hours of 7 am to 10 pm.
11. The project shall comply with all conditions outlined in the TRC staff report as indicated below:
    a. Plans are required to be submitted in engineering scale between 1"=10' and 1"=60'.
    b. Please add a plan note whether existing streets are publically or privately maintained and dimension ROW width.
    c. Street trees are required along Fairview Road (7-11-3).
    d. Please provide calculations for street trees for Fairview Road and the front section of Shannon Drive, based on linear frontage. Please provide calculations

for street buffers for both frontages as well (7-11-3). For clarity, it may be helpful to put all of the calculations to the side of the drawing (similar to the parking calcs).

e. Please note that shrubs are also part of the required Parking Lot landscaping (7-11-3).
f. The existing driveway on Fairview Rd does not meet current standards. The plans show a one-way driveway, so the opening should be between 14 and 20 feet wide.
g. All sidewalks, driveways, and other structures in the public right-of-way must meet the standards of the current draft Public Rights of Way Accessibility Guidelines (PROWAG).
h. Bike storage area is noted on plan, but please show bike parking details.
i. Please include wheel stops at the ADA spots to prevent vehicles from rolling into the walkway
j. Show tree species on plan
k. If planting under high voltage wires, small maturing trees are required. Move trees back from wires if possible
l. Make sure new trees will be planted in the appropriate season
m. A Grading Permit will be required. Specific comments are not covered under this zoning review, and will be covered under a separate permit review. A separate grading submittal will need to be made at the time of Final TRC Submittal. Any revisions or resubmittals are to be submitted to the Development Services Department per the instructions at the end of this letter.
n. This project may qualify for an exemption to the requirement for a Stormwater Permit as a redevelopment. Provide pre- and post-development pervious and impervious areas along with the percentage of pre- and post-impervious area to allow for a determination of the requirements for a Stormwater Permit.
o. Wastewater allocation approval issued. If any food service or non-domestic waste is produced, MSD pre-treatment group will have to review and approve.
p. Plumber will need to evaluate existing sewer service line and determine location & connection point. Off-site easements may be required depending on location.

12. The project will undergo final review by the TRC prior to issuance of any permits and compliance with the items listed above will be required at that time.
13. A planning inspection is required prior to obtaining a certificate of occupancy. This inspection should be scheduled through the Development Services inspection line.

This motion was seconded by Councilwoman Wisler and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER REZONING 226 HILLIARD AVENUE FROM REGIONAL BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4318 - ORDINANCE TO REZONE 226 HILLIARD AVENUE FROM REGIONAL BUSINESS DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4319 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP AND CONTEXT TRANSITION EDGE MAP PERTAINING TO THE REZONING OF 226 HILLIARD AVENUE

Urban Planner Jessica Bernstein said that this is the consideration of (1) an ordinance to rezone 226 Hilliard Avenue from Regional Business District and RS-8 Residential Single-Family High Density District to Central Business District and (2) an amendment to the officially adopted

Height Zone Map and Context Transition Edge Map pertaining to the rezoning of 226 Hilliard Avenue. This public hearing was advertised on 13 and 20, 2014.

Ms. Bernstein said that the site proposed for rezoning consists of five parcels with a combined area of 1.68 acres, located at the southwest corner of Hilliard and Asheland Avenues, just outside of the Central Business District. The site contains a single-story building (approximately 24,000-square feet) surrounded by surface parking. The four larger parcels are currently zoned Regional Business (RB) and the smallest interior parcel is zoned RS-8.

The applicant is proposing a standard rezoning of the five parcels to Central Business District (CBD).

This is the third standard rezoning request received by staff in this immediate location to expand the CBD along its southwest boundary. In the past year, City Council approved similar rezoning requests across Asheland Avenue to the east (1.54 acres from RB to CBD at 86 Asheland Avenue on June 25, 2013 and 2.45 acres from RB to CBD at 172 Asheland Avenue on August 27, 2013).

Because of the repeated requests, staff and the Downtown Commission (DTC) have been exploring a multi-parcel, City-initiated rezoning on the remaining parcels along Asheland Avenue from Hilliard Avenue to Southside Avenue. Various maps provided in the Downtown Master Plan (2009) included this area along Asheland Avenue due to its proximity to the CBD, wide right-of-way and potential for urban growth. Staff and members of the DTC held a meeting with Asheland Avenue property owners in January 2014 and plan to continue the dialogue with affected neighbors this year, intending to pursue the corridor rezoning and expand the CBD.

Approval of the rezoning request requires an amendment to the Downtown Height Zones map and a recommendation by the Downtown Commission. Similar to the previous requests along Asheland Avenue, staff proposes extending the intermediate height zone in this location, which would allow for a maximum height of 145 feet. Additionally, the context transition edge would be applied along the parcel boundary adjacent to RS-8 zoning and would limit the building height allowed adjacent to that neighborhood. The Key Pedestrian Streets map has already been amended in 2013 to extend along Asheland Avenue and would apply to this site.

The Downtown Commission evaluated this proposal at their meeting on May 9, 2014, and unanimously supported the rezoning request as well as the application of the intermediate height zone and context transition edge.

The proposal was reviewed by the Planning & Zoning Commission at their meeting on June 4, 2014, and recommended for approval by a vote of 4-1. The opposing Commissioner was generally supportive of the rezoning with the exception of the small parcel currently zoned RS-8. There was one member of the public present to speak at the meeting, a resident of the nearby residential neighborhood, who expressed desire for the City to meet with neighborhood residents sooner rather than later regarding the corridor rezoning effort.

This site sits at the corner of Hilliard and Asheland Avenues at the edge of the CBD with office uses to the west (zoned CBD); offices and commercial uses (Hot Spot) to the north (zoned CBD); offices (Keller Williams) to the east (zoned CBD); and medical offices and single-family residential to the south (zoned Office Business and RS-8). Uses allowed in the CBD would be appropriate and compatible on this site. Design standards mandated by the UDO would require that any future development be pulled up towards the corner and focused on the street rather than set back with parking in the front, as seen with the current suburban-style of development on the site and along the corridor. While the maximum height permitted (145 feet) would be significantly greater than current RB zoning (80 feet), the context transition edge would limit the height of structures within 100 feet of the neighborhood and provide a gradual scale at that property line.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating on downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

The *Plan* mentions the value of living in walkable neighborhoods close to the CBD for the mix of activities and opportunities within proximity and the application of the context transition edge should align with statements on needing to protect those older neighborhoods surrounding downtown.

The Land Use & Transportation section contains a specific goal to "continue to look for opportunities to expand the boundaries of the CBD to areas appropriate for that type of development".

The *Downtown Master Plan* recommends strategies for the continued vitality of the downtown and specifically included this section of Asheland Avenue as an area of potential growth and expansion for the CBD. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having the potential to grow and improve following an urban development pattern.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Expansion of the CBD is generally recommended in the *2025 Plan* and specifically recommended along Asheland Avenue in the *Downtown Master Plan*
- Application of the context transition edge and development standards in the UDO pertaining to building placement should minimize some impact to the adjacent neighborhood with future development
- Two similar requests have been approved in this immediate location over the past year, leading to staff and the Downtown Commission pursuing a multi-parcel rezoning effort.

Staff recommends approval of the proposed rezoning, finding that the request to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area

Mayor Manheimer opened the public hearing at 5:33 p.m., and when no one spoke, she closed the public hearing at 5:33 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City in the following ways: (1) References to CBD expansion in the 2025 Plan and the Downtown Master Plan; (2) Staff-led multi-parcel corridor rezoning is being pursued; (3) Design standards and the application of the context transition edge should minimize impact from future development on adjacent neighborhood, and moved for the adoption of Ordinance No. 4318 to rezone 226 Hilliard Avenue from Regional Business District and RS-8 Residential Single-Family High Density District to Central Business District. This motion was seconded by Councilman Davis and carried unanimously.

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Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City in the following ways: (1) the proposed map amendments are in accordance with adopted land use changes; (2) the proposed map amendments implement portions of the City Council-adopted Downtown Master Plan, 2025 Plan and supports the goals and vision plan; and (3) the map amendments will support the redevelopment of the south area of downtown and provide protection to adjacent residential uses, and moved for the adoption of Ordinance No. 4319 to amend the Height Zone Map (intermediate height zone) and Context Transition Edge Map. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 102

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4320 - ORDINANCE ADOPTING THE FISCAL YEAR 2014-15 ANNUAL OPERATING BUDGET, INCLUDING FEES & CHARGES AMENDMENTS TO (1) INCLUDE A 3-TIERED STORMWATER FEE STRUCTURE, WITH A DELAYED IMPLEMENTATION OF 90 DAYS FOR THE RESIDENTIAL INCREASE; (2) THE PARKS & RECREATION ATHLETIC FEES; (3) TECHNICAL ADJUSTMENT (RIGHT OF WAY CUT PERMIT PENALTY); AND (4) TRANSIT MONTHLY AND ANNUAL PASS FEES

Director of Finance & Management Services Barbara Whitehorn said that this is the consideration of an ordinance to adopt the Fiscal Year 2014/2015 Annual Budget along with changes to the Fees and Charges Manual discussed below.

The Fiscal 2014/2015 Proposed Annual Operating Budget was presented to City Council on May 27, 2014. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 30 and June 6, 2014. City Council conducted a public hearing on the Proposed Budget on June 10, 2014. The Fiscal 2014/2015 Proposed General Fund Budget is balanced while maintaining the current Ad Valorem tax rate of $0.46 per $100 of assessed value. All essential City services are continued in the Proposed Budget.

Technical Budget Changes

Since the Proposed Budget was presented to City Council, there have been two technical adjustments that have altered the budget that is presented tonight for Council adoption.

- **Street Cut Utility Fund:** In order to more effectively meet customer service expectations in the street cut program, Public Works staff has requested that two additional FTE positions be added for Fiscal 2014/2015. The budget impact of these two additional positions is $66,986. As a result of this change, the Street Cut Utility Fund budget that is presented for adoption tonight now totals $1,650,800. The Street Cut Utility Fund budget is fully supported by charges to its users, so this budget change has no impact on the General Fund.

- **City Attorney's Budget:** After the Fiscal 2014/2015 Proposed Budget was presented to City Council, staff reviewed the City Attorney Department budget and made changes to plans for contracted legal services to accommodate the addition of one additional position (Associate City Attorney) within the original proposed budget. As a result, FTE positions in the City Attorney Department show an increase of one in Fiscal 2014/2015.

- **Capital Improvement Program:** In the 2015 capital budget, $100,000 has been reallocated from the Town Branch Greenway project ($50,000) and the Charlotte Street

Pedestrian and Bike Improvement project ($50,000) to fund the Neighborhood Sidewalk Program. This is a reallocation of funds only; there is no change to the budgeted total for 2015 CIP.

Ms. Whitehorn noted that, pursuant to best practices, a section has been added into the ordinance as follows: "Section 10. Compensation for the Mayor, Vice-Mayor and Councilmembers will be $19,743.36 -$20,335.66, $16,385.20 - $16,876.76, and $14,505.14 - $14,940.29 respectively. Travel for official activities will be reimbursed under the same plan used for City employees." This added section has no effect on the numbers.

Fees and Charges Manual Amendments

In conjunction with adoption of the Fiscal 2014/2015 Annual Operating Budget ordinance, staff is also seeking Council approval of the following amendments to the City's Fees and Charges Manual:

- **Stormwater Rate Structure:** The current rate for single family properties is $2.34 per month. The proposed rate structure is a tiered system - Properties from 225–2000 square feet will pay $2.50 per month; properties from 2001-4000 square feet will pay $4 per month and properties greater than 4001 square feet will pay $5.50 per month. For non-single family properties, the current rate of $2.34/ERU (Equivalent Residential Unit) per month will be increased to $4/ERU per month. Staff is seeking Council approval of the new fee structure tonight; however the new rates will not become effective until Council also amends the stormwater ordinance. It is anticipated that the new rates will go into effect ninety days after the start of the new fiscal year.

- **Parks & Recreation Athletic Fees:** When the Fiscal 2014/2015 proposed fees and charges adjustments were presented to the Finance Committee on March 25, the Committee asked for additional information related to the proposed changes to the athletic field usage fee and the non-city athletic registration fee. At its May 27 meeting, the Committee received this additional information and heard a report from staff. The adjustments presented for adoption tonight reflect the original proposal that staff brought forward at the March 25 Committee meeting.

- **Transit Monthly & Annual Passes:** After further review, staff is recommending that Council indefinitely delay implementation of changes to the monthly and annual transit pass fees that were approved on April 8, 2014. This delay will enable staff time to further review the fee structure and avoid any potential undue hardship on transit riders.

- **Technical Adjustment (Right of Way Cut Permit Penalty):** When City Council adopted the Fiscal 2014/2015 fees and charges adjustments on April 8, 2014, staff inadvertently included with that action a new civil penalty for failure to obtain a right of way cut permit. However, all penalties must be set forth in the City's code of ordinance, not in the Fees and Charges Manual. As a result, staff is seeking Council approval of a technical adjustment to remove this item from the Fees and Charges Manual. Staff will bring this civil penalty change back to Council in July to correctly adopt it as part of the City's code of ordinance.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year.
- General Fund Budget is balanced with no tax rate increase or fund balance appropriation and all essential City services are continued.

Con:

- None.

As noted above, the Proposed FY 2014/2015 General Fund budget is balanced with no property tax rate change and the maintenance of all existing programs and services. The Proposed FY 2014/2015 General Fund budget includes a $2.0 million appropriation from unassigned fund balance. Based on revenue and expenditure projections for FY 2013/2014, staff estimates that the City's unassigned fund balance will increase by $1.3 million to $16.7 million. This level unassigned fund balance will provide sufficient resources for the City to appropriate $2.0 million in fund balance as part of the FY 2014/2015 budget and still maintain an unassigned fund balance that exceeds the City's 15% policy target.

Staff requests that Council: 1) adopt the FY 2014/2015 Annual Budget Ordinance, including the changes noted above, and 2) amend the Fees and Charges Manual with the changes noted above.

When Mayor Manheimer said that the public hearing on this budget was held on June 20, 2014.

In response to Councilman Davis, City Manager Jackson said that staff will research the Eblen Foundation in-kind services in our work plan for the coming year and report back to Council.

Mr. Ken Michalove spoke about issues regarding "the hostile takeover of Pack Place".

Councilman Pelly said there are a lot of exciting projects ahead and was pleased that staff found compromises for the stormwater increases, and the implementation of the neighborhood sidewalk project.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler moved for the adoption of Ordinance No. 4320. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 106

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-137 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Neighborhood Advisory Committee.

The terms of Robert Roepnack, Barber Melton and Elaine Poovey expire on July 1, 2014. In addition, Ms. Carmen Ramos-Kenney has resigned, thus leaving an unexpired term until July 1, 2016.

The following individuals applied for a vacancy: Nick King, Teddy Jordan and Julie Hansbury.

On June 10, It was the consensus of the Boards & Commissions Committee to reappoint Mr. Roepnack, Ms. Melton and Ms. Poovey; and interview Teddy Jordan and Julie Hansbury.

It was the consensus of Council to (1) reappoint Robert Roepnack (representing 28804 zip code), Barber Melton (representing 28805 zip code), and Elaine Poovey (at-large

representative); to each serve a three-year term, terms to expire July 1, 2017, or until their successors have been appointed.

In addition, after speaking highly of all the candidates, Teddy Jordan received 7 votes and Julia Hansbury received no votes. Therefore, Teddy Jordan was appointed, as the at-large representative, to fill the unexpired term of Ms. Ramos-Kennedy, term to expire July 1, 2016, or until her successor has been appointed.

RESOLUTION BOOK NO. 36- PAGE 255

K. RESOLUTION NO. 14-148 – RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Public Art & Cultural Commission.

The terms of Victor Palomino, Jaan Ferree, Julie Calhoun-Roepnack, Gwynne Rukenbrod, Guillermo Rodriguez and Leslie Klingner expire on June 30, 2014.

The following individuals have applied for a vacancy: Denise Drury, Jay Fields, Jenny Bowen and Jay Miller.

On June 10, it was the consensus of the Boards & Commissions Committee to reappoint Mr. Palomino, Ms. Ferree, Ms. Rukenbrod and Mr. Rodriguez; and interview Denise Drury, Jay Fields, Jenny Bowen and Jay Miller. Ms. Drury was interested in appointment; however, would be unavailable for an interview.

It was the consensus of Council to reappoint Victor Palomino, Jaan Ferree, Gwynne Rukenbrod and Guillermo Rodriguez to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed.

In addition, after speaking highly of all the candidates, Jay Miller received 1 vote, Jay Fields received 6 votes, Jenny Bowen received 6 votes, and Denise Drury received 1 vote. Therefore, Jay Fields and Jenny Bowen were each appointed to serve a three year term, terms to begin July 1, 2014, and expire June 30, 2017, or until their successors have been appointed.

RESOLUTION BOOK NO. 36- PAGE 267

C. RESOLUTION NO. 14-150 – RESOLUTION APPOINTING A MEMBER TO THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Greater Asheville Regional Airport Authority.

The terms of David Hillier and Bob Roberts expire on June 30, 2014. Due to legislation, the seat of Mr. Hillier will now be a seat for Henderson County.

The following individual applied for the vacancy: Gary Herndon.

On June 10, it was the consensus of the Boards & Commissions Committee and City Council to postpone action on this until June 24.

Vice-Mayor Hunt moved to reappoint Bob Roberts to the Asheville Regional Airport Authority and the Greater Asheville Regional Airport Authority to serve an additional four-year term, term to expire June 30, 2018, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 270

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler suggested City Council set a goal for local food production; and suggested the hiring of a new employee to analyze new development.

Mr. Dan Bridges urged Council to contact the state about upgrading handicapped placards.

Closed Session

At 6:01 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) to consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to a lawsuit involving the following parties: The State of North Carolina; and The City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:27 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:27 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – July 22, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Manheimer announced that points of order can only be raised by members of City Council.

Mayor Manheimer also noted that the public comment period is an opportunity for the public to comment and it is not a dialogue opportunity between the public and City Council.

I. PROCLAMATIONS:

A. AMERICAN PUBLIC WORKS ASSOCIATION SCHOLARSHIP & AWARD WINNERS

Executive Director of Planning & Multimodal Transportation Cathy Ball introduced American Public Works Association current President Russell Byrd and Past President B. Keith Pugh, Engineering Services Director from the City of High Point, who in turn honored Ms. Kathi Willis, Mr. Lee Morrison and retired employee Mr. Lyle Willis during the APWA-NC Annual meeting in New Bern.

Mr. Byrd said that Kathi Willis, Administrative Assistant with Public Works Administration and the Capital Projects Management (Engineering) Division has worked for the City since 1991. In addition she has served as the State APWA-NC Chapter Secretary since 2008 providing management and conference planning support. In 1999 the Chapter Board instituted an award entitled the President's Award. This special award, at the sole discretion of the Chapter President is to recognize an individual whose efforts during the year singularly contributed to the betterment and success of the chapter.

Mr. Pugh said that Lee Morrison, Construction Inspector with the Capital Projects Management (Engineering) Division has worked for the City of Asheville since 2006. He has been attending classes to help him understand fully what is necessary to provide quality service to the citizens of Asheville. In addition to his schoolwork and his position as a construction inspector, Lee is a lieutenant at a local volunteer fire department, and an Eagle Scout. He has also just received his advanced certificate as an NC Road Scholar. He is certified in many aspects of his job and is a valued team member with the City.

Mr. Pugh also recognized retired City employee Lyle Willis, who is not a member of the Association; however, helps the leadership of the Association succeed. He embodies the ideals of the person who works behind the scenes.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 24, 2014

B. RESOLUTION NO. 14-151 - RESOLUTION AMENDING THE CITY COUNCIL MEETING SCHEDULE TO CANCEL THE AUGUST 12, 2014, CITY COUNCIL REGULAR MEETING

RESOLUTION BOOK NO. 36 - PAGE 271

C. RESOLUTION NO. 14-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SUPERIOR LANDSCAPING FOR GROUND MAINTENANCE AT VARIOUS PARKS, GREENWAYS AND FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Superior Landscaping to provide ground maintenance services at various parks, greenways and facilities in the north and east districts in Asheville in the amount of $117,200 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

The Parks and Recreation Department contracts with multiple vendors for ground maintenance services in the six districts in Asheville. On August 12, 2013, the department issued an Advertisement for Bids for ground maintenance services in these districts to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest responsive and responsible bidders. Of these, Superior Landscaping, located at 9 Linda Vista Drive in Asheville, bid is in the amount requiring City Council approval for a total of $117,200.

The ground maintenance contract will extend until June 30, 2015 with the option for two (2), twelve (12) month renewals based on contractor performance.

Pro: Supports the efficient delivery of core park maintenance services.

Con: None

The $117,200 to support the ground maintenance contract in the various parks, greenways and facilities in the north and east districts in Asheville is budgeted in the FY 2014-2015 Parks and Recreation Department operating budget as part of the Parks Maintenance division budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a contract and execute contract change orders with Superior Landscaping to provide ground maintenance services in the various parks, greenways and facilities in the north and east districts in Asheville in the amount of $117,200 for a twelve (12) month period with an option for two (2), twelve (12) month renewals based on contractor performance.

Councilman Bothwell hoped that as we move forward with landscaping contracts that we be clear that want them to exclude Round-Up from their chemical arsenal and exclude pesticides that are responsible for killing honey bees.

Councilman Smith agreed with Councilman Bothwell and also wanted to make sure that our landscaping contractors are aware of our food action plan and that we would like for them to incorporate those edibles into their landscaping plans.

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D. RESOLUTION NO. 14-153 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN AGREEMENT FOR LEGISLATIVE REPRESENTATION SERVICES WITH JACK COZORT

Summary: The consideration a resolution authorizing the Mayor to enter into an agreement for legislative representation services with Jack Cozort.

Jack Cozort ("Cozort") has been providing legislative/lobbying services for the City since May 2012. A contract was executed at that time, which was effective until September 4, 2012. Cozort has been present at both short and long legislative sessions since May 2012 and has provided valuable services to the City by, among other things, monitoring legislation, aiding with the City's legislative agenda, and advocating for the City's interests in the General Assembly.

Even though Cozort has continuously represented the City since May 2012, and the City has continued to pay him $5,000 per month ($60,000 per year), it was only recently noted by the Purchasing Department that the contract had expired, so a new agreement is needed. Cozort is currently representing the City at the 2014 short session, and the City needs the same for the 2015 long session beginning in January 2015. The new contract would be effective through January 1, 2016. Because of the numerous bills which contain items which significantly affect the City, it is important for the City to have a presence in Raleigh, through the end of the 2015 long session. Cozort can provide this, and to date, has done so effectively for the City.

The cost of providing this service is $60,000 a year, plus costs, payable monthly at a rate of $5,000 per month for the contract term.

Pros:

- Strengthens the City's presence in the seat of State government during legislative sessions.
- Provides monitoring of important legislation, aids in furthering the City's legislative agenda and advocates for the City's interest in the General Assembly.
- Cozort has substantial experience in legislative matters at the N.C. General Assembly.

Con:

- None noted.

The fiscal impact is $60,000 per year. Funding for this contract is included in the FY 2014-15 adopted General Fund budget.

Adoption of the resolution is recommended.

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E. RESOLUTION NO. 14-154- RESOLUTION AUTHORIZING THE MAYOR TO EXPRESS THE CITY OF ASHEVILLE'S WILLINGNESS TO PROVIDE THE REQUIRED 20% LOCAL MATCH AND FUNDING FOR RIGHT-OF-WAY IF FEDERAL TRANSPORTATION FUNDING IS AUTHORIZED FOR ANY OF SEVERAL PEDESTRIAN OR BICYCLE PROJECTS IN THE CITY

Summary: The consideration of a resolution authorizing the Mayor to express the City of Asheville's willingness to provide the required 20% local match and funding for right-of-way if federal transportation funding is authorized for any of several pedestrian or bicycle projects in the City.

This request is a result of recent legislative changes preventing state transportation funds from being spent on stand-alone pedestrian or bicycle projects and changes in the way that the

N.C. Dept. of Transportation (NCDOT) evaluates transportation projects for inclusion in the 10-year transportation improvement program (TIP).

Stand-alone pedestrian or bicycle projects may still compete within the state's prioritization system for federal funding, but without any state funding available, the City must commit to providing the required 20% local match if the project is to be considered for inclusion in the TIP. Additionally, according to NCDOT procedures, right-of-way (ROW) must also be locally funded, so the commitment includes an amount for projected ROW costs if applicable.

The City has four projects under Strategic Planning Office (of) Transportation (SPOT) consideration at this time. They are:

- Construct sidewalk on Riceville Road from Tunnel Road to Bull Mountain Road. (SPOT cost estimate: $600,000; 20% local match: $120,000 plus $60,000 ROW)

- Construct pedestrian improvements along McDowell Street and Choctaw Street, which would include sidewalk gap closure, ADA upgrades and crossing improvements along McDowell Street from Phifer/Southside Ave to Choctaw Street and then on Choctaw Street to Biltmore Ave. (SPOT cost estimate: $446,000; 20% local match: $89,200 plus $26,000 ROW)

- Add bicycle lanes and sharrows at pinch points on Broadway Street from I-240 to Riverside Drive. This is anticipated to involve a combination of lane and road diets. (SPOT cost estimate: $410,000; 20% local match: $82,000)

- Bicycle improvements for McDowell Street and All Souls Crescent, including bike lanes, sharrows and striped shoulder, from McDowell St at Southside Avenue and continuing on All Souls Crescent to intersection with US 25/Hendersonville Rd. (SPOT cost estimate: 291,000; 20% local match: $58,200)

From what we have seen in the preliminary scoring, we are not expecting these projects to score well enough to be added to the next 10-year TIP, but without the resolutions, the projects will be dropped from consideration for the funding.

Pros:

- Allows the listed city projects to remain in contention for federal funding that would leverage city funds by four times
- Is an opportunity to bring these projects to fruition faster than would otherwise be possible
- We expect to know the outcome in August or September, so the period of uncertainty is short

Con:

- If the funds are awarded, the projects might delay other capital projects.

There is no fiscal impact, unless the grant funds are awarded. If awarded, the city would be responsible for providing the match through the Capital Improvement Program (CIP) in the year(s) programmed by the state and the MPO. Since there is no allocation in the current 5-year CIP for these matches, there is the potential that other capital projects might have to be delayed in order to fund the match requirements.

City staff recommends City Council authorize the Mayor of City of Asheville to execute a statement of commitment to provide the required 20% local match and funding for right-of-way if federal transportation funding is authorized for any of several pedestrian or bicycle projects in the City, as set forth herein, by signing the letter committing to the funding local match as described.

RESOLUTION BOOK NO. 36 - PAGE 274

F. RESOLUTION NO. 14-155 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT FOR THE ASHEVILLE REGIONAL AIRPORT TO REHABILITATE RUNWAY 16-24, PHASE 1

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of $8,935,654.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of $8,935,654, is for the following: Rehabilitate Runway 16-34, Phase 1 (Grade and Drain Temporary Runway; Acquire Land for Development, Construct Retaining Wall, Engineering/ Design/RPR Services, Force Account Services, FAA Reimbursable Agreements).

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-44-2014.

RESOLUTION BOOK NO. 35 - PAGE 275

G. RESOLUTION NO. 14-156 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH RIVERTOP CONTRACTING INC. FOR THE DOWNTOWN CLEANING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $286,340 plus a contingency of 4.7% ($13,659) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning, City of Asheville Project # DC-15-01.

This contract covers the contracted pressure washing of sidewalks located in the City of Asheville Central Business District. The project was advertised on April 23, 2014. Bids were opened with Rivertop Contracting, Inc. of Swannanoa, NC, being the lowest responsive bidder with a bid of $286,340. A 4.7% contingency ($13,659) has been added to allow payment for any unforeseen costs that typically arise during construction. Below are the two responsive bidders:

Rivertop Contracting, Swannanoa, NC $286,340.00
DeAngelo Brothers, Inc., Hazleton, PA $418,036.40

The work produced from this contract will resolve a great concern of downtown business owners and residents.

Pros:

- Will result in the most heavily used areas of the CBD being pressure washed completely 4 times in the life of the contract and the lesser used areas being pressure washed completely 2 times in the life of the contract.
- Will result in all areas of the CBD having loose debris removed 5 days per week.

Con:

- Project management and contract administration will consume staff time.

$300,000 was budgeted for Downtown Cleaning in the general fund. This amount was approved by City Council and included in the Fiscal Year 2014-15 budget.

City staff recommends City Council adopt the resolution awarding the contract to Rivertop Contracting, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a

contract in the amount of $286,340 plus a contingency of 4.7% ($13,659) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning, City of Asheville Project # DC-15-01.

Councilman Davis asked that City Council receive a copy of the scope of the contract. He was excited about the possibility of a cleaner downtown.

Executive Director of Planning and Multimodal Transportation Cathy Ball said that they will have a checklist on the website for the different projects; and, that they have asked the contractor to wear clothing to identify that they are associated with the downtown cleaning project.

RESOLUTION BOOK NO. 36 - PAGE 276

H. RESOLUTION NO. 14-157- RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A GENERAL SERVICES AGREEMENT WITH CAROLINA MANAGEMENT TEAM FOR THE WATER RESOURCES WATER STORAGE TANK AND PIPE COATING AND MAINTENANCE PROJECT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into a general services agreement with Carolina Management Team (CMT) in an amount not to exceed $150,000 for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the 2014-15 fiscal year with an option to renew for an additional two fiscal years in an amount not to exceed $150,000.00 each year contingent upon funding.

On May 16, 2014, the Water Resources Department issued a Request for Proposals (RFP) for the Water Storage Tank and Pipe Coating and Maintenance Project. The scope of the project is for the maintenance, rehabilitation, repair, and repainting of water storage tanks and pump station piping at various locations in the water distribution system. The project locations include: Concord Tank exterior, Fairview Downs Tank exterior, Patton Mountain Tank exterior, South Buncombe Pump Station, Mills River Water Treatment Plant Finished Water Piping, Mills River Water Treatment Plant Pipe Gallery, and Poplar Ridge Tank 2 exterior.

On June 11, 2014, Water Resources received one (1) proposal for the project in response to the RFP. The company responding was Carolina Management Team in Enka, NC for a total bid of $148,078.

The total bid includes: the base work to rehabilitate, repair, and repaint the aforementioned project locations; the cost to add three (3) additional sites depending on funds availability; and crack / spall repair. A review team comprised of Water Resources staff reviewed CMT's proposal and selected them for the project based on their qualifications, understanding of project scope, cost, and project schedule.

After the first year of the contract, the Water Resources Department desires to extend CMT's contract for an additional two fiscal years, both at $150,000 each year, contingent upon funding. The two year option to renew the contract benefits the City as follows: eliminates the time and expense associated with re-bidding; eliminates the logistics and operational requirements to stabilize another Contractor's workforce on site; continued work with a company who has a proven track record for excellent work and a known contract cost.

Pros:

- Approval of the project will allow Water Resources to complete necessary maintenance on various water storage tanks and pump station piping in need of rehabilitation and repair. The project will also make these sites more aesthetically pleasing.

- The project will provide a local company with work for at least the next year, possibly the next three years if the department is allowed to renew the contract for two additional fiscal years.
- The WRD will realize cost savings by not having to rebid the project.

Cons:

- If the project does not continue, the water storage tanks and pump station piping on the list to be rehabilitated and repaired will continue to degrade, which may eventually jeopardize the system's water quality.

No additional appropriations are necessary as funds are budgeted in the Water Resources Capital Improvement Projects Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a general services agreement with Carolina Management Team (CMT) in an amount not to exceed $150,000 for the Water Resources Water Storage Tank and Pipe Coating and Maintenance Project for the 2014-15 fiscal year with an option to renew for an additional two fiscal years in an amount not to exceed $150,000 each year contingent upon funding.

RESOLUTION BOOK NO. 36 - PAGE 277

I. **RESOLUTION NO. 14-158 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH LAND OF THE SUN INC, D/B/A FLETCHER GRADING CONTRACTORS, FOR THE WESTWOOD ROAD STORM DRAINAGE IMPROVEMENT PROJECT**

ORDINANCE NO. 4323 - BUDGET AMENDMENT FOR THE WESTWOOD ROAD STORM DRAINAGE IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter a contract with Land of the Sun, Inc. doing business as Fletcher Grading Contractors for the construction services necessary to complete the Westwood Road Storm Drainage Improvements; and a budget amendment in the amount of $72,147 from Stormwater Fund reserves to fully fund the contract and a 15% contingency.

Westwood Road has a failing drainage system currently in existence. City crews have made minor repairs to the area in the past. The City obtained the professional services of McGill Associates for the design work associated with this stormwater improvement.

Within the scope of the project, Fletcher Grading Contractors will abandon the existing failing storm drainage system, place curb and gutter as necessary for the success of the project and install approximately 990 linear feet of storm drainage infrastructure.

The project was posted for bid on June 12, 2014. A mandatory pre-bid meeting was held with a moderate turnout on June 19, 2014. The bids were opened and June 26, 2014 and the following were the results:

Fletcher Grading Company	2157 Brevard Road, Arden NC	**$306,215**
NHM Constructors, LLC	PO Box 6385, Asheville NC	$427,578
Graham County Land Company, LLC	750 Tallulah Road, Robbinsville, NC	$461,870

The City receive bids from qualified contractors to perform the construction activity outlined in the approved documents for the Westwood Road Storm Drainage Improvement Project and the City of Asheville determined that Fletcher Grading Contractors, LLC and their bid of $306,215 as the low responsible and responsible bidder

Pros:

- Improvements to the storm drainage system in this area will prevent future maintenance issues.
- Provides safe access for the citizens that visit this area.
- Moves forward with the goals of the Stormwater Utility program to make capital investments through projects.

Cons:

- Construction will be disruptive to the area for approximately 3 months.

The total initial cost of the contract is $306,215; however an additional 15 percent contingency is recommended for this project, which brings the total expected budget to $352,147. The FY 2013-14 Stormwater CIP included an original budget of $280,000 for this project. In order to fully fund the contract amount and the 15% contingency, the original budget must be amended by $72,147. This additional funding will be taken from Stormwater Fund reserves that exceed the 8% policy target.

City staff recommends City Council approve a resolution authorizing the City Manager to enter a contract with Land of the Sun, Inc. doing business as Fletcher Grading Contractors for the construction services necessary to complete the Westwood Road Storm Drainage Improvements for $306,215 and to enter into change orders to this contract not to exceed 15% of the original contract or $45,932; and a budget amendment in the amount of $72,147 from Stormwater Fund reserves to fully fund the contract and the 15% contingency .

RESOLUTION BOOK NO. 36 - PAGE 278
ORDINANCE BOOK NO. 29 - PAGE 118

J. RESOLUTION NO. 14-159 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO AN EXISTING AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENTAL AND NATURAL RESOURCES FOR THE BILTMORE AVENUE BRIDGE FLOOD REDUCTION PROJECT

ORDINANCE NO. 4324 - BUDGET AMENDMENT TO ACCEPT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL & NATURAL RESOURCES FOR FLOOD MITIGATION EFFORTS FOR THE BILTMORE AVENUE BRIDGE FLOOD REDUCTION PROJECT

Summary: The consideration of a resolution authorizing the City Manager or designee to execute an amendment to an existing agreement with the N.C. Dept. of Environmental and Natural Resources (DENR) to supplement the current contract by an additional $750,000 in order to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the Biltmore Avenue Bridge Flood Mitigation Project; and a budget amendment in the amount of $750,000 to appropriate additional Senate Bill 7 funding received from DENR.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. Through a study completed by Brown and Caldwell and the ongoing feasibility study the Army Corps of Engineers is conducting, the Biltmore Avenue Bridge Flood Mitigation Project has shown potential to provide significant flood reduction benefits. The flood control project includes the removal of floodplain fill and flood bench restoration to allow for a larger conveyance areas under the existing Biltmore Avenue Bridge.

On May 15, 2007, City Council approved a resolution allowing the City Manager to enter into the following three contracts with DENR:

- $2,500,000 for a three phase flood damage reduction measure which institutes a watershed-wide program for flood damage reduction in the Swannanoa
- $2,000,000 for acquiring property that is prone to flooding
- $75,000 to work with the Army Corps of Engineers to develop an emergency flood preparedness plan for Biltmore Village

On September 13, 2011, City Council approved a resolution authorizing the City Manager to enter into an agreement to the existing contract and additional funds were provided from Senate Bill 7. The City did not utilize all the funds for acquisition of property, $715,888 was remaining. This $715,888 will be re-allocated and additional DENR (Senate Bill 7) funds in the amount of $374,251 was approved for the flood damage reduction measures contract. The $1,090,139 supplements the existing NCDENR contract ($2,500,000) for a new total amount of $3,590,139.

With the additional funds now available for the Biltmore Avenue Bridge Flood Mitigation Project ($750,000), the original contact amount has been increased to $4,340,139 for the combined efforts for item 1 listed above.

On May 26, 2009, by Resolution No. 09-108, the City Manager was authorized to enter into a Feasibility Cost Share Agreement for the Swannanoa Flood Risk Management Project with the Army Corps of Engineers to provide professional services for a feasibility study for reducing flood damage in the Swannanoa River Watershed. The CORPS continues to be involved with this project and it is anticipated that a draft feasibility report will be available in 2015.

On June 28, 2011, City Council approved the City Manager to enter a contract with McGill Associates to perform the engineering services necessary to provide flood mitigations to the properties down stream of the Lake Craig Dam which will include the evaluations of the existing dam. McGill Associates are also providing engineering services associated with the improved roadway connections to the John B. Lewis Soccer Complex and provide a much needed connection to the City of Asheville water system. In an effort to keep consistent working relationships and expectations from both the Army Corps of Engineers, NC Division of Water Resources, and the City, McGill Associates is being recommended to continue the flood reduction efforts for the Biltmore Avenue Bridge Flood Mitigation Project.

These funds will be in addition to the $3,590,139 Million that have been made available for the City to perform flood mitigation work. The funds available for the completion of the engineering services for the Swannanoa Flood Risk Management project, to complete Phase I of the Lake Craig Project (currently under construction) and to include the Biltmore Avenue Bridge Flood Risk Management Project now totals $4,340,139.

Pros:

- Implements the priority objective of the Swannanoa Flood Risk Management Project
- To continue to work with state, local and federal partners on a flood mitigation plan
- Priorities are set for expending the remainder of state flood mitigation funding
- This funding will allow the completion of the design phase of the Biltmore Avenue Bridge Flood Mitigation Project

Cons:

- Construction of the project will require the involvement and funding of the US Army Corps of Engineers or the North Carolina Division of Water Resources.

Funding for the design, property acquisition, permitting and continued partnership with the Army Corps of Engineers for the Biltmore Avenue Flood Mitigation Project is currently coming from the Division of Water Resources Senate Bill 7 money. Future construction cost associated

with this project will be funded through partnerships with the Army Corps of Engineers and the City of Asheville with the possibility of additional funds from the Division of Water Resources. The additional $750,000 from Division of Water Resources Senate Bill 7 will allow the city to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the construction of the Biltmore Avenue Bridge Flood Mitigation.

Staff recommends City Council approve a resolution authorizing the City Manager or designee to execute an amendment to an existing agreement with DENR to supplement the current contract by an additional $750,000 in order to complete the design, permitting, property acquisition and continue coordination with the Army Corps of Engineers for the Biltmore Bridge Flood Mitigation Project; and a budget amendment in the amount of $750,000 to appropriate additional Senate Bill 7 funding received from DENR.

RESOLUTION BOOK NO. 36 - PAGE 279
ORDINANCE BOOK NO. 29 - PAGE 120

K. RESOLUTION NO. 14-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH MCGILL ASSOCIATES FOR THE BILTMORE AVENUE FLOOD MITIGATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to complete negotiations and enter into the necessary agreements for an amendment to the existing professional services contract with McGill Associates for the engineering services necessary for the completion of the design of the Biltmore Avenue Bridge Flood Mitigation Project to be included in the current contract for the Lake Craig/Azalea Road Project.

McGill Associates is the design team for the ongoing work associated with the Lake Craig/Azalea Road Project. During the process, McGill's team continues to work closely with the Army Corps of Engineers on the Swannanoa Flood Mitigation Project. As this project has moved forward, McGill has continued to help facilitate the projects along the Swannanoa River and be actively involved with the Flood Mitigation Efforts. The goals of these projects have been to provide additional flood protection to Biltmore Village and the surrounding area.

As the City and the consulting team of McGill Associates have continued to work closely with the Army Corp of Engineers on the final stages of the Swannanoa Flood Risk Management Project, the Biltmore Avenue Bridge Flood Mitigation Project has continued to be a key component to these flood reduction efforts. The Corps has the Biltmore Avenue Bridge Flood Reduction Project as a top project on the study. As McGill Associates have worked closely with the Corps to develop the Lake Craig/Azalea Road flood reduction models and have been actively involved in continuing conversations and necessary actions associated with the Swannanoa Flood Risk Management Project, they are best suited to move forward with the communication with the Corps and to implement the design of the flood reduction project within Biltmore Village.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. Through a study performed by Brown and Caldwell and also the Army Corps of Engineers, the Biltmore Avenue Bridge Flood Mitigation Project has shown potential to provide significant flood reduction benefits. As the projects funded throughout the state have been finalized, the state has indentified additional funds that can be utilized toward the flood reduction efforts in the Swannanoa River Basin. The project that fits the criteria from the Corps and also the Division of Water Resources is the Biltmore Avenue Bridge Project.

Within the scope of the project, McGill Associates will perform the engineering services necessary to provide flood mitigation to the properties in the Biltmore Village Area. The Biltmore Avenue Flood Mitigation Project was a high priority in the Swannanoa Flood Risk Management Project which was accepted by City Council on May 10, 2011.

The Biltmore Ave. Bridge Flood Mitigation will continue the efforts of flood reduction within the Biltmore Village Area by moving forward with the design any necessary property acquisition ahead of the Corps study. The Corps is in the final stages of their report and expect to have a draft Feasibility Study out in 2015.

Pros:

- Implements the priority objective of the Swannanoa Flood Risk Management Project
- To continue to work with state, local and federal partners on a flood mitigation plan
- Priorities are set for expending the remainder of state flood mitigation funding
- This funding will allow the completion of the design phase of the Biltmore Avenue Bridge Flood Mitigation Project

Cons:

- Construction of the project will require the involvement and funding of the US Army Corps of Engineers or the North Carolina Division of Water Resources.

The change order portion of this flood mitigation project is funded through the State in compliance with the Hurricane Recovery Act of 2005. With the additional funding from the SB 7 ($750,000), the Biltmore Ave. Bridge Flood Mitigation Project can move forward with the design, permitting and property acquisition. City Staff is working with the Army Corps of Engineers as well as the North Carolina Division of Water Resources to identify future funding sources for potential flood mitigation projects within the Swannanoa River Basin.

City staff recommends City Council approve a resolution authorizing the City Manager to complete negotiations and enter into the necessary agreements for an amendment to the existing professional services contract with McGill Associates for and additional $297,000 for the engineering services necessary for the completion of the design of the Biltmore Avenue Bridge Flood Mitigation Project to be included in the current contract for the Lake Craig/Azalea Road Project.

RESOLUTION BOOK NO. 36 - PAGE 280

L. RESOLUTION NO. 14-161 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment with Schnabel Engineering South, PC, to increase the existing contract in the amount of $302,400 for a total project budget of $710,590 to expand the scope of services to include bidding and construction administration services for the North Fork Dam Intake Tower and Conduit Repairs Project.

On March 12, 2013, City Council awarded the Engineering Design Services Contract to Schnabel Engineering for the North Fork Water Treatment Plant Dam/Tunnel Project in the amount of $408,190.00, which included a contingency for a total project budget of $428,600.00. Water Resources is ready to move into the bidding and construction phase of this project. Schnabel has presented a scope of work and cost proposal for engineering services associated with the Intake Tower and Conduit Repairs at the North Fork Water Treatment Plant. Due to their intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete the additional scope of services. The additional scope of services will include: assistance with advertising, bidding, and the selection of a contractor; inspection and testing services; construction observation and reporting; contract administration; development of record drawings; and additional tasks as outlined in their proposal.

Pro:

- Continued use of Schnabel Engineering as the most qualified engineering firm to assist with the bidding and construction phase of the project.

Cons:

- The cost for the additional scope is notable but if Schnabel Engineering is not awarded this contract the project will be delayed.
- If another firm is awarded the contract, the most qualified engineering firm will not be selected.

The funding needed for the contract and the contingency is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a contract amendment with Schnabel Engineering South, PC, to increase the existing contract in the amount of $302,400 for a total project budget of $710,590 to expand the scope of services to include bidding and construction services for the North Fork Dam Intake Tower and Conduit Repairs Project.

RESOLUTION BOOK NO. 36 - PAGE 281

M. RESOLUTION NO. 14-162 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION (MPO) FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS, AND IF THE APPLICATIONS ARE SUCCESSFUL, TO ACCEPT GRANTS AND SIGN NECESSARY AGREEMENTS WITH THE MPO, OR STATE OR FEDERAL AGENCIES TO RECEIVE THE FUNDS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The MPO has opened a call for projects to use federal Surface Transportation Program – Directly Attributable (STP-DA) funds and Transportation Alternative Program (TAP) funding sources. The MPO expects to have approximately $6.1 million in STP-DA for fiscal years 2016 and 2017, and $566,000 in TAP funding for fiscal years 2013 and 2014. All of these funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- One ART bus for $450,000; with 80% funded by the grant
- A bike share study for $50,000; 50% funded by the grant
- River Arts District Transportation Improvement Project (RADTIP) right of way acquisition, 50% funded by the grants. Application for this project will be made to both funding sources and for all available years.

If received, all but the bike share study grant would help fund projects already programmed in the city's capital improvements program (CIP). This would not supplant city funding already available because the CIP planning process presumed partial grant funding for these projects.

Each of these projects is ready to move forward as the funding becomes available, and are not expected to need any additional environmental documentation to proceed. Ability to deliver projects in the designated timeframe is a requirement of the grant.

Pros:

- Allows the City of Asheville access to up to $6.6 million in capital, planning and infrastructure investment
- Allows the City of Asheville to take the next step in moving the RADTIP project forward
- Would replace a 12 year old bus that is nearing the end of its expected life cycle
- Allows the city to move toward a bike share system

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage between 50% and 80% grant funding for these projects, up to a grant value of $6.6 million. As noted above, all but the bike share study grant would help fund projects already programmed in the city's capital improvements program (CIP).

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

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N. RESOLUTION NO. 14-163 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTACT WITH UNIFIED AV SYSTEMS FOR RENOVATIONS TO THE AUDIO VISUAL SYSTEMS

ORDINANCE NO. 4325 - BUDGET AMENDMENT FOR AUDIO VISUAL SYSTEMS

Summary: The consideration of: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $174,065 with Unified AV Systems for renovations to the city's government channel and audio visual systems in the Council Chamber and first floor conference room; and 2) a technical budget amendment in the amount of $174,065 to create a project budget for the contract utilizing savings in other capital projects.

The City of Asheville produces and broadcasts City Council and other meetings held in the City Council Chambers. Meetings are broadcast live on the local government access channel, Charter Cable channel 193, and recorded for scheduled re-broadcasting on Charter Cable 193 and on the City's YouTube channel. Council meetings are also live streamed for internet viewing. Historically, the channel has also scheduled and broadcast original programming and bulletin board information.

The last significant equipment upgrade occurred in the late 1990s and included broadcast equipment in the control room as well as audio visual equipment in the Council Chamber and First Floor Conference Room. That equipment is reaching the end of its useful life with key components already failing.

Renovations will include:

- Updated broadcast equipment

- Addition of large flat-screen monitors to the Council Chamber
- Replacing standard definition cameras with high definition cameras and adding a fourth camera to the Council Chamber
- Updated audio visual equipment for the Council Chamber and first floor conference room
- Updated production equipment in the downstairs Control Room, including remote camera controller, character generator, live production switcher, video server, and video bulletin board.
- Updated equipment for live streaming

Five (5) proposals were received March 28, 2014. Proposals were reviewed by an evaluation team including a representative from the Buncombe County government access channel (BCTV) with telephone interviews following the review of the proposals. Best and final offers were submitted June 2, 2014. Unified AV Systems was unanimously recommended for contract award by the team. The proposals with the top two scores were:

- Ronco Specialized Systems is headquartered in Buffalo, NY with local project work completed from their Charlotte, NC office. $183,869

- Unified AV Systems is headquartered in Atlanta, GA with local project work completed from their Greensboro, NC office. $174,065

Pros:

- Renovations will improve sound quality and allow members of the public to view presentation materials from every seat in the Council Chamber.
- Renovations will improve the failing audio visual system in the first floor conference room.
- Renovations will allow programming, including City Council meetings, to be scheduled for broadcast throughout the week creating opportunities to once again apply for supplemental PEG funding. Currently, these payments are roughly $30,000 per year.
- High definition cameras will significantly improve the online viewing experience.

Cons:

- High Definition upgrades will be limited to an analog signal through the city's cable provider.
- Technology continues to change at a rapid pace with more and more users gaining access to online viewing. It is possible, at some time in the future, government channels will become obsolete. The portion of the contract to be invested in broadcast-only equipment is $15K.

There is approximately $18,308 remaining in a prior year capital project that was established for government channel equipment replacement. The remaining $155,757 needed to fund the contract with Unified AV Systems will come from savings in the City Hall renovations project. A technical budget amendment is required to create a new project budget utilizing the savings in these two other projects.

City staff recommends City Council adopt: 1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract not to exceed $174,065 with Unified AV Systems for the project known as Government Channel and Council Chamber Audio Visual Renovations; and 2) a technical budget amendment in the amount of $174,065 to create a project budget for the contract utilizing savings in other capital projects.

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ORDINANCE BOOK NO. 29 - PAGE 122

O. **RESOLUTION NO. 14-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONSTRUCTION CONTRACT WITH BRANTLEY CONSTRUCTION FOR THE U.S. CELLULAR CENTER RENOVATIONS PROJECT**

RESOLUTION NO. 14-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE PROFESSIONAL SERVICES CONTRACT WITH BETSCH ASSOCIATES/CLARK NEXSEN FOR THE U.S. CELLULAR CENTER RENOVATIONS PROJECT

Summary: The consideration of resolutions to authorize the City Manager to: 1) execute an amendment to the construction contract with Brantley Construction in the amount of $11,399.33 for additions to construction related to the US Cellular Center renovations. After the approval of the pending contract amendment, the total contract amount will be $3,006,235.61; and 2) execute an amendment to the professional services contract with Betsch Associates/Clark Nexsen in the amount of $7,340.00 for additional design services related to the US Cellular Center renovations for a total contract amount not to exceed $1,116,795.00.

The renovations to the ExploreAsheville.com Arena and common areas of the US Cellular Center renovation project are nearing completion. A temporary certificate of occupancy has been issued and staff expects a final Certificate of Occupancy for the project to be issued before the end of the month. As often is the case in an older facility, unexpected issues related to ADA access and water service/backflow prevention, which surfaced during construction, have necessitated change order directives to the contractor and additional design services from the architect. These items have increased the respective construction and professional services contracts above the administrative limit staff can authorize, and City Council action is necessary to amend the contracts.

Pros:

- Action updates the construction contract to meet the obligations for the required construction necessitated by unforeseen conditions at the beginning of the design.
- Action updates the professional services contract to meet the obligations for the required design necessitated by unforeseen conditions at the beginning of the design.
- Action will support improved facilities in the renovated facility.

Con:

- None noted. Funding for this is available in the USCC Capital Budget.

Funding for the amendments to the construction and professional services contracts is already in the Capital Budget for the Project, so no budget amendment is required.

Staff recommends City Council approve resolutions to authorize the City Manager to: 1) execute an amendment to the construction contract with Brantley Construction in the amount of $11,399.33 for additions to the construction related to the US Cellular Center renovations; 2) execute an amendment to the professional services contract with Betsch Associates/Clark Nexsen in the amount of $7,340.00 for additional design services related to the US Cellular Center renovations project.

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RESOLUTION BOOK NO. 36 - PAGE 285

P. **RESOLUTION NO. 14-166 - RESOLUTION AUTHORIZING THE CITY MANAGER TO MAKE APPOINTMENTS TO THE 51 BILTMORE CONDOMINIUM ASSOCIATION**

Summary: The consideration of a resolution authorizing the City Manager to appoint a director to the 51 Biltmore Condominium Association, and make related committee appointments.

The 51 Biltmore Project is the project that includes the Aloft Hotel, a City parking garage, and vacant property that is being held for possible future development. As Council may recall, the ownership structure of this public-private project, using the downtown development act, is a condominium.

The condominium association is governed by a board of directors consisting of three members—each member/owner appoints one director. The association by-laws also provide for the appointment of an executive board and various committees. There is not much common area, and each member/owner is substantially responsible for its respective property, so there is not much business for the condominium association to conduct. However, meetings are sometimes necessary. Former Finance Director, Lauren Bradley, was the City's appointed director, but she is no longer employed by the City, and it is necessary for a new City representative to be appointed.

The resolution authorizes the City Manager to appoint and remove City representatives to the 51 Biltmore Condominium Association, including committee and board members, in accordance with the Association by-laws.

Pros:
- Fills a *de facto* vacancy on the board of directors.
- Allows City Manager to make future appointments without Council action.

Con:
- None noted.

Adoption of the resolution is recommended.

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Q. RESOLUTION NO. 14-167 - RESOLUTION SETTING A PUBLIC HEARING ON AUGUST 26, 2014, FOR A LAND USE INCENTIVE GRANT AGREEMENT FOR 146 ROBERTS STREET (RAD LOFTS)

Summary: The consideration of a resolution setting a public hearing on August 26, 2014, for a land use incentive grant agreement for 146 Roberts Street (RAD Lofts).

The owners/developers of RAD Lofts have applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on January 10, 2012. The following report summarizes their application and reports on eligibility and points.

RAD Lofts LLC has contracted to purchase the 2.88 acre site formerly home to the Dave Steel Company. The site is located at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The develop estimates a total development cost of $52 million. The project consists of

- 209 residential rental apartments (144 one-bedroom apartments and 65 two-bedroom apartments). 220 of the parking spaces within the parking structure noted below will accommodate residents of the community;
- A two story parking deck for residents and for the public (on an hourly rental basis), street front retail spaces, live work spaces and second floor office space. This commercial component will be 48,500 sq. ft. plus 136 parking spaces.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developers indicate they will contribute at least 30% equity to the project.
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

The developer will not agree to assume all legal costs if the Land Use Incentive policy is challenged. This is a required element of the adopted Land Use Incentive Policy and therefore, Council may want to consider an amendment to the existing policy at the public hearing.

Public Benefit

The project proposes the following Public Benefit Elements:

- Workforce Housing units, assuming an annual rental increase of 3%, for the proscribed period: 100% *of total units* for which the developer request 20 points.
- Affordable Housing units assuming an annual rental increase of 3%, for the proscribed period: 5 units, for which the developer requests 10 points.
- Green Building/Energy: *Energy Star certified* (5 points)
- Includes a minimum 20% non-residential (5 points)
- Within the Sustainability Bonus area (5 points)
- Brownfield Redevelopment (5 points)

The developer has scored the project with 50 points. Based on this score, the project would be eligible for a 5 year Land Use Incentive Grant.

The project meets the following 2013-14 Strategic Plan Goals: (1) *Economic Growth and Financial Sustainability:* The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District. (2*) Affordable Housing and Community Development*: the project creates locationally efficient affordable and workforce housing;

The project meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Exemption Request

The current assessed value of the property is $501,800 (land only). The developer's estimate of completed project taxable value is $40,000,000, and has estimated the value on which the LUIG is made at 80% of that ($32,000,000). The current annual city tax, based on current assessed value, is $2,308. The annual estimated city tax post completion, based on the developer's estimate of value is $184,000. Thus, the estimated annual Land Use Incentive Grant would be $144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be $724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $81,806.40. The value of each 10% of the fee rebate would be $8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $40,903.20.

As noted in the developer's cover letter, the project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately $823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over an eight year period, as opposed to equal payments over the requested five-year period. This would result in a grant disbursement that would increase annually over the five year term, as the brownfield grant decreased, and then pay the remainder over three additional years; it would not change the amount of the grant.

Staff recommends that Council set a public hearing date of August 26, 2014, for the consideration of the Land Use Incentive Grant request, as detailed above.

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R. ORDINANCE NO. 4326 - BUDGET AMENDMENT FOR THE VELODRONE IMPROVEMENTS AND CARRIER PARK RESTROOM RENOVATIONS

Summary: The consideration of a technical budget amendment in the amount of $17,500 to transfer funds from Parks and Recreation's deferred maintenance operating budget to two capital projects; the Velodrome Improvements in the amount of $4,000, and Carrier Park Restroom Renovations in the amount of $13,500.

The Parks and Recreation Department deferred maintenance cost center in the General Fund is used for minor repairs and improvements for parks and recreation facilities. There are items budgeted there in the current fiscal year that relate to large projects. These items include $4,000 to complete the design services for future improvements to the Velodrome, and $13,500 to complete the design services for future renovation of restrooms at Carrier Park.

Staff is requesting City Council to approve a technical budget amendment to increase $17,500 to two individual capital projects in the General Capital Project Fund from the Parks and Recreation Department deferred maintenance budget.

Pro:

- This action will allow each capital project to reflect all the expenditures related to the construction and design related to it.

Con:

- None

The technical budget is to complete the design of the Velodrome improvements and Carrier Park Restroom renovations. The project budget will authorize expenditures up to $17,500. These expenditures have been fully funded through the transfer of funds from the Parks and Recreation Department deferred maintenance operating budget.

City staff recommends City Council approve the technical budget amendment authorizing the City Manager to increase $17,500 to the Velodrome Improvements and Carrier Park Restroom Renovations capital projects.

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S. ORDINANCE NO. 4327 - BUDGET AMENDMENT TO SUPPORT THE INITIATIVES OF THE WNC DIVERSITY ENGAGEMENT COALITION

Summary: The consideration of a budget amendment in the amount of $10,000 from General Fund unassigned fund balance to support the initiatives of the WNC Diversity Engagement Coalition (WNC DEC) in Fiscal Year 2015.

The WNC DEC is a network of anchor institutions dedicated to engaging a diverse and inclusive workforce in Western North Carolina. With a combined workforce of more than 15,000 employees, WNC DEC combines resources, expertise, and social capital to recruit, retain, and advance individuals from under-represented communities within the coalition. In addition to the City of Asheville, partners include AB Tech, Buncombe County, the Chamber of Commerce, MAHEC, Mission Health, and UNC Asheville. Over the next year the coalition will be opened up to additional partners.

WNC DEC works to create intentional networks of support, development, and practices that increase the diversity of professional and executive talent in the region and fosters work environments that realize the benefit of a fully engaged workforce. Currently WNC DEC is focusing on three main initiatives:

- Offering a series of professional development workshops for employees and community members;
- Implementing best practices of coaching, mentoring and sponsoring for identified employees; and
- Developing nationally-accredited accountability standards for the WNC DEC partner institutions.

The requested commitment of $10,000 from each of the anchor institutions will allow for the continuation of the WNC DEC's programs in the coming fiscal year to include:

- Professional development classes: ongoing development classes for anchor institution members and members of the community. This will include related costs such as printing, snacks, etc;
- Coaching: one-on-one coaching hours for anchor institution employees with a personal development coach;
- Social Networking and Social media: establishing and continuing a social media presence for the coalition;
- Social events: programming and costs associated with local networking events; and
- Development of accountability standards for member institutions.

Pro:

- The City of Asheville will remain a key player in implementing a critical diversity initiative in our community

Con:

- Requires an appropriation from unassigned fund balance

Based on current unassigned fund balance estimates, the City has sufficient resources to appropriate the $10,000 associated with this budget amendment and still maintain an unassigned fund balance that exceeds the City's 15% policy target.

City staff recommends City Council approve a budget amendment to fund the WNC DEC FY15 projects with a contribution of $10,000 from General Fund unassigned fund balance.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE POLICE DEPARTMENT STRATEGIC PLAN 2014 - 2017

At the direction of City Council, the Asheville Police Department has been working with Dolan Consulting Group to develop a three year Strategic Plan. This process began in August 2013 with meetings involving all APD personnel, City of Asheville department directors and other staff; local law enforcement and public safety agency partners, community groups, and the Citizens Police Advisory Committee. These meetings were facilitated by the consultants, and were held to gather input on potential areas for departmental growth. The focus was on departmental strengths and areas for development. Planning areas consisted of (1) Operations (a) recruitment and retention - Goal is to enhance recruitment and retention); (b) leadership - Goals are to create an environment that promotes fairness, consistency, and accountability; and provide employees with current and high quality training, and provide equity in career development opportunities; (c) organizational structure - Goals are to allocate staff to ensure the goals of the APD are met in an efficient manner; and improve APD's reaction to crime; and (c) equipment and technology - Goals are to ensure the ability to upgrade and/or replace equipment and technology as needed in the future; and maintain a professional, safe and operable fleet of department vehicles); and (2) Community (a) community quality of life - Goal is a committed partnership with the community to reduce crime and improve the quality of life; and (b agency outreach and communication - Goal is to ensure that the community is informed in a timely manner about current events, programs and news.

Time markers and performance measures (1) three-year Strategic Operations Plan; (2) each goal, objective and action item has specific time markers and performance measures to evaluate outcomes; (3) team leaders are responsible for their Planning Areas; and (4) the Strategic Operations Plan is a living document that will be evaluated and revised as needed over the next three years.

When Councilwoman Wisler suggested the Chief to be creative in using volunteers, Chief Anderson said that it is in their action plan to expand their volunteer opportunities. In addition, they will be working closely with the City's Communication and Public Engagement Division.

In response to Councilman Smith, Chief Anderson explained how they are committed to crisis intervention training for their officers.

Councilman Davis said that the Public Safety Committee received an update to the APD Downtown Enhancement Plan, noting that they have heard positive comments, including, but not limited to how the Downtown Unit is very responsive to calls and there is a good APD presence on the streets.

B. LEGISLATIVE UPDATE

Assistant City Manager Paul Fetherston highlighted the following bills: H1224 - Local Sales Tax for Education; H625 - Temporary Health Structures; H189 - Challenges to State Laws; H1145 - Registration Required for Mopeds; S594 - Omnibus Justice Amendments; S38/H15 - Amend Environmental Laws 2014; S729 - Governor's Coal Ash Action Plan; H150/S139 and S734 - Zoning Design and Aesthetic Controls; S734 - Regulatory Reform Act of 2014; H531 - ETJ/Zoning - Weaverville and Buncombe/Correction; H1113 - Bent Creek Property Sullivan Act

Exemptions; H1247 - Asheville Regional Airport; H1050 - Omnibus Tax Law Changes; includes Privilege License Tax reform; and S786 - Energy Modernization Act.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS

Councilman Bothwell moved to continue this public hearing until October 14, 2014. This motion was seconded by Councilwoman Wisler and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 1 SUNSET PARKWAY FROM RS-4 RESIDENTIAL SINGLE FAMILY MEDIUM DENSITY DISTRICT TO OFFICE II DISTRICT/ CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF A RESIDENCE AND A CANINE REHABILITATION CENTER, WITH REQUESTED LANDSCAPE AND PARKING MODIFICATIONS

On June 10, 2014, this public hearing was continued to this date, at the applicant's request. On July 17, 2014, Mr. Derek J. Allen, attorney for the applicant Mark Ledyard, wrote a letter to Mr. Alan Glines stating "I am writing to inform you that Mark Ledyard hereby withdraws his application for approval by the City of Asheville for a request to rezone property located on 1 Sunset Parkway, Asheville, NC. We appreciate your efforts and the time and consideration of the members of the City Council.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND THE DEFINITION OF "GATED COMMUNITIES"

ORDINANCE NO. 4328 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND THE DEFINITION OF "GATED COMMUNITIES"

Director of Development Services Shannon Tuch said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinances to amend the definition of "Gated Communities." This public hearing was advertised on July 11 and 18, 2014.

Ms. Tuch said that in 2007 the Asheville City Council adopted a prohibition on gated communities throughout the city's jurisdiction. In conjunction with the prohibition, a definition of gated community was also adopted.

The prohibition was enumerated in each and every zoning district that allowed residential development. The only exception to this was for those existing gated communities that had phased expansion plans previously documented in an approved Master Plan prior to the adoption of the prohibition. This potentially applied to only two existing communities that have since been removed from the city's jurisdiction.

Since the adoption of the prohibition, there have been several inquiries for existing developments to gate residential communities. In some cases, it was a desire to gate an entire community, in other cases it was to gate only a portion of, or one entrance to a community. The ordinance language and meeting minutes from the hearing establishing the prohibition clearly communicates that restricting access to an entire neighborhood or a large subdivision would not be allowed, however, these same documents were less clear when it came to these other requests that would not have the same effect. The intent of this amendment is to clarify and

redefine ***Gated community*** so that gates may be used in certain situations, providing property owners the ability to secure individual properties but, not restrict access between properties.

This proposed UDO text amendment amends the existing definition found in Section 7-2-5 of the City of Asheville's Code of Ordinances. The current definition reads:

> ***Gated community*** means a subdivision, neighborhood or residential community to which entry is restricted to residents and their guests. Often includes barriers such as gates, security personnel, fences and/or walls.

There have been several instances where multi-family developments have sought to gate access to their parking areas either for security or traffic control purposes. Strictly interpreting the definition would not allow the installation of a gate at the parking entrance so these requests have been denied. Staff is proposing to amend the current definition to allow gates in a limited capacity when located exclusively on an individual property and when it does not restrict access between properties. The proposed definition is as follows.

> ***Gated community*** means a subdivision, neighborhood or residential community where any vehicular or defined pedestrian access to more than one parcel is unavailable to the general public as the result of a barrier that may include, but would not be limited to, gates, security personnel, fences or walls. This definition would not include gates or other barriers limiting access to an individual parcel.

This simple amendment would allow a property owner to secure their property through easy to maintain and low cost means, but does not restrict the movement between properties.

This wording amendment is primarily designed to address security concerns related to unrestricted access to private properties. Controlling access and empowering property owners is supported by Police Goals I & III of the ***Asheville City Development Plan 2025***.

> **Goal I.** Partner with the community to enhance the quality of life and resolve neighborhood concerns.
>
> **Goal III.** Utilize resources efficiently in preventing and suppressing criminal activity.

Additionally, this amendment preserves the goal of connectivity and community described in the Land Use & Transportation section of the City Development Plan, which reads:

> **Goal X.** The City should assure that as land is developed or redeveloped, provision is made for access by various means of transportation.
>
> > Strategy #1. The City should revise its subdivision regulations to require pedestrian and, where feasible, vehicular connections within the subdivision and between the subdivision and adjacent property.

The Planning & Zoning Commission reviewed this item at their regular June 4, 2014, meeting. Three members of the public spoke regarding the proposed amendment, two were strongly in favor, one individual was neutral but expressed concern regarding the need to maintain connectivity. The Commission had several questions exploring when gates may be permitted and when they would not. After some deliberation, the Commission voted 4:2 supporting the amendment (one Commissioner was absent).

Considerations:

- Provides opportunities for controlling access to private homes, parking or amenity areas when located on a single parcel.

- Preserves access and movement between properties, whether on public or private roads.

City staff recommends approval of this wording amendment.

Mayor Manheimer opened the public hearing at 5:51 p.m., and when no one spoke, she closed the public hearing at 5:51 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4328, to approve the proposed wording amendment to Section 7-2-5 of the Code of Ordinances of the City of Asheville and finds this request is reasonable and is consistent with the Comprehensive Plan and other adopted plans for the following reasons: (1) Controlling access and empowering property owners supports the Police Goals of the Asheville City Development Plan; (2) The amendment preserves the goal of connectivity and community in the Land Use & Transportation section of the Asheville City Development Plan; and (3) The amendment protects personal security and promotes effective traffic control. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-168 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE COLBURN EARTH SCIENCE MUSEUM

RESOLUTION NO. 14-169 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE ASHEVILLE ART MUSEUM

RESOLUTION NO. 14-170 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A LEASE AGREEMENT WITH THE DIANA WORTHAM THEATRE

Vice-Mayor Hunt, member of the Pack Place Board, said that the proposed three tenant leases is a significant change in the property management structure at Pack Place. For many months there has been a lot of work and effort which has culminated to these leases. The City is now prepared to move forward with three direct leases. Since the City is the ultimate steward of Pack Place, they want to make sure that its occupants are successful. The City takes that duty very seriously. These direct leases are brokered outcomes but the staff of the City and the many stakeholders have worked very hard to make sure that the balanced interest of all parties are knitted together the best ways possible. He thanked the founders and early supporters of Pack Place, which opened 22 years ago. Because of the state of downtown Asheville there was real vision and real risk-taking by those supporters. He also thanked the staff and board members of Pack Place Board Inc. who have worked hard in the the property management role. There were a number of funding partners who worked together 22 years ago and he thanked the Buncombe County Commissioners for their role. At this time, the City is eager to support and work along side the Asheville Art Museum, the Diana Wortham Theatre and the Colburn Earth Science Museum. Even though the Colburn Earth Science Museum will occupy the space for one more year under this lease arrangement, he hoped they will find a new home and acknowledged to the community that Colburn is a vital important asset to our area. He felt that moving forward with these three direct leases is a reasonable and balanced way to move forward.

City Manager Gary Jackson said that this is the consideration of (1) a resolution authorizing the Mayor to execute a lease agreement with the Colburn Earth Science Museum; (2)

a resolution proposing approval of a lease with the Asheville Art Museum, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period; and (3) a resolution proposing approval of a lease with the Diana Wortham Theatre, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period.

The City owns the real estate which has been under lease to Pack Place Education, Arts, & Science Center, Inc. ("PPEASC) since 1988. The current lease term ends July 31, 2014. The City has given notice to PPEASC that it is in breach of the current lease. City Council has directed staff to notify PPEASC that it will not renew the existing lease. City Council has directed staff to negotiate direct leases with the tenants of Pack Place Center. Proposed leases have been negotiated with three tenants—Asheville Art Museum, Colburn Earth Science Museum and the Diana Wortham Theatre. The action before Council is to act on the proposed leases with the Asheville Art Museum, the Colburn Earth Science Museum, and the Diana Wortham Theatre

Asheville Art Museum

Premises leased: Space currently occupied by AAM.

Term: 30 years, with two renewal options of ten years each.

Rental Rate: Nominal fee and additional consideration in the form of major renovations to be undertaken by AAM and capital maintenance contributions. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas. Tenant to contribute a pro-rata amount for maintenance and utilities of Pack Place Center shared areas.

Capital Maintenance: Beginning in the fiscal year starting July 1, 2015, AAM to make payments into City fund for capital maintenance of Pack Place Center. Annual amounts are $21,000, $25,200, $29,400, $33,600, and $37,800. Payments will be re-evaluated every five years, or at the conclusion of proposed AAM renovations, based on conditions existing at the time. Payments will be suspended for three years during construction of proposed AAM renovations.

Commencement of Construction: Before beginning construction, AAM must obtain all permits, prepare an ingress/egress plan that complies with State Building and Fire Safety Codes, and provide evidence satisfactory to the City Manager that financing has been obtained to carry out AAM renovations, such conditions to be met on or before December 31, 2018.

Separation changes: AAM must pay the cost of all capital repair and maintenance of Pack Place Center necessary to ensure compliance with fire and safety codes, and ADA, up to a cap of $250,000. This compliance provision includes fire code compliance sprinkler installation in the Arcade Breezeway to Biltmore Avenue, and installation of an elevator from the DWT lower lobby level to the Pack Square level DWT lobby. The cap is indexed from 2014 to the PPI set by the Associated General Contractors of America, and does not apply to repair and maintenance caused by any change in the North Carolina Building Code, or any federal law or regulation, not in effect at the time the parties enter into the lease.

AAM must fund and perform relocation of the Pack Place Historic Interpretive Exhibit, at a cost sufficient to create a newly designed, interactive display that meets the approval of the State Historic Preservation Office ("SHPO"), not to exceed $25,000.

AAM must pay DWT the sum of $47,000 for office relocation and upfit expenses for space currently occupied by Colburn Earth Science Museum. In the event DWT is required to relocate its offices before August 1, 2015, due to construction, the City agrees to provide comparable office space to DWT from the 121st day after AAM makes payment of $47,000 to DWT up to August 1, 2015.

Colburn Earth Science Museum

Premises leased: Space currently occupied by Colburn.

Term: August 1, 2014 to June 7, 2015.

Rental Rate: $1450 per month beginning January 1, 2015. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas.

Diana Wortham Theatre

Premises leased: Space currently occupied by Diana Wortham Theatre and primary exhibit space currently occupied by Colburn.

Term: 30 years, with two renewal options of ten years each. Colburn space may be occupied after June 7, 2015.

Rental Rate: Nominal fee and additional consideration in the form of capital maintenance contributions. Tenant responsible for ordinary care and maintenance and utilities within its exclusive and controlled areas. Tenant to contribute a pro-rata amount for maintenance and utilities of Pack Place Center shared areas.

Capital Maintenance: Beginning in the fiscal year starting July 1, 2015, Diana Wortham Theatre to make annual payments to the City of $15,000, $18,000, $21,000, $24,000 and $27,000. The annual payments are calculated based on the square footage leased and will be adjusted upward based on additional space made available upon termination of Colburn lease.

Office Relocation: Permanent Diana Wortham Theatre offices will be relocated into the space vacated by Colburn. Diana Wortham Theatre will receive a sum of $47,000 for office relocation and upfit expenses from AAM. In the event Diana Wortham Theatre is required to relocate its offices prior to August 1, 2015, due to construction, the City agrees to provide comparable office space to Diana Wortham Theatre during the interim period.

Pros:

- The proposed lease with the Asheville Art Museum ("AAM") provides a framework for long-term funding of capital maintenance needs of Pack Place Center. The proposed lease favorably resolves the capital maintenance funding issue which has been problematic under the existing Pack Place lease.
- The proposed AAM lease will allow AAM to move forward with a planned $17 million renovation project.
- The proposed lease provides reasonable protection to the City and other tenants of Pack Place Center against construction related issues related to the proposed AAM renovation.
- The proposed Diana Wortham Lease lease provides for satisfactory relocation of their offices with construction of the AAM renovation, and offers additional space for Diana Wortham Theatre programming.
- The proposed Colburn lease provides operational certainly to Colburn certainty over the next 11 months, as it charts its new course, including a planned move from Pack Place Center.

Con:

- The proposed leases do not resolve all issues between AAM and Diana Wortham Theatre.

City Council adopt (1) a resolution authorizing the Mayor to execute a lease agreement with the Colburn Earth Science Museum; (2) a resolution proposing approval of a lease with the Asheville Art Museum, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period; and (3) a resolution proposing approval of a lease with the Diana Wortham Theatre, directing the City Clerk to publish notice of such lease proposal and authorizing the Mayor to execute a lease agreement upon expiration of the 10 day public notification period.

The following individuals spoke in opposition of the direct leases:

Mr. Jerry Rice, County resident
Mr. Ken Michalove
Ms. Judy Strong
Rev. Lisa Landis

The following individuals spoke in support of the direct leases:

Mr. W. Louis Bissette, attorney representing the Asheville Art Museum
Mr. Marc Rudow, attorney representing the Diana Wortham Theatre
Ms. Vicky Ballard, Executive Director of the Colburn Earth Science Museum

In response to Councilman Pelly, Assistant City Attorney Jannice Ashley said that the City has authority to enter into leases longer than 10 years.

Councilman Davis thanked everyone involved in these negotiations and gave a brief background of Pack Place noting that Pack Place has been a big draw to downtown Asheville over the years. This has been a complex and difficult issue, but in reality, the City wanted to get to a better place and the direct leases will achieve that goal.

Councilman Bothwell noted that the government has been involved in Pack Place for a long time felt this is a good move forward for the City and the tenants.

Mayor Manheimer also thanked everyone for their hard work, time and effort on this great achievement.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and they would not be read.

Councilman Davis moved for the adoption of Resolution No. 14-168. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 288

Councilman Bothwell moved for the adoption of Resolution No. 14-169. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 289

Councilman Pelly moved for the adoption of Resolution No. 14-170. This motion was seconded by Councilman Smith and carried unanimously.

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Civic Center Commission, the following individuals applied for the vacancy: Gary Herndon, Geoff Mohney, Yvonne Cook-Riley, Greg Duff, Anthony Mitchell, Bill Russell, Brian Rowland and Harris Livingstain. It was the consensus of the Boards & Commissions Committee and City Council to (1) reappoint Carol Ann Lydon; (2) arrange interviews for Greg Duff and Yvonne Cook-Riley; and (3) acknowledge that Bill Russell is a candidate; however, it is not necessary to bring him in for an interview.

Regarding the Community Relations Council (CRC), the following individuals applied for a vacancy: Fyffe Aschenbrenner and Kate Sampson. It was the consensus of City Council to continue the vacancy for an additional month (pursuant to the request of the CRC).

Regarding the Multimodal Transportation Commission, the following individuals applied for the vacancy: David Allen Wilson, Meredith Gregory, Lothar Dohse, Steven Obremski, John Stuart Ridout and Michael Sule. It was the consensus of the Boards & Commissions Committee and City Council to continue consideration until August 26, 2014, until the Multimodal Transportation Commission has an opportunity to give recommendations.

CONFIRMATION OF THE PLANNING & ZONING COMMISSION CANDIDATES AND QUESTIONS

The following individuals applied for vacancies on the Planning & Zoning Commission: Geoff Mohney, Mark DeVerges, Pratik Bhakta and David Brown. In addition to these individuals, the current incumbents (Jeremy Goldstein, Jane Mathews and Kristy Carter) are interested in reappointment.

It was the consensus of City Council that all applicants, including the incumbents, respond in writing to the following five questions: (1) Please take time to review the City's 2025 Plan land use plan. How strongly does your own vision align with that plan, and in what ways might it differ?; (2) Name one Planning & Zoning Commission decision in the last 18 months you've agreed with and one you've disagreed with or would have struggled with. Please explain your rationale for each.; (3) What are some of the positive or negative effects of Asheville's zoning regulations?; (4) How has existing zoning promoted/inhibited the construction of affordable housing in Asheville? What changes could be made to further the creation of affordable housing?; and (5) Are there any changes to the City's processes, including but not limited to public input, for addressing zoning changes that you would like to see made?

After all written responses have been received, the City Clerk will send all seven documents to City Council to narrow the field to six (including three incumbents) interviews. Those interviews will take place in the afternoon of August 26, 2014, with appointments to be effective immediately.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jerry Rice urged City Council to have their police officers trained in the area of mental illness and crisis intervention sooner rather than later.

Rev. Lisa Landis made several comments regarding a civil rights lawsuit she filed, a video about injustice by the Asheville police, the Police Department audit room investigation, and hearing impaired equipment.

Mr. Bob Spitzen spoke about his civil and property rights.

Ms. Jeanie Rosenthal updated City Council on electronic cigarettes.

Closed Session

At 7:07 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Roger S. Aly; City of Asheville. The statutory authorization is contained in G.S. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

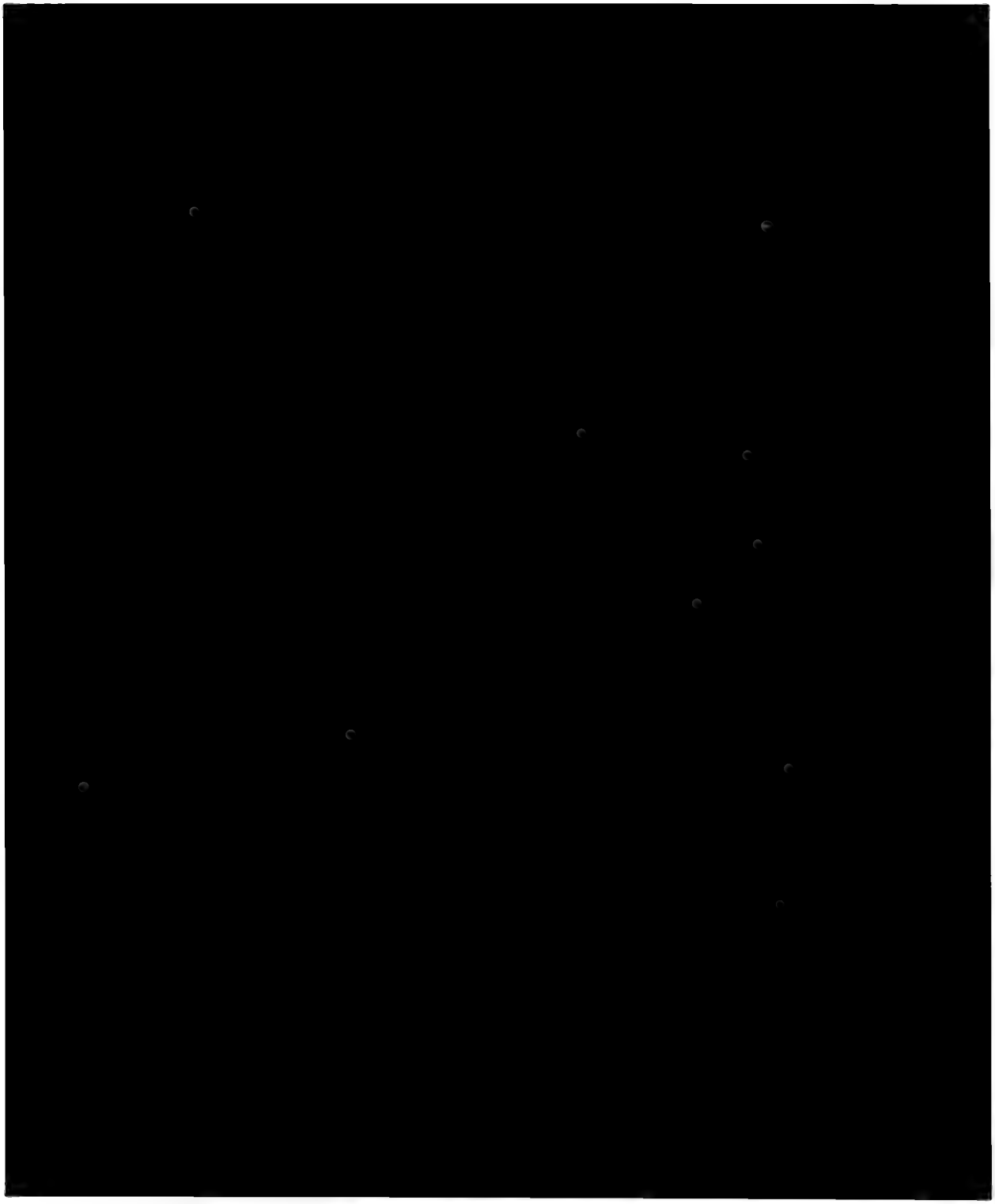
At 8:07 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:07 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR



BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL

MINUTES

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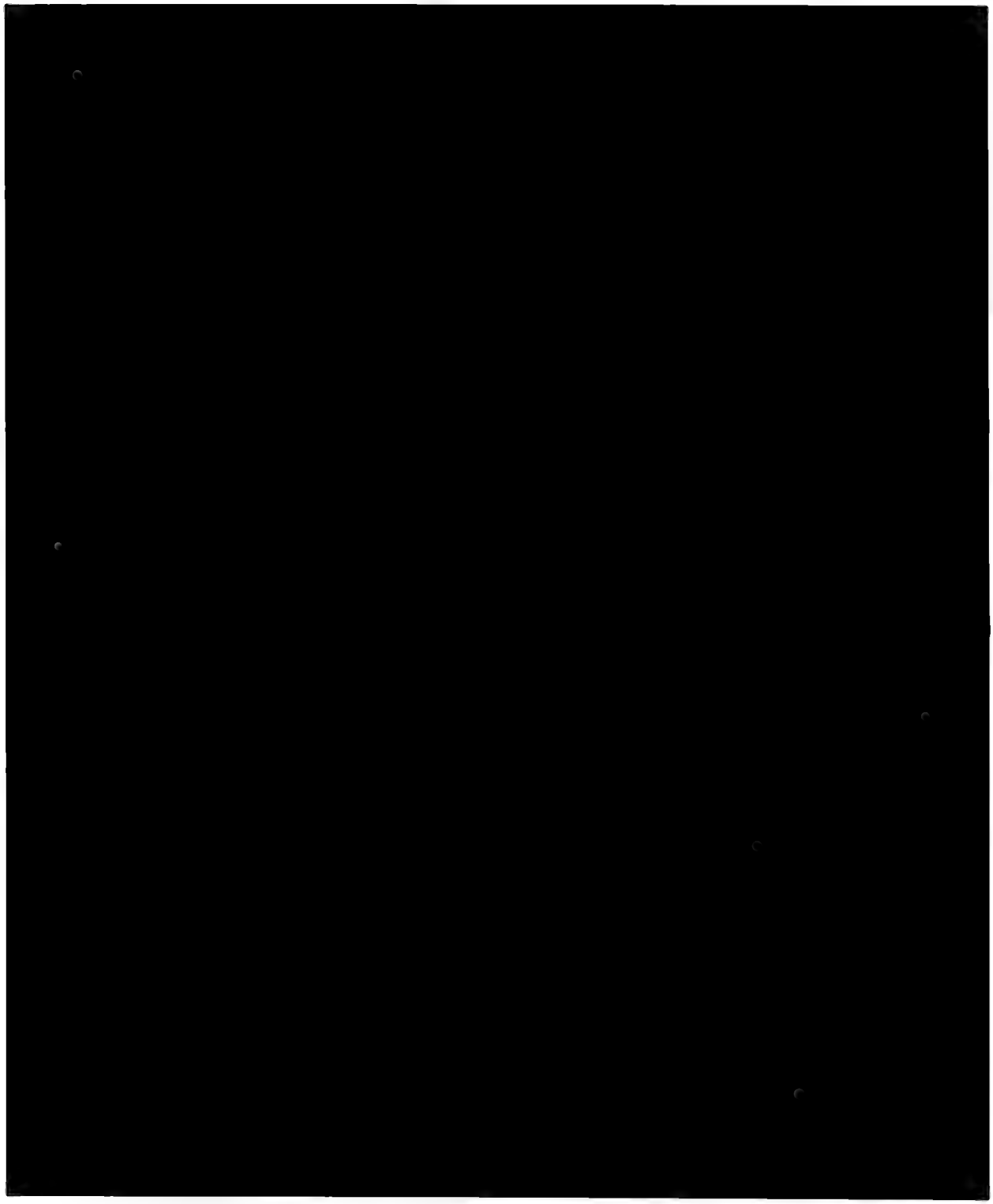

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Tuesday – August 26, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized (1) Roger Massey whose actions played an important part in saving the homeowner's life by ensuring her safety; (2) Chris Coral who received one of only 10 scholarships awarded by the International Association of Venue Management (IAVM); (3) Karen Moss, Secretary Senior in the Public Works Department, received the North Carolina Chapter of American Public Works Association Solid Waste Division, 2014 Herman Drake Award; (4) Mark Foster, Jonathon Coates, Frank Stroupe, Bobby Hensley, Tim Bass, Bernard McDowell, Eric Suhren and Kirby Howell, who participated in the High Point, North Carolina, ice storm cleanup crew; and (5) Officer Ervin Hunter, Officer Scott Fry and Officer James French, who with their quick, decisive and brave actions eliminated the opportunity for the suspect to perpetrate any harm to the staff and citizens in the Asheville Mall.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING SEPTEMBER 8-12, 2014, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Manheimer read the proclamation proclaiming September 8-12, 2014, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to Mr. James Lee, and other Minority Enterprise Development Board Members, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 22, 2014

B. RESOLUTION NO. 14-171 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL ON AUGUST 31, 2014

RESOLUTION NO. 14-172 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY CUP EVENT ON AUGUST 31, 2014

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RESOLUTION NO. 14-173 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL ON SEPTEMBER 12-13, 2014

RESOLUTION NO. 14-174 - RESOLUTION AUTHORIZING THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOG DAY AFTERNOON EVENT ON SEPTEMBER 28, 2014

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival on August 31, 2014; Beer City Cup on August 31, 2014; Goombay on September 12 & 13, 2014; and Dog Day Afternoon on September 28, 2014.

- Arts 2 People has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

  Lexington Avenue Arts & Fun Festival will be held on Sunday, August 31, 2014 from 11:00 a.m. – 9:00 p.m. at Lexington Avenue, Walnut Street & Hiawassee Street.

- WNC Soccer Foundation has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Beer City Cup and allow for consumption at this event.

  Beer City Cup will be held on Sunday, August 31, 2014, from 9:00 a.m. – 11:00 p.m. at Memorial Stadium as per the event area limits.

- YMI Cultural Center has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Goombay and allow for consumption at this event.

  Goombay will be held on Friday, September 12, 2014, from 2:00 p.m. – 10:00 p.m. and Saturday, September 13, 2014 from 10:00 a.m. – 10:00 p.m. at Pack Square Park.

- Asheville Humane Society has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Dog Day Afternoon and allow for consumption at this event.

  Dog Day Afternoon will be held on Sunday, September 28, 2014, from 1:00 p.m. – 5:00 p.m. at Carrier Park as per the event area limits referenced.

Pro:

- Allows fundraising opportunities for Arts 2 People, WNC Soccer Foundation, YMI Cultural Center, and Asheville Humane Society

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival, Beer City Cup, Goombay, and Dog Day Afternoon.

RESOLUTION NO. 14-171 - RESOLUTION BOOK NO. 36 - PAGE 291

RESOLUTION NO. 14 -172 - RESOLUTION BOOK NO. 36 - PAGE 294
RESOLUTION NO. 14-173 - RESOLUTION BOOK NO. 36 - PAGE 297
RESOLUTION NO. 14-174 - RESOLUTION BOOK NO. 36 - PAGE 300

C. **RESOLUTION NO. 14-175 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE SOUTH SLOPE**

RESOLUTION NO. 14-176 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT

RESOLUTION NO. 14-177 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 14, 2014, TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR NORTH CHARLOTTE STREET

Summary: The consideration of three resolutions to create three municipal service districts for the purpose of accelerating capital investment in the South Slope, River Arts District, and north Charlotte Street areas, and to set the public hearings for October 14, 2014.

The 2010 City of Asheville report titled "A Community Crossroads" recommended that a move toward more focused and strategic capital investments by the City could increase long term returns in community and economic development. In 2011 and 2012, staff began developing a long term Capital Improvement Plan strategy that aligned with Council's goals to support in-fill development, job creation, affordable housing, and multimodal transportation. This strategy or plan became known as the Economic and Community Development Capital Improvement Plan or EDCIP. To support the implementation of this plan, Council passed a three cent property tax increase in June 2013, two cents of which is reserved to implement the EDCIP.

Around the same time, the City contracted with Parker Poe and DEC Associates to review financing options and strategies that would leverage the taxpayers' new investment in EDCIP projects. While several types of debt financing are available, staff found that only a few are appropriate and allowable for the type of improvements the City wants to make. One option that the City has not previously utilized is the Special Obligation Bond (SOB). The benefit of financing CIP investments with SOBs is that they are appropriate for key infrastructure investments such as the River Arts District Transportation Improvement Project (RADTIP), and that they are an established best practice within municipalities across the state. Projects that are financed through SOBs must be located in a municipal service district as outlined in Article 23 of Chapter 160 A of the North Carolina General Statutes.

To identify potential districts, staff considered mixed use areas where proposed public infrastructure investments would be most likely to find leverage in private investment (thus creating the most economic and community development return); staff has identified the South Slope, River Arts District, and north Charlotte Street areas as potential municipal service districts, also referred to as Innovation Districts.

If Council desires to move forward with the process, the next step is for Council to set public hearing dates for each proposed municipal service district. On May 13, 2014, City Council directed staff to prepare a report for the creation of a Municipal Service District for this area.

The Planning and Economic Development Committee of Council reviewed this item at their March 2014 meeting and asked staff to move the item forward for Council consideration.

Pros:

- Adoption of three resolutions provides further direction to staff and advances the process for Council's consideration of adopting three municipal service districts forward.

Cons:

- None

The use of Special Obligation Bonds (SOB's) is a key financial component of the City's Economic and Community Development Capital Improvement Plan or EDCIP. The financial model being developed in conjunction with Parker Poe and DEC Associates uses revenue from the three cent property tax increase mentioned above, along with resources already dedicated to the City's existing debt service budget, to fund all additional debt service that may arise from the future issuance of SOB's.

City staff recommends City Council set the public hearings for the creation of municipal service districts on October 14, 2014.

Ms. Judy Strong asked when these items come up for public hearings on October 14, 2014, that staff include information about how much the additional debt that may arise from the future issuance of Special Obligation Bonds.

RESOLUTION NO. 14-175 - RESOLUTION BOOK NO. 26 - PAGE 303
RESOLUTION NO. 14-176 - RESOLUTION BOOK NO. 26 - PAGE 304
RESOLUTION NO. 14-177 - RESOLUTION BOOK NO. 26 - PAGE 305

D, RESOLUTION NO. 14-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ADECCO USA INC. FOR INFORMATION TECHNOLOGIES SERVICES CONTRACT EMPLOYEES

Summary: The consideration of a resolution authorizing the City Manager to sign a renewal contract to Adecco USA, Inc. for contract staffing in the amount of $95,000 for fiscal year 2015.

IT Services has outsourced contract employees for over three years to provide Help Desk and administrative staffing. An increase of $12,000 from Fiscal Year 2014 due to a slight increase in regular staffing cost, plus additional on-call staffing, brings the contract to the City Council review threshold.

IT Services outsources or insources services based on service levels, flexibility, and cost. During the Fiscal Year 2012 budget process, staff worked with Finance and HR to determine staffing levels for systems analysis and programming as well as administration and Help Desk. Some level of outsourced staff was recommended at that time instead of bringing on new full time employees. As part of the Fiscal Year 2015 budget process, this practice was reviewed by ITS.

Pros:

- Continued service levels for Help Desk customers
- Continued service levels for administrative needs

Con:

- None noted

The total cost of $95,000 was included and adopted in Fiscal Year 2014-2015 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign a new contract with Adecco USA, Inc.

RESOLUTION BOOK NO. 36 - PAGE 306

E. RESOLUTION NO. 14-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS WITH COPELAND HOLDINGS (CH) SECURITY SERVICES INC. FOR CITY HALL SECURITY

Summary: The consideration of a resolution authorizing the City Manager to execute change orders with Copeland Holdings (CH) Security Services, LLC up to $61,185 for on-going contracted Asheville City Hall armed security guard services.

The City of Asheville entered into a contract with Copeland Holdings (CH) Security Services, LLC in 2012 to provide armed security guard services for City Hall. The term of the contract is April 9, 2012 through June 30, 2013 with annual options to renew through June 30, 2016. The City's Risk Management Division, which manages the contract, is requesting authorization to amend the contract to pay anticipated fiscal year 2015 expenses. Since the total cost of the contract will now exceed $90,000, this resolution requests the Mayor and City Council to grant the City Manager authority to execute change orders to said contract up to the annual budgeted amount.

Pro:

- Continued service levels to safeguard City Hall, it's occupants and visitors

Con:

- None noted

The total Fiscal Year 2014-15 cost of $68,000 was included in the adopted budget in the Risk Management Division of the Finance Department.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign change orders for Copeland Holdings (CH) Security Services, LLC.

RESOLUTION BOOK NO. 36 - PAGE 307

F. RESOLUTION NO. 14-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH CAVANAUGH & ASSOCIATES, P.A., FOR THE NON-REVENUE WATER MANAGEMENT CONTRACT

Summary: The consideration of a resolution to renew the contract with Cavanaugh & Associates, P.A., for the non-revenue water program.

On August 13, 2013, City Council authorized the execution of a contract with Cavanaugh & Associates, P.A., for the Non-revenue Water (NRW) Management project in the amount of $151,925.00. The Water Resources Department has an annual non-revenue water rate of approximately 30%. In an effort to reduce this percentage, the department has been working with Will Jernigan at Cavanaugh & Associates, P.A., to provide feedback and guidance on the department's Non-revenue Water (NRW) Program and Water Audit.

In the past year, Cavanaugh & Associates has helped Water Resources conduct a water audit and reduce water loss by approximately 10%. The renewal of this contract will continue the NRW program for another 13 months and focus on performing another Annual AWWA M36 Water Audit and continuing NRW Program Implementation and Support to include: (1) refining and advancing proactive leakage management practices; (2) refining and advancing proactive meter management practices; (3) making improvements to high-revenue customer meter assemblies for testing and maintenance purposes; and (4) developing long-term pressure

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management strategies for pilot areas. Water Resources staff need continued guidance over the next 13 months to complete development of a comprehensive NRW Program that will continue to reduce the department's overall non-revenue water percentage. Contract renewal will cost the City $93,520.00, which is in the Water Resources Operating Fund.

Pros:

- This project has helped reduce the department's water loss by approximately 10%. Completion of this project will continue to help the department reduce water loss.

Con:

- This action will add an additional 13 months of consulting to guide the Annual Water Audit and NRW Program Implementation. By doing so, Water Resources will have a more robust program.

Contract renewal funding is currently allocated within the Water Resources Operating Fund.

City staff recommends City Council authorize the City Manager to enter into a renewal contract with Cavanaugh & Associates for the non-revenue water program.

RESOLUTION BOOK NO. 36 - PAGE 308

G. RESOLUTION NO. 14-181 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH STEWART, INC., FOR THE FRENCH BROAD RIVER GREENWAY AND AMBOY BRIDGE CONNECTOR

Summary: The consideration of a resolution authorizing the City Manager to enter into a Professional Services contract with Stewart, Inc. for the development of the French Broad River Greenway and Amboy Bridge Connector for the City of Asheville.

The City is building a multi-use path, recommended in the Greenway Master Plan, in land that will be donated to the city by Duke Energy Progress, Inc. in the southwestern bank of the French Broad River. This greenway and the missing piece under the Amboy Bridge are connecting the French Broad River Park and Greenway with the Craven Street greenway, creating a continuous transportation corridor of approximately 4 miles.

The City issued a Request for Qualifications for Design and Construction Drawing Development for Various Greenway Connections and Transitional Corridors in August 2013. The RFP closed on October 11, 2013. Eleven proposals were received from the following firms:

1. Altamont Environmental, Inc., Asheville, NC
2. BWSC - Barge, Waggoner, Summer & Cannon, Knoxville, TN
3. Design Workshop, Inc., Asheville NC
4. Equinox Environmental Consultation and Design, Asheville, NC
5. Kaizen Collaborative, Atlanta, GA
6. LandDesign, Inc., Charlotte, NC
7. Leung Planning & Design, Atlanta-Decatur, GA
8. McGill Associates, PA, Asheville, NC
9. Milone & MacBroom, Inc., Greenville, SC
10. Stewart, Inc., Raleigh, NC
11. Vaughn & Melton Consulting Engineers, Asheville, NC (only bid on the greenway)

The evaluation committee recommended Stewart, Inc. as the firm to provide services for the design and construction drawings for these two projects. The firms were evaluated based on their experience, similar projects completed, team qualifications, and quality of proposal. Scope and cost were successfully negotiated with the recommended firm.

The project cost will be $247,870.91 and $2,129.09 in contingency. This plan will be completed in approximately 14 months after signing the contract.

A member of the Multimodal Transportation Commission has been part of the Evaluation Committee.

Pros:

- This project advances multi-modal transportation in the city and creates a network of continuous greenways of about 4 miles.

Cons:

- None noted.

The cost of the Design and Construction Drawings for the French Broad River Greenway and Amboy Bridge project will be approximately $250,000. This project is already budgeted in the adopted FY 2014-15 CIP.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a general services agreement with Stewart, Inc. to develop the Design and Construction Drawings for the French Broad River Greenway and Amboy Bridge project for the City of Asheville.

RESOLUTION BOOK NO. 36 - PAGE 309

H. ORDINANCE NO. 4329 - ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES TO REGULATE TRESPASS TOWING FROM PRIVATE PARKING LOTS

Summary: The consideration of amending Chapter 11 of the Code of Ordinances to the repeal of portions of Section 11-18(c1) of the Asheville City Code to comply with King v. Town of Chapel Hill, ___ N.C. ___, 758 S.E.2d 364 (2014).

1. King v. Town of Chapel Hill.

On June 12, 2014, the North Carolina Supreme Court issued an Opinion in King v. Town of Chapel Hill. Among other things, the King Court addressed the validity of certain provisions of the Chapel Hill's ordinance governing the towing of vehicles from private parking lots.

One of the provisions in the Chapel Hill towing ordinance which was addressed in King, allowed the Town Council to adopt a "fee schedule" which set the amount that towing companies could charge to vehicle owners (a "fee cap"). The Supreme Court held this provision to be unlawful. The Court held that there was; "no rational relationship between regulating fees and protecting health, safety or welfare. Further the fee schedule provision implicate[d] the fundamental right 'to earn a livelihood.'" 758 S.E.2d at 371. (quoting Roller v. Allen, 245 N.C. 516, 518-19, 96 S.E.2d 851, 854 (1957)). The Court stated that it could not construe N.C. Gen. Stat. § 160A-174 to permit the fee schedule because "[t]he prices that citizens pay for towing are wholly unrelated to the protection of citizen health, safety," or welfare. Id. at 371. "[B]y capping fees, the town inappropriately place[d] the burden of increased costs incident to the regulation solely on towing companies." See id. at 371. The Court concluded that Chapel Hill "exceeded its authority by imposing a fee schedule for nonconsensual towing from private lots," and declared these provisions unlawful. Id.

2. City of Asheville Ordinance and Policy.

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Section 11-18 (c1) of the Asheville City Code (Ordinance Number 3728) governs "trespass towing." "Trespass towing" is defined as the practice of towing, removing or storing a vehicle "that is parked or left on private property without the consent of the vehicle operator." Section 11-18(c1)(2) states as follows:

> (2) *Fees.* The fees for trespass towing services charged to the vehicle operator are subject to the following limitations:
>
> a. The fee for a completed tow (removal from a private lot) may not exceed $100.00, and shall be all inclusive (herein "base fee").
>
> b. The fee for releasing vehicles as pursuant to subsection (3) below, may not exceed 50 percent of the base fee.
>
> c. The fee for storing a towed vehicle shall not exceed 25 percent of the base fee, and shall not begin to accrue until the vehicle has been stored at least 12 hours, beginning with the time of notification of the police.
>
> d. The fee for releasing an immobilized or "booted" vehicle shall not exceed 50 percent of the base fee.

Based on the analysis in King, the fee cap for towing in Section 11-18(c1)(2) appears to be unlawful and, thus, should be repealed. The remainder of Section 11-18(c1) is not impacted by the King decision.

In addition, there were some existing ambiguities in the enforcement provisions relating to the Trespass Towing ordinance, and we have used this opportunity to clear those up as well. These are also incorporated into the proposed amended ordinance.

Pros:

- Brings ordinance into compliance with Supreme Court precedent.

Cons:

- Enables towing companies to charge unlimited fees.

Adoption of the proposed ordinance is recommended.

ORDINANCE BOOK NO. 29 - PAGE 130

I. RESOLUTION NO. 14-182 - RESOLUTION AMENDING THE CITY'S LAND USE INCENTIVE POLICY

Summary: The consideration of amendments to the City's current Land Use Incentive Policy ("LUIP").

The City originally adopted its current Land Use Incentive Policy in November 2010; it was later amended in March 2011 to add a point system to the guidelines. The LUIP was again amended in 2012 to expand the eligible geographic area. Since its approval, the LUIP has been used infrequently and, in fact, although two projects have been approved, none have actually

been constructed, so in practice, the LUIP has never actually been utilized for its intended purpose. In order to encourage use of the LUIP and to clarify the applicable procedures, we would propose several amendments, including the deletion of an existing provision which requires the applicant-developer to assume all legal costs for challenges to the LUIP.

The statutory authority for the LUIP is found at N.C. Gen. Stat. § 158-7.1 and § 160A-456. N.C. Gen. Stat. §158-7.1 is entitled "Local Development." That provision provides, in part, as follows:

> (a) Each county and city in this State is authorized to make appropriations for the purposes of aiding and encouraging the location of manufacturing enterprises; making industrial surveys and locating industrial and commercial plants in or near such city or in the county; encouraging the building of railroads or other purposes which, in the discretion of the governing body of the city . . . will increase the population, taxable property, agricultural industries and business prospects of any city or county. . . .

Section 160A-456 is entitled "Community Development Programs and Activities" and allows the City to appropriate and expend funds for "community development programs and activities," including housing for "low and moderate income persons."

The LUIP provides developers the opportunity to request incentive grants from Council for developments that will further the City's annual strategic goals and other policies and plans and will further public purposes; specifically, projects which will provide the City with: additional work force and affordable housing; and/or increased "green" and energy saving projects. Among other things, work force and affordable housing aid in increasing the City's population, taxable property, and business prospects, because it allows more individuals to afford to live in the City and contribute to the work force, and as new development, provides for an increased tax base. "Green" development, which expends less energy, whether it be residential, commercial or industrial, also increases the tax base and encourages energy saving and environmentally conscious businesses to locate in the area and increases jobs. These objectives further valid and lawful public purposes, including economic development, energy conservation and the provision of affordable housing.

The proposed amendments clarify the LUIP and eliminate the previous requirement that the applicant-developer assume legal costs. We are hopeful this will encourage more applications and will increase and encourage housing for low and moderate income persons and energy saving development in the City.

The revised LUIP was presented to the HCD Committee on August 19, 2014.

Pro:

- The revised Land Use Incentive Policy clarifies the program and will encourage more applications.

Con:

- None noted.

Land Use Incentive Grants are decided on a case by case basis based on Council's discretion. Payment is from the City's General Fund. The City will be responsible for any legal challenges to the Policy.

Adoption of the proposed Policy is recommended.

RESOLUTION BOOK NO. 36 - PAGE 310

J. RESOLUTION NO. 14-183 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE ASHEVILLE HUMANE SOCIETY FOR ANIMAL SHELTER SERVICES WITHIN THE TERRITORIAL LIMITS OF THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Asheville Humane Society (AHS) for animal shelter services within the territorial limits of the City of Asheville (City).

The City has contracted with AHS for animal shelter services. The cost for the animal shelter services to the City of Asheville for Fiscal Year 2014-2015 will be $19,167.00 per month for total of $230,004. The AHS contract amount has remained relatively unchanged over the past two years:

- FY13 $230,004.00
- FY14 $230,004.00

Pro:

- The City continues to have a safe and organized manner in which to care for impounded animals without incurring the costs of construction and operation of an animal shelter.

Con:

- None identified.

The FY 2014-2015 contract, which maintains the FY 2013-2014 cost, reflects the new quarantine fee adopted by the Council on April 8, 2014 and became effective on July 1, 2014. The contract requires the AHS to levy the quarantine fee, and permits the AHS to retain, waive or enter into payment plans with individuals regarding the quarantine fee. Funding for the contract is included in the adopted FY 2014-15 Police Department budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Asheville Humane Society for Animal Shelter Services for the term of July 1, 2014, through June 30, 2015.

RESOLUTION BOOK NO. 36 - PAGE 315

K. RESOLUTION NO. 14-184 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DR. PAUL MARTIN, MD, D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA, FOR PHYSICIAN SERVICES

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for physician services provided through the City's Health Services Division.

In January 1995, Council authorized the City Manager to enter into an agreement for part-time physician services in the Health Services division. Dr. Paul Martin entered into a contractual agreement with the City of Asheville to provide 3 clinic days to City employees and retirees and dependents covered by the City's health plan. These clinic days have been very successful for Health Services.

Pros:

- The Health Services Clinic provides on-site care for non-critical health needs.
- Onsite care and services for employees, covered retirees and dependents saves the City of Asheville money in expenses that are not paid in unnecessary doctor, urgent care and emergency room visits

- The on-site employee health clinic is a valuable benefit for City employees. Their dependents and retirees.
- Dr. Martin is a trusted member of the Health Services staff team.

Con:

- There are no foreseen cons for these services

This is a one year $120,000 contract. Funding for the contract is included in the adopted FY 2014-15 Health Care Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an agreement for physician services with Dr. Paul Martin, MD, DBA Asheville Addiction Consultants, PA to continue to provide physician services to employees, covered retirees and covered dependents.

RESOLUTION BOOK NO. 36 - PAGE 316

L. RESOLUTION NO. 14-185 - RESOLUTION AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE MASTER CONTRACT WITH RIVERSIDE STUMP DUMP INC. FOR THE BRUSH AND LEAF DISPOSAL FOR THE CITY OF ASHEVILLE

Summary: The consideration of a resolution to proceed with the second year and third year for master contract number 91400115 with Riverside Stump Dump Inc. for brush and leaf disposal.

The City of Asheville utilizes Riverside Stump Dump Inc. providing brush and leaf disposal services.

At Riverside Stump Dump Inc the brush and leaves the City of Asheville delivers are ground to several different sizes of much and then sold to residents for use in their gardens, around trees and prevent weed growth. Over time the mulch is reduced to a material like soil and enhances the quality of the soil.

Brush and leaves are also provided to Danny's Dumpster located at the Azalea Road beneficial fill site. Danny's Dumpster is a pilot composting operation using mulch as an ingredient along with food waste collected from local restaurants. The process ends with a rich compost material used to enhance soils and gardens.

The second year and third year of a three year master service contract number 91400115 with Riverside Stump Dump Inc. is a not to exceed amount of $97,440 in Fiscal Year 2015 and Fiscal Year 2016 is based on approved budgets in a not to exceed amount of $97,400, combined, equaling $194,800. All Departments participating in this master contract have funds allotted Fiscal Year 2015 and Fiscal Year 2016 for brush and leaf disposal

Pros:

- Diversion of brush and leaves from Buncombe County landfill
- Provides City staff with opportunities to investigate composting processes
- Supports green and sustainability goals
- Supports a local business

Con:

- Non identified

Funding for the Fiscal Year 2015 contract amount is already included in departmental adopted budgets.

Staff recommends City Council adopt a resolution to approve the second and third year of master contract number 91400115 with Riverside Stump Dump Inc. in the amount of $97,400 Fiscal Year and $97,400 Fiscal Year 2016 totaling $194,800.

RESOLUTION BOOK NO. 36 - PAGE 317

M. RESOLUTION NO. 14-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE CONCRETE REPAIR - MAINTENANCE AND ADA IMPROVEMENTS CONTRACT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $195,475 with Patton Construction Group, Inc. for the project known as Concrete Repair – Maintenance and ADA Improvements, and to authorize the City Manager to execute any change orders that are required to provide full sidewalk maintenance service for the full fiscal year.

This contract provides for the repair of a number of known sidewalk and curb issues found throughout the City. The project was advertised on July 10, 2014. Below are the list of the bidders:

Patton Construction Group, Inc., Arden, NC – $195,475
Appalachian Paving and Concrete, Asheville, NC - $208,475
Armen Construction, Inc, Charlotte, NC - $298,870

Bids were opened with Patton Construction Group, Inc. of Arden, NC, being the lowest responsible bidder with a bid of $195,475. The work produced from this contract would resolve some known concrete infrastructure problems that need to be addressed and provide a greater level of customer service.

Pros:

- Will continue reducing a backlog of concrete infrastructure in need of repair.
- Address pedestrian safety by providing the required maintenance.

Con:

- This contract will not be able to address the entire backlog.

Funding for this concrete repair and maintenance contract is included in the adopted Fiscal Year 2014-15 Public Works General Fund budget.

City staff recommends City Council adopt the resolution awarding the contract to Patton Construction Group, Inc. and authorize the City Manager to execute a contract in the amount of $195,475, with any change orders that are required to provide full sidewalk maintenance service for the full fiscal year.

RESOLUTION BOOK NO. 36 - PAGE 318

N. RESOLUTION NO. 14-187 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A JOINT AGREEMENT WITH BUNCOMBE COUNTY AND BOARD OF TRUSTEES OF A-B TECHNICAL COMMUNITY COLLEGE TO EXPAND THE COMMUNITY COLLEGE'S LAW ENFORCEMENT JURISDICTION TO THE ALLIED HEALTH BUILDING

Summary: The consideration of a resolution authorizing the Mayor to enter into a joint agreement with the Board of Trustees of Asheville Buncombe Technical Community College ("AB Tech") and Buncombe County to provide for AB Tech's Police Department to perform law

enforcement activities and have the powers of arrest for the real property identified as Pin No. 9648-33-4217, the Allied Health Building.

Asheville Buncombe Technical Community College is currently in the process of constructing an Allied Health Building on real property owned by Buncombe County. The Allied Health Building will be part of the AB Tech Campus and the AB Tech Police Department will need authority to perform law enforcement activities on the property of the Allied Health Building as well as the powers of arrest. The Asheville Police Department will continue to support the AB Tech Police Department by continuing to provide additional public safety response to crimes in progress and technical law enforcement services such as investigative support or forensic processing upon request.

Pros:

- Provides the AB Tech Police Department with consistent jurisdiction, authority to perform law enforcement activities and the powers of arrest on the property of the Allied Health Building.
- Minimizes the need for law enforcement response from the Asheville Police Department or other area law enforcement agencies to the Allied Health Building.

Con:

- None

City staff recommends that City Council adopt a resolution authorizing the Mayor to enter into a joint agreement with Asheville Buncombe Technical Community College and Buncombe County to allow the AB Tech Police Department to have limited jurisdiction to perform law enforcement activities and have the powers of arrest on real property described as Pin # 9648-33-4217, and more particularly described in Deed Book 5188 at Page 994 of the Buncombe County Registry.

RESOLUTION BOOK NO. 36 - PAGE 319

O. ORDINANCE NO. 4330 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY BIKE TOUR SERVICE WITH ASHEVILLE BIKE TAXI LLC WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a pedal bicycle taxi service within the City of Asheville.

City Council approved ordinance # 4131 on October 23, 2012 (first reading) and on November 13, 2012 (second and final reading) granting a franchise agreement for the operation of a pedal bicycle taxi service.

The service has been operating for two years now and it has become a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

The only other change to the Agreement provisions is that the term of the Agreement will be indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of $365 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the first year of operation).

The City of Asheville receives franchise agreement fees in the amount of $365 per year.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Asheville Bike Taxi, LLC for the operation of a pedal bicycle taxi service within the City of Asheville.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 131

P. ORDINANCE NO. 4331 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A PEDAL BICYCLE TAXI SERVICE WITH AMAZING PUBCYCLE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a trolley bike tour service (pub-cycle) within the City of Asheville. In addition, a River Arts District Route is being added to the agreement.

City Council approved ordinance # 4149 on December 11, 2012 (first reading) and on January 8, 2013 (second and final reading) granting a franchise agreement for the operation of a trolley bike tour service (pub cycle). Next, City Council approved ordinance # 4205 on June 25, 2013 (first reading) and on July 23, 2013 (second and final reading) changing the beginning date of the franchise agreement from March 1, 2013 to the date of commencement of operations. That actual date was August 17, 2013.

The service has been operating for a year now and it has become a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

Amazing Pubcycle would like to add another route identified as the River Arts District Route. At first, the route would only be used during weekends and by request. Since the primary terminal point is the New Belgium site, the route would probably not be fully implemented until 2015 or 2016. The route has been reviewed and approved by the Asheville Police Department and the Transportation Department.

There is only one change to the Agreement provisions, this is to make the term of the Agreement indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of $365 per year.
- Revenues to the Parking Enterprise Fund in the amount of $1,680 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the first year of operation).

The City of Asheville receives franchise agreement fees in the amount of $365 per year. In addition, the Parking Enterprise Fund receives $140 per month ($1,680 per year) from Amazing Pubcycle for a dedicated parking space in the Biltmore Avenue Parking Garage to store the vehicle when it is not being used.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Peech Development, Inc. d/b/a Amazing Pubcycle for the operation of a trolley bike tour service (pub-cycle) within the City of Asheville including the addition of a River Arts District Route.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 138

Q. ORDINANCE NO. 4332 - FIRST READING OF ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY SERVICE WITH GRAY LINE TROLLEY TOURS WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance renewing a franchise agreement for the operation of a trolley service within the City of Asheville.

City Council approved ordinance # 3531 on August 28, 2007 granting a franchise agreement for the operation of a trolley service to Asheville Trolley Company, LLC d/b/a Gray Line Trolley Tours of Asheville.

The service has been operating for seven years now and it is a popular attraction. The Asheville Police Department and the Transportation Department are not aware of any negative traffic-related or public safety issues regarding the service.

There is only one change to the Agreement provisions, this is to make the term of the Agreement indefinite, rather than annual, subject to the City's right to terminate at any time if there is a violation of the terms of the Agreement, or with 30 days notice for any reason.

It should be pointed out that although the franchise agreement has not officially been renewed since it was originally approved, the owner has been pro-active and he has paid the annual franchise agreement fee through July 31, 2013.

Pros:

- Supports diversified job growth and business development.
- Enhances the visitor experience to downtown Asheville.
- Franchise agreement fees in the amount of $365 per year.

Con:

- Could impact vehicular traffic flow (No significant traffic-related or public safety issues during the seven years of operation).

The City of Asheville receives franchise agreement fees in the amount of $365 per year.

Staff recommends that City Council approve an ordinance renewing a franchise agreement to Asheville Trolley Company, LLC d/b/a Gray Line Trolley Tours of Asheville for the operation of a trolley service within the City of Asheville.

Councilwoman Wisler supported the renewal of the franchise agreements; however, asked that, in connection with the budget process, staff revisit the fees so that they support the administrative costs.

ORDINANCE BOOK NO. 29 - PAGE 143

R. RESOLUTION NO. 14-188 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A BUNCOMBE COUNTY TOURISM DEVELOPMENT PRODUCT DEVELOPMENT FUND GRANT FOR THE RIVERFRONT DESTINATION DEVELOPMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority to support Riverfront Destination Development.

The 2014 grant cycle for Tourism Product Development Funding (TPDF) opened in May of this year. TPDF is for the purpose of construction projects that will add new or increase existing room nights in Buncombe County lodging facilities. Phase I of the grant process included the City's preliminary application to the TPDF to determine eligibility. City staff received notification of eligibility and an invitation to submit to Phase II of the process in late June of this year; Phase II Applications are due August 20, 2014. The Buncombe County TDA will announce grant awardees and amounts on October 31.

For Phase II, City Staff proposes to apply for $3 million in grant funds that will support Riverfront Redevelopment Capital Improvement Project construction costs of over $10 million. If TPDF grant funds are obtained, this high impact project- part of a much larger set of riverfront revitalization investments being made by the City and the private sector, long term- will start construction in April 2015 and finish construction around April 2017.

In essence, the City's application proposal is to construct a comprehensive set of projects that will help transform the River Arts District and its gateways from a place that has scattered and hard to find- yet stellar- attractions, into a fully developed destination where points of interest and experiences are easy to find, attentive to visitor needs, and a pleasure to get to.
The City of Asheville application will include the following project elements:

1) Construction of a signed and marketed network of riverfront walk and bike ways that will help people explore and connect to the district; this network will effectively knit together major attractions and also functions, like San Antonio's Riverwalk, as a destination in itself. Projects include:
    - *French Broad River Greenway West Bank connection: New Belgium Brewing Asheville to French Broad River Park*- This one- and-a-half mile multi-use path will connect the city's most beautiful riverfront park and the three miles of existing riverfront greenways and parks beyond it with the production and visitor's facilities and tasting room for the United States third largest craft brewery (New Belgium Brewing Asheville).
    - *French Broad River Greenway East Bank connection: Craven Street to 14 Riverside Drive*- This experience-filled multi use path through the heart of the most urbane section of riverfront will connect visitors to 170 local artists, a constructed wetland that doubles as public art, and the future site of 300,000 to 1 million square feet of new mixed use development on Riverside Drive.
    - *Clingman Forest Greenway*- This half mile of hilly urban forest is populated by a plethora of native plants and a small stream. It takes visitors from the heart of the River Arts District into downtown Asheville's western edge via Aston Park.

- *5 points roundabout pedestrian connection-* This will be a future landmark that serves to connect and orient visitors between the Clingman Forest and Town Branch Greenways.
- *Town Branch Greenway-* This mile of relatively flat walking path takes you from the independent restaurants, galleries and studios lining Depot Street, to the south slope of downtown and the medical district, all while interpreting local history.

2) Construction of critical public amenities like restrooms , safe pedestrian connections, boat ramps and "visitor launch pads" that keep people in the district longer, and link and leverage the existing and the proposed tourism attractions built by the private sector. Projects include:
   - *Public restrooms-* There will be four public toilets at the 14 Riverside Drive Arts and Culture Dispensary.
   - *Visitor Launch Pad-* This will be an unstaffed, high tech place to learn about shopping, studios, galleries, events and eateries in the River Arts District, with cross referencing to the visitor launch pad at Craven Street.
   - *Visitor Launch Pad at the Public Parking Lot at Craven Street Bridge-* This will be an unstaffed, low tech place to learn about trails, greenways, river history and outdoor recreation, with cross referencing to the info kiosk at 14 Riverside Drive.
   - *Boat Ramp at Amboy Road* –This new river access point will give anglers and motorized boat enthusiasts ample parking and easy access to a day on the French Broad River.
   - *Improved Boat Ladder and park amenities at Jean Webb Park-* This improvement will give kayakers and canoeists a highly visibly and easy place to put-in or take out after a day on the river, or serve as a great place to "people-on-the-river" watch.
   - *Amboy Road Crosswalk to Smoky Mountain Adventure Center-* This project will create a safe passage between a new climbing center/ outdoor recreation hub and the public parking, public boat ramp, and public river access just across the street.
3) Construction of two new attractions: a new riverfront arts and culture dispensary that also supports river access and river use; and a set of train viewing platforms trackside at Lyman Street that will draw visitors in with the promise of an entertaining and an educational trackside experience, all while providing protection from the elements, a place to rest for a while, and a safe way to navigate across the tracks to the River Arts District's other desirable attractions.
   - *14 Riverside Drive Arts and Culture Dispensary,* When completed, this historic waterfront building will be renovated to support highly visible arts and culture programming and increase awareness of, and connection to, the French Broad River.
   - *Train Viewing Platforms-* These artist built shelters on either side of the Lyman Street at-grade railroad crossing that are the perfect place to watch the trains go by and learn about the contributions of the railroad industry to the history of Asheville and Western North Carolina.

The Asheville Area Riverfront Redevelopment Commission reviewed this item at their August 14, 2014 meeting. The Commission voted unanimously to: (1) Authorize Chairperson Pattiy Torno to write a letter of support for the City's application and (2) To advise City Council that the AARRC strongly supports the City's proposed application, and that if a grant is awarded, that the AARRC strongly recommend City Council accept the funds as part of a fiscally sustainable strategy for the implementation of the riverfront portions of the City's 5 year CIP.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city.

- The TPDF is a significant funding opportunity that would allow the City to move forward on these investments.
- The City has already shown a commitment to implementing these projects as part of the Economic Development Capital Improvements Program.

Con:

- If awarded, the City is required to partner on marketing efforts for the French Broad riverfront as a destination, which may require shifting of current priorities or addition of resources not provided by this grant fund.

The Buncombe County TDA may choose to fully award the grant request of $3 million, not award, or partially award funds. If any award is offered and accepted, the city would experience a positive impact to the budget. However, because of grant construction timing requirements, and because certain grant projects are additions to the current 5 year CIP, funding allocations project-by-project may nominally shift. An announcement of an award would begin the process of the City developing a grant agreement with BCTDA that further defines the specific funding amounts and project elements included in the partnership effort. Through proposed partnerships like these, staff continues to develop diverse funding sources for riverfront redevelopment capital investments that will increase the City's fiscal sustainability and the anticipated economic impact of the plan.

City staff recommends City Council adopt a resolution authorizing the City Manager to submit a grant application to the Buncombe County TDA Tourism Product Development Fund to support Riverfront Destination Development.

RESOLUTION BOOK NO. 36 - PAGE 320

S. RESOLUTION NO. 14-189 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ESRI, INC. FOR A THREE-YEAR CONTRACT FOR GIS SOFTWARE MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to sign a new Enterprise License Agreement with ESRI, Inc. in the amount of $150,000 over 3 years payable in $50,000 yearly installments for Geographic Information Systems (GIS) software.

The City of Asheville has used ESRI GIS software for 13+ years as a keystone software information system. Many internal processes including asset management, code enforcement, public safety dispatch, stormwater utility billing, infrastructure maintenance, sanitation service, development services, etc., rely on GIS expertise and software. Citizens also rely on GIS for Internet information portals such as the mapAsheville applications (Development Mapper, Crime Mapper, and Priority Places, etc). City Council also relies on the City's GIS via planning and development decision visualizations.

The existing contract has held maintenance flat for the past 3 years. Typical increases in such software maintenance contracts average approximately 5% per year. With the execution of another 3 year contact, we will be able to hold our maintenance costs at $50,000 per year for next 3 years. Annual maintenance payments are required in order to keep software in a reliable and supported state. This contract also means that the City may provide unlimited staff installations as well as server software installation of this software thus saving money on additional licensing fees as a result of expanded services.

Pros:

- Increased support of departmental business requirements via greater options for GIS software licensing.
- Ability to install additional software without additional purchases.

- Hold the line on increasing software maintenance costs.

Con:

- If continued funding for future years is not appropriated, some staff will lose ability to utilize some GIS software.

The first year cost of $50,000 was included in the adopted FY2014-2015 budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to sign an Enterprise License Agreement with ESRI, Inc.

RESOLUTION BOOK NO. 36 - PAGE 321

T. RESOLUTION NO. 14-190 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CITY OF ASHEVILLE BEING IDENTIFIED AS THE DESIGNATED RECIPIENT FOR SECTION 5310 FUNDS

Summary: The consideration of a resolution authorizing the Mayor to accept the City of Asheville being identified as the designated recipient for Section 5310 Funds.

The current Federal Transportation Bill which is known as MAP-21 (Moving Ahead for Progress in the 21st Century) consolidates the former Elderly and Disabled Program and the New Freedom (Section 5317) program into a single program intended to enhance mobility for seniors and persons with disabilities by providing funds to serve the special needs of transit-dependent populations beyond traditional public transportation services and Americans with Disabilities Act (ADA) complementary paratransit services.

The Section 5310 program is designed to supplement FTA's other capital assistance programs for seniors and persons with disabilities. This program would continue the goals of Elderly and Disabled and New Freedom programs by funding alternative forms of transportation where traditional services are unavailable, inappropriate, or insufficient. Funds can be used for capital planning and operations. The apportionment to the region is about $325,000 per year.

To be eligible, the program requires a Coordinated Public Transportation and Human Services Transportation Plan (CPT-HSTP), which is developed by the French Broad River Metropolitan Planning Organization, which assesses current transportation needs, identifies gaps and sets goals. The plan is adopted by the French Broad River MPO's Board. Projects will be selected following a competitive process.

The City will be responsible as designated recipient for the program management including overseeing the use of these funds according to Federal Transit Authority (FTA) regulations. Program management will require the use of city resources including staff. As a designated recipient, the city can use 10% of the funds for administrative purposes.

The program can address some of the transportation challenges faced by the elderly and disabled population in the region and it will benefit the region by providing funds that would otherwise not be available. Therefore, staff recommends accepting the designation.

Pros:

- Increases the ability of transportation providers to meet the needs of transit-dependent populations.
- Enables funds to be used in the region that would otherwise not be available.
- Since the city is the designated recipient for Section 5307 Funds, staff is familiar with the various responsibilities involved.

Cons:

- Increases staff workload.
- Might require additional part-time staff (analyze during the first year)

The City can use 10% of the funds for administrative purposes.

Staff recommends that City Council approve a resolution authorizing the Mayor to accept the City of Asheville being identified as the designated recipient for Section 5310 Funds.

RESOLUTION BOOK NO. 36 - PAGE 322

U. RESOLUTION NO. 14-191 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOTOROLA INC. FOR RADIO SYSTEM MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system.

Motorola, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance cost per unit of equipment for the renewal period of August 1, 2014 through July 31, 2015.

The renewal agreement reflects an annual charge of $144,305.88 and covers additional equipment purchased by the City to equip new vehicles and replace broken equipment. The agreement also covers infrastructure that has come out of the installer's warranty during the past year.

Pros:

- The primary benefit of this contract is to keep the City's radio system reliable and operational for public safety officers. By keeping the radio system in optimal condition the City is also able to provide communication services to several outside agencies, thereby improving interagency communications.

Con:

- None noted.

Funding for this contract was appropriated in the adopted Fiscal Year 2014/15 Information Technology Services departmental budget.

City staff recommends City Council authorize the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system for the term of August 1, 2014, through July 31, 2015.

RESOLUTION BOOK NO. 36 - PAGE 323

V. RESOLUTION NO. 14-192 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE AN OFFER OF PURCHASE FOR UPSET BIDS REGARDING AIR RIGHTS FOR THE PROPERTY LOCATED ALONG THE BACK AREA OF S. LEXINGTON STREET OF THE ALOFT/51 BILTMORE PARKING DECK TO KING JAMES PROPERTIES LLC

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 227.94 square feet of air rights at 56 S. Lexington Avenue to King James Properties, LLC.

The City of Asheville controls the sidewalk and street right-of-way located at 56 South Lexington Avenue, and in turn controls encroachments into the overhead airspace above the sidewalk. At this time, King James Properties, LLC is planning to construct a multi-story apartment building along the back property line of the Aloft Hotel and 51 Biltmore Public Parking garage. This apartment building includes balconies for each unit that extend into the City-controlled air space. Being that balconies are permanent, this encroachment into the public air space must be treated as a sale, and therefore the City requires that the sale of air rights follow certain disposition procedures; specifically, the upset bid process.

On August 4, 2014, a qualifying bid was received from King James Properties, LLC in the amount of $1,550 for the purchase of 227.94 square feet of air space for the purpose of constructing permanent balconies to a proposed building at 56 S. Lexington Avenue. This bid was based on a 2014 MAI appraisal of the property and reflects fair market value for the air rights. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $1,550. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $1,677.50 or higher.) Since the function of the upset bid process is to confirm fair market value, this resolution provides that if no qualifying, competing bid is received, then City Council agrees to convey this specified area of air rights to King James Properties, LLC for $1,550. The statute also provides that the Council may at any time reject any and all offers.

Pros:

- The sale will be at fair market value.

Con:

- There is no negative impact.

Financial proceeds associated with the real property disposition are to benefit the Economic and Community Development Capital Improvement Project budget.

Staff recommends adoption of the resolution directing the City Clerk to advertise for upset bids for air rights located at 56 S. Lexington Avenue.

RESOLUTION BOOK NO. 36 - PAGE 324

W. RESOLUTION NO. 14-193 - RESOLUTION TO AMEND RESOLUTION NO. 13-42 TO INCLUDE THE BIDDING AND CONSTRUCTION SERVICES IN THE EXEMPTION FROM THE ARCHITECTURAL ENGINEERING AND SURVEYING ANNOUNCEMENT REQUIREMENT OF N.C. GEN. STAT. SEC. 143-64.31 FOR THE NORTH FORK DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT; AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR BIDDING AND CONSTRUCTION SERVICES FOR SAID PROJECT

Summary: The consideration of a resolution to amend Resolution No. 13-42 dated March 12, 2013, to include the bidding and construction services in the exemption from the architectural, engineering and surveying announcement requirement of NCGS §143-64.31 for the North Fork Dam Intake Tower and Conduit Repairs Project; and to authorize the City Manager to execute a professional engineering services agreement with Schnabel Engineering South, PC, for the proposal amount of $302,400.00 for bidding and construction services for said project.

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On March 12, 2013, City Council awarded the Engineering Design Services Contract to Schnabel Engineering for the North Fork Water Treatment Plant Dam/Tunnel Project in the amount of $408,190.00. In the initial design services contract with Schnabel Engineering, the bidding and construction services phase of the contract was inadvertently excluded. Water Resources is ready to move into the bidding and construction phase of this project and is seeking an amendment to the previously approved exemption.

Schnabel has presented a scope of work and cost proposal in the amount of $302,400.00 for engineering services associated with bidding and construction services for the Intake Tower and Conduit Repairs at the North Fork Water Treatment Plant. Due to their intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete the additional scope of services. The additional scope of services will include: assistance with advertising, bidding, and the selection of a contractor; inspection and testing services; construction observation and reporting; contract administration; development of record drawings; and additional tasks as outlined in their proposal.

Overall, while the project itself is not a large job, the interruptions of service, designed work and risks involved make it a complex project from an engineering perspective. Due to such complexity and risk, the cost estimates appropriately and reasonably considered the involvement of personnel such as Senior Engineers, Project Engineers, technicians, and support staff. As a result, engineering services will cost about $710,500 for a project estimated at a construction cost of $1.5 million dollars. Such estimates, while significant, are reasonable in staff's experience.

Water Resources is seeking a new contract with Schnabel Engineering under an amendment of the previous exemption given in Resolution No. 13-42 dated March 12, 2013, for the design phase of the project, with said amendment being retroactive to March 12, 2013.

This item appeared on the July 22, 2014, City Council agenda with a different approach. The July 22 action approved a contract amendment for Schnabel Engineering utilizing the exemption that was approved on March 12, 2013. As a technical correction to meet the intent of the regulations, today's action amends the exemption and approves a new contract for Schnabel Engineering. Upon approval of the proposed resolution, the July 22, 2014 approval becomes void.

Pros:

- Continued use of Schnabel Engineering as the most qualified engineering firm to assist with the bidding and construction phase of the project.
- Schnabel Engineering is the most qualified firm to complete the bidding and construction services.

Con:

- The cost for the additional scope is notable for an exemption and contract amendment.

The funding needed for the contract and the contingency is currently allocated within the project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution amending Resolution No. 13-42 dated March 12, 2013, to include the bidding and construction services in the exemption from the architectural, engineering and surveying announcement requirement of NCGS §143-64.31 for the North Fork Dam Intake Tower and Conduit Repairs Project; and to authorize the City Manager to execute a professional engineering services agreement with Schnabel Engineering South, PC, for the proposal amount of $302,400.00 for bidding and construction services for said project, retroactive to March 12, 2013.

City staff recommends that upon adoption of the resolution of amendment, that resolution no. 14-161 be repealed.

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X. ORDINANCE NO. 4333 - ORDINANCE AMENDING CHAPTER 16 OF THE CODE OF ORDINANCES REGARDING UNAUTHORIZED RIGHT-OF-WAY CUTS

ORDINANCE NO. 4334 - ORDINANCE AMENDING APPENDIX B OF THE CODE OF ORDINANCES TO INCREASE THE CIVIL PENALTIES OF UNAUTHORIZED RIGHT-OF-WAY CUTS

Summary: The consideration of an ordinance amending (1) Chapter 16, Article II (Public Right of Way Cuts), and (2) Appendix B (Schedule of Civil Penalties) of the Code of Ordinances of the City of Asheville to update the penalties for cutting into City Streets/Sidewalks without a permit.

The City of Asheville requires utility companies and contractors when placing or repairing utilities, to obtain a permit prior to cutting into any of its streets, sidewalks, alleys, squares or other public right-of-ways. Each application for a cut permit shall be accompanied by the required permit fee as set forth in the City's fees and charges manual. The penalty for failure to obtain a cut permit would be $250 initially and $100 daily thereafter. If the cut work extends beyond ten working days, a penalty of $100 per day up to a maximum of $5,000 per permit, shall be assessed in addition to the regular permit fee. In addition, any person who cuts into a public right-of-way without first obtaining the cut permit required shall be monetarily penalized.

The increased penalty fees will help deter contractors and individuals from doing work in the City right of way without a permit, and keep the work within the permitted time frame. Staff has evaluated the costs involved with delivering the services associated with this fee, and recommends a fee increase to allow for full cost recovery.

Pros:

- Increased penalties will deter work from occurring without a valid permit
- The Street Cut Enterprise Fund will be able to fully recover costs involved with the service

Con:

- None

Any additional revenue generated will be recorded in the Street Cut Enterprise Fund.

City staff recommends City Council adopt an Ordinance amending (1) Chapter 16, Article II (Public Right of Way Cuts), and (2) Appendix B (Schedule of Civil Penalties) of the Code of Ordinances of the City of Asheville to update the penalties for cutting into City Streets/Sidewalks without a permit.

ORDINANCE NO. 4333 - ORDINANCE BOOK NO. 29 - PAGE 147
ORDINANCE NO. 4334 - ORDINANCE BOOK NO. 29 - PAGE 148

Y. ORDINANCE NO. 4335 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR POLICE VEHICLES

Summary: The consideration of a budget amendment in the General Capital Projects Fund in

the amount of $21,447.94 from insurance recovery funds from two non-Asheville Police Department at-fault auto accidents to utilize towards the purchase of a new Police Department vehicle.

On July 29, 2013, a City of Asheville Police vehicle was involved in a non-City at-fault accident that resulted in the vehicle being totaled and the City received $13,747.94 to settle the property damage claim. In addition, on May 11, 2014, a City of Asheville Police vehicle was involved in a non-City at-fault accident that resulted in the vehicle being totaled and received $7,700.00 to settle the property damage claim. The Police Department seeks to utilize the insurance recovery funds from the two settlements totaling $21,447.94 towards the purchase of a new Police vehicle.

Pro:

- Provides funding for Police Department vehicle purchase to support operational effectiveness.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the City's General Capital Projects Fund, where the vehicle purchase will be made.

City staff recommends City Council adopt the budget amendment in the General Capital Projects Fund in the amount of $21,447.94 from insurance recovery funds to be utilized towards the purchase of a Police Department vehicle.

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Z. ORDINANCE NO. 4336 - BUDGET AMENDMENT TO PURCHASE FIVE ADDITIONAL BUS SHELTERS UNDER THE STIMULUS FUNDING GRANT

Summary: The consideration of a technical budget amendment in the amount of $60,662 to create a new project in the City's Special Revenue Fund to purchase five additional bus shelters under the stimulus funding grant.

The City of Asheville was awarded $2,590,439 under the economic stimulus funding, as published in the Federal Register Volume 74, No. 42, page 9675 on March 5, 2009. The city used those funds to purchase five diesel buses, ten shelters, and three CNG buses and one van for Henderson County. All of the projects were finished before the deadline of September 30, 2013.

After finishing the projects, $60,662 of ARRA funds were left unspent. The Federal Transit Administration issued a waiver to all grantees that had still funds left in ARRA and asked for all the funds to be spent by September 30, 2015. $35,902 of those funds are part of the City's apportionment, the rest are part of Henderson County's apportionment.

The only project that can be accomplished by the deadline is the acquisition of additional shelters. The City is planning to acquire approximately five more shelters and spend all the funds remaining in the grant, two for the county and three for the city. The city has developed specs to bid the project if this budget amendment is approved.

This project will be completed in approximately 6 months after signing the contract.

Pros:

- All the funds allocated to the region will be used.
- Funds cover 100% of the expense.
- This project increases transit infrastructure and quality of service.

Cons:

- None.

The cost of acquiring 5 new shelters will be approximately $60,662. These funds will cover 100% of the expense. City staff recommends that a new project be created in the Special Revenue Fund to account for these expenses and the offsetting ARRA revenue. The technical budget amendment will provide authorization to create and budget for this project.

City staff recommends that City Council adopts a technical budget amendment in the amount of $60,662 to create a new project in the City's Special Revenue Fund to purchase five additional bus shelters under the stimulus funding grant.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

RESOLUTION NO. 14-197 - RESOLUTION ADOPTING THE LEGISLATIVE ADVOCACY PROPOSAL

Mr. Jack Cozort, the City's legislative representative, summarized the 2013 legislative session. He said the 2013 Session of the North Carolina General convened on May 14, 2013, and adjourned on August 20, 2013.

There were issues on the table that affected municipalities in many respects: regulatory, economically, budget matters, zoning, etc. It is anticipated that the balancing of the authority of cities and the amount of control exercised by the General Assembly will continue to be a substantial issue for consideration in the 2015 session of the General Assembly.

The following matters affect all municipalities: (1) Restrict the authority of cities to enact tree ordinances (H1191) - never heard in committee; (2) Restrict the authority of city or county to enact ordinances related to design and aesthetic controls (H150) - passed house, passed senate committee, not heard on senate floor; (3) Limitation of local government sales tax (H1224) - passed senate, defeated in house. (4) Repeal protest petitions (S493) - long history, died in committee at end of session; (5) Increase penalties for graffiti (S594, among others) - passed house, died in senate; (6) Regulate mopeds (H1145) - passed and signed by governor; (7) Enact ethics requirements for local officials (S493) - passed house, died in senate; (8) End of business privilege tax on July 1, 2015 (H1050) - passed and signed into law by governor.; (9) Extend use of tax credits for historic rehabilitation (various house bills) - passed house in multiple bills, died in senate; and (10) Extend film credits (various bills) - final version that passed was a $10 million grant program.

Matters unique to Asheville include: (1) Sale of growlers by certain ABC permitees (H829) - passed; (2) Bent creek property Sullivan act exemption (H1113) - passed; (3) Spirituous liquor tastings/City of Asheville (H1156) - died in house; (4) Asheville Regional Airport (H1247) - passed; and (5) ETJ clarification (H531) - passed.

Matters to consider for 2015 include: (1) replace revenue from business privilege tax; (2) re-enact tax credits for historic rehabilitation; (3) cities continue to be able to regulate and manage their own utilities; (4) possible increase in punishment for graffiti and indecent exposure; (5) transportation and local education funding; (6) regulating "b&b" places where people are just opening up their homes/short term home rental; (7) digital dispatching services (uber/lyft); (8) analyze study committees to determine scope of issues likely to be considered in 2015; and (9) film industry incentives.

Mayor Manheimer said that the N.C. League of Municipalities would like our items by this Friday. Because of the tight deadline, she has asked Executive Assistant to the Assistant City Manager Alex Carmichael gather the following items for consideration: (1) Stormwater - Preserve municipal authority to regulate environmental standards such as erosion control or stormwater quality; (2) Municipal Operations - Support measures which maximize the ability of local governments to provide and manage high quality services to meet the needs of the community. This includes but is not limited to utilities, enterprise funds; etc.; (3) Regulation of Car Sharing Services - Grant municipalities the authority to regulate digital dispatching services; (4) Aesthetic and Design Controls - Preserve municipal ability to regulate design and aesthetic controls in historic districts; (5) Preserve Municipal Fiscal Health - Identify means to generate increased revenues for public education and transportation infrastructure without impacting municipalities' dwindling revenue; (6) Restore Lost Revenues - Restore revenue lost due to the repeal of Privilege License Tax authority; (7) Restore Economic Development Incentives with Impact on Local Communities - Restore programs such as film tax credits and historic building tax credits; (8) Coal Ash - Continue to seek legislation that strengthens the requirements for the appropriate clean up and disposal of coal ash in coal ash ponds that is equitable to rate payers; (9) Graffiti Vandalism - Seek to strengthen and/or clarify state law to more efficiently deter and punish perpetrators who damage property, such as by committing vandalism with graffiti; and (10) Clarify Laws related to Public Toplessness - Clarify laws related to public toplessness including but not limited to, clarification of indecent exposure law, N.C. Gen. Stat. sec 14-190.9.

Mayor Manheimer said that the Governance Committee will develop the agenda with broad policy provisions.

Councilman Smith suggested we send a letter of thanks to all the municipalities that supported Asheville, and the League of Municipalities for standing with us, on our fight for the water system. He also supported graffiti crimes be a misdemeanor and not a felony.

Councilman Bothwell hoped that the legislature does not attempt to make toplessness a felony. He felt that we should demand appropriate clean up and disposal of coal ash in coal ash ponds. Mayor Manheimer noted that earlier City Council adopted a more thorough resolution on coal ash and suggested we attach that resolution to the City's agenda that we send to the League.

Mr. Cozort said there will be opportunities to fine-tune this agenda, but it's important that we get these items in front of them as soon as possible.

Vice-Mayor Hunt moved to adopt Resolution No. 14-197 adopting the legislative advocacy proposal to the N.C. League of Municipalities, being the ten items outlined above by Mr. Carmichael, with the following amendments (1) attachment of the City's previously adopted resolution regarding coal ash; and (2) that graffiti crimes be a misdemeanor and not a felony. This motion was seconded by Councilman Davis and carried unanimously.

When Mayor Manheimer asked for public comment, no one spoke.

Councilwoman Wisler hoped that next year Council will have more time to work through the process and timing of the N.C. League of Municipalities' needs.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

RESOLUTION NO. 14-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

Executive Director of Planning & Multimodal Transportation Cathy Ball said the owners/developers of RAD Lofts have applied for a Land Use Incentive Grant per the City's Land Use Incentive Policy. She then presented an overview of the RAD Loft project, including all of the partnership opportunities between the developer and the City.

RAD Lofts LLC has contracted to purchase the 2.88 acre site formerly home to the Dave Steel Company. The site is located at 146 Roberts Street, at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The developer estimates a total development cost of $52 million. The project consists of

- 209 residential rental apartments (144 one-bedroom apartments and 65 two-bedroom apartments). 220 of the parking spaces within the parking structure noted below will accommodate residents of the community;
- A two story parking deck for residents and for the public (on an hourly rental basis), street front retail spaces, live work spaces and second floor office space. This commercial component will be 48,500 sq. ft. plus 136 parking spaces.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developers indicate they will contribute at least 30% equity to the project.
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

Public Benefit

The project proposes the following Public Benefit Elements:

- Workforce Housing units, assuming an annual rental increase of 3%, for the proscribed period: 100% *of total units* for which the developer requests 20 points.
- Affordable Housing units assuming an annual rental increase of 3%, for the proscribed period: 5 % (11 units), for which the developer requests 10 points.
- Green Building/Energy: *Energy Star certified* (5 points)
- Includes a minimum 20% non-residential (5 points)
- Within the Sustainability Bonus area (5 points)
- Brownfield Redevelopment (5 points)

The developer has scored the project with 50 points. Based on this score, the project would be eligible for a 5 year Land Use Incentive Grant. Staff notes that the developer has requested 15 more points for Workforce and Affordable Housing than in the published guidelines. Per the Land Use Incentive Policy, City Council is authorized to allow more or less points on any

particular factor, depending upon, among other things, the character and potential benefits and/or detriments of an individual project.

Staff supports funding the RAD Lofts development with a five year Land Use Incentive Grant for the following reasons:

- The project will make an approximate $38,000,000 construction investment in the River Arts District. Impact:
  - 300 or more jobs created during the development and construction period;
  - Approximately $16,000,000 in direct wages to construction workers;
- The project will add 209 units to the City's permanent housing stock. That housing:
  - Will be "locationally efficient," costing residents between 15% and 25% less in transportation costs than most other locations currently being developed for rental housing:
  - Will include 5% affordable units;
  - Will include 95% "workforce" units affordable to housing earning 120% of median income.
- The project will add almost 50,000 square feet of commercial space. Impact:
  - The creation of approximately 50 new permanent jobs;
  - The infusion of $2 million or more annually into the local economy.

Also they feel this project will spur additional investment in both residential and commercial development- RAD Lofts in the leading transformational development for this area.

The project meets the following 2013-14 Strategic Plan Goals: (1) *Economic Growth and Financial Sustainability:* The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District. (2) *Affordable Housing and Community Development*: the project creates locationally efficient affordable and workforce housing.

The project furthers the goals and objectives of the LUIP and N.C. Gen. Stat. §§ 158-7.1 and 160A-456 by providing housing for low and moderate income persons and energy saving development, which serve to further public purposes, increase the tax base and population and business prospects of the City.

The project meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Fiscal Impact: Estimated maximum value of Land Use Incentive: The current assessed value of the property is $501,800 (land only). The developer's estimate of completed project value is $40,000,000, and he has estimated the taxable value on which the LUIG is made at 80% of that ($32,000,000). The current annual City tax, based on current assessed value, is $2,308. The annual estimated City tax post completion, based on the developer's estimate of value is $147,200. Thus, the estimated annual Land Use Incentive Grant would be the difference between the current City tax and the estimated post-completion City tax, $144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be $724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $81,806.40. The value of each 10% of the fee rebate would be $8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $40,903.20.

As noted in the developer's cover letter, the project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately $823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over the five year period, as opposed to equal payments over the requested five-year period. This would result in a grant disbursement that would increase annually over the five year term; it would not change the amount of the grant.

The Housing and Community Development Committee voted 2-1 to recommend approval of the request. Staff recommends that Council act upon the request of RAD Lofts LLC for a Land Use Incentive Grant.

Mr. Harry Pilos, developer, explained his request for the additional 15 points for workforce and affordable housing. He said he will be using part of the taxes to help subsidize the small business rents. That is a benefit that goes beyond affordable housing. The program is that 138 spaces will be available to the public for $1/hour in a secured garage. He said they are trying to battle a lot of odds - provide parking, bring more small businesses to the area, promote the River Arts District, bring in residential, and provide a neighborhood grocery store. He said they are trying to create a good product and to hold down the rents, he needs the additional 15 points, for a total of 50 points.

In response to Councilman Smith, Mr. Pilos explained how this is a $50 Million investment.

When Councilwoman Wisler asked what the period of time is for a developer to commit to affordability, Mr. Pilos said it is 10 years.

Mr. Pilos responded to Vice-Mayor Hunt regarding the possible tenants, stating that he has five letters of intent. They are trying to be picky in deciding the tenants because they do not want to take away from the local businesses already located in the area. They will not have national tenants.

Mayor Manheimer opened the public hearing at 6:23 p.m.

Mr. Timothy Sadler felt it was important to curve gentrification in Asheville and this is a step in the right direction. He suggested hiring local workforce as much as possible and to include, as part of the contract, working with Asheville Green Opportunities. He asked City Council to consider an incentive for the Oak Street Commons that will be moving forward in the future.

Mr. Charles Worley, attorney for Mr. Pilos but speaking on behalf of himself, spoke in support of this development and Mr. Pilos' request for the extra 15 points on the incentive grant. Mr. Pilos redeveloped the Sawyer Building and it has benefitted all of Asheville. The project is a combination of affordable housing, retail space and parking. All components are critical in a project of this size. He felt this project is good for the River Arts District and Asheville.

Ms. Pattiy Torno, Chair of the Riverfront Redevelopment Commission but speaking as an individual, was pleased to see the area being developed. However, she expressed concern about the lack of affordable studio space and parking. She felt that more projects in the River Arts District will be moving forward and hoped that Council will not spend all they have to offer on this project alone.

Mayor Manheimer closed the public hearing at 6:32 p.m.

Vice-Mayor Hunt felt we need to be more proactive and the City is eager to advance in the RADTIP and add lots of infrastructure that will have the effect of inspiring more developers to develop in the area. Our policy approach does not make it so that a developer has to include

studio space. He supported the additional 15 award emphasizing we are not revising the policy because the policy allows City Council the latitude to award additional points based on different factors. There are many compelling features in this project, most of which is the stimulus it will provide in the River Arts District, teamed with the infrastructure improvements we will make under the RADTIP.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-197, to award RAD Lots a land use incentive grant with a total of 50 points. This motion was seconded by Councilman Davis.

Councilman Davis favored the 50 points and felt the policy is a good guideline with granting the City Council the flexibility to consider other factors.

Councilman Bothwell felt that we might be overbuilding parking and if it proves there is too much, that the extra parking might be converted into studio spaces. He felt the people living there and working nearby may not have a need for a car.

Councilman Smith said there is a lot of good development in the area and Mr. Pilos is bringing in an exceptional project. He said that Council has been seeking to inject more predictability into approval processes and into our policies. The difference between 35 points ($510,000) and 50 points ($725,000) is $215,000. He proposed that we stay within the 35 points and if Council wants to see the other $215,000 go towards this project that we get it from General Fund. He felt we need to create predictability. He could not support 50 points, but did support the project at 35 points.

Councilwoman Wisler also supported the project, but only with the award of 35 points. She was uncertain on whether we have identified what the flexibility factors, should another person come in with a request for additional points under this policy.

Councilman Pelly felt that soon there will be a lot going in the River Arts District. City Council was prepared to provide incentives for New Belgium (understanding that was a different program) to locate in that area, and he felt this is a significant enough project for him that it warrants 50 points.

Mayor Manheimer supported the 50 points for the project. When Council adopted the policy, one thing that was difficult was trying to know where the numbers would land when developers start preparing their pro forma. We were not certain what that number was so we built in some flexibility so we could look at each project as they came forward and make adjustments as needed, depending on the nature of the project, the mix of the project, and how the different components of our policy fit into that project. This is the first time we are applying this policy and Council knew that when the policy was adopted it would need to be adjusted due to market changes, costs of construction changes, what is affordable or workforce, retail rental market changes, etc. It's difficult to adopt a hard-fast policy that is relevant over time. She felt this project is a good fit for the future of the River Arts District. She wanted to be clear that everyone understands that this incentive grant is only rebated back to the developer once this project is brought on line and we are only talking about the increase in tax revenue that the land then produces. It is essentially a rebate of the additional tax revenue that the project itself generates.

Councilman Smith said that this policy will be revisited by the Housing & Community Development Committee so hopefully it will be a finer instrument.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

The motion made by Vice-Mayor Hunt and seconded by Councilman Davis to adopt Resolution No. 14-195 to award RAD Lofts with a land use incentive grant with a total of 50 points, carried on a 5-2 vote, with Councilman Smith and Councilwoman Wisler voting "no."

RESOLUTION BOOK NO. 36 - PAGE 328

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE THREE LEVELS OF TIERING FOR DETACHED SINGLED FAMILY PROPERTIES

ORDINANCE NO. 4337 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO PROVIDE THREE LEVELS OF TIERING FOR DETACHED SINGLED FAMILY PROPERTIES

Stormwater Services Manager McCray Coates said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance regarding stormwater utility to provide three levels of tiering for detached singled family properties. This public hearing was advertised on August 15 and 22, 2014.

This past summer, the City of Asheville received record rainfall. As staff was investigating many areas of concern, citizens were asking staff to perform additional maintenance activities and perform more watershed analysis which would help identify flood mitigation projects. Staff continued to make the repairs to the aging infrastructure and damages associated with the summer rainfall events. Following several individual meetings with citizens concerning specific items, staff decided to have a public meeting to discuss the vulnerabilities of the city.

During this meeting, which took place in November, several citizens came forward and asked the city to increase the level of services for the stormwater program. One focus of the citizens was to increase the maintenance activities which could include having two maintenance crews. The work these crews would perform could include perform ditching activities, additional replacement of existing drainage structures, and more frequent inspections to the current system. Also included would be the opportunity to evaluate the current status of the stormwater system throughout the public easements and rights of way and develop a priority needs list.

An additional focus area was the evaluation of the watersheds for flood control opportunities. This watershed analysis could include finding areas that would promote water quality and also provide flood mitigation areas also. Detailed analysis of the hydraulic system would be conducted for the watershed studies. Also, priority lists would be developed from this program.

Shortly following the meeting, the city hired the team of McGill Associates and Martin-McGill to investigate the current status of the program and to also look at what would be necessary to expand the program to meet the needs the citizens were asking for. City Staff presented options from the McGill Team to the finance committee who provided direction to staff.

On June 10, 2014, City Council held a public hearing on the 2014-15, proposed City Budget. Concurrent with that public hearing was the public hearing on revising the stormwater utility ordinance to adopt a new fee schedule. The new fee schedule was adopted by City Council on June 24, 2014, and authorizes the assessment of fees against detached single family properties based upon the square footage of impervious surface. The square footage is broken down into three tiers for single family properties, Level I: 225-2000 at $2.50 per month; Level II: 2001-4000 at $4.00 per month; and Level III: 4000+ at $5.50 per month. The implementation of the new fee schedule for detached single family properties was delayed for sixty (60) days to provide sufficient time to amend the UDO to allow for a 3 tier fee assessment.
The approved fee for non-single family properties was approved and is moving forward. This fee is based on impervious area. The fee is $4.00 per month per Equivalent Residential Unit which is equal to 2,442 square feet.

Staff presented the amended language to the Planning and Zoning commission on August 6, 2014, and received unanimous approval.

Pros:

- Citizens will be receiving a higher level of services from additional maintenance activities.
- The City is able to provide a higher level of service by prioritizing critical needs of the stormwater system.
- The City is able to provide the revenue sources to implement larger scale projects, such as the Biltmore Ave Bridge flood mitigation project.
- The City is able to provide preventative maintenance activities which should increase the life cycle of the infrastructure.
- This program will provide a visioning tool which staff can work toward and address future needs and prioritize those needs.

Con:

- The citizens' stormwater utility fee will increase.

As noted earlier in the report, the new tiered stormwater utility fee structure has already been approved by council, and revenue from the new fee structure is included in the FY 2014-15 adopted budget. This action would allow these increases to take place.

City staff recommends the City Council to approve the revisions to the Stormwater Service Utility and Enterprise Fund Ordinance (7-12-6) of the Unified Development Ordinance.

Mayor Manheimer opened the public hearing at 6:48 p.m., and when no one spoke, she closed the public hearing at 6:48 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell found that the request is reasonable based on information provided in the staff report and as stated in the staff recommendation, and that it is consistent with the master plan and other plans adopted by the City, and moved for the adoption of Ordinance No. 4337. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 153

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-196 – RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Civic Center Commission.

The terms of John West, Carol Ann Lydon and Flora Marr, expire on June 30, 2014.

The following individuals applied for the vacancy: Gary Herndon, Geoff Mohney, Yvonne Cook-Riley, Greg Duff, Anthony Mitchell, Bill Russell, Brian Rowland and Harris Livingstain.

On July 22, 2014, it was the consensus of the Boards & Commissions Committee and City Council to (1) reappoint Carol Ann Lydon; (2) arrange interviews for Greg Duff and Yvonne Cook-Riley; and (3) acknowledge that Bill Russell is a candidate; however, it is not necessary to bring him in for an interview.

After commenting on the qualified candidates, Bill Russell received 6 votes, Greg Duff received 4 votes and Yvonne Cook-Riley received 4 votes. Another vote was taken to break the tie and Greg Duff received 3 votes and Yvonne Cook-Riley received 4 votes. Therefore, Bill Russell and Yvonne Cook-Riley were appointed to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed. In addition, Councilman Bothwell moved to reappoint Carol Ann Lydon to serve an additional three-year term, term to expire June 30, 2017, or until her success is reappointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 330

B. BOARDS & COMMISSIONS

Regarding the Affordable Housing Advisory Committee, the following individuals applied for the vacancy: Michael Sule, Randall Barnett, James Mastrogiacomo and Laura Simmelink. It was the consensus of Council to (1) reappoint Jayden Gurney (incumbent) and Mae Creadick (incumbent); and interview (2) interview William Irby (incumbent), Brian Alexander (incumbent), Randall Barnett, James Mastrogiacomo and Laura Simmelink.

RESOLUTION NO. 14-198 – RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the African American Heritage Commission.

Dr. Lamar Hylton has resigned from the Commission, thus leaving an unexpired term until July 1, 2016.

The following individuals applied for the vacancies: Donnell Sloan, Rebecca Bernstein, James E. Lee III, Warren G. Smith, Sheneika Smith, Sandra Elaine Kilgore, Annie Burton, Mychal Bacoate, Jesse Junior, Georgia M. Shannon, Alfred J. Whitesides Jr., Daniel Jonas Young, Viola Spells, Damita Jo Wilder, Willie Cameron Jr., DeWayne Barton, and Tiffany DE'Bellott.

On August 26, 2014, it was the consensus of the Boards & Commissions Committee to appoint Alfred J. Whitesides Jr.

Councilman Smith moved to appoint Alfred Whitesides to the African American Heritage Committee to serve the unexpired term of Dr. Hylton, term to expire July 1, 2016, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 332

RESOLUTION NO. 14-199 – RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Citizens-Police Advisory Committee.

The terms of Carol Rogoff Hallstrom, Larry Holt, Allen Brailsford and Debbie Applewhite expire on June 30, 2014.

The following individual applied for the vacancy: Buck Bragg.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. Hallstrom, Mr. Holt, Mr. Brailsford and Ms. Applewhite.

Councilman Smith moved to reappoint Carol Rogoff Halstrom (representing north Asheville), Larry Holt (representing central Asheville); Allen Brailsford (representing west Asheville) and Debbie Applewhite (representing east Asheville), to each serve a three-year term, terms to expire June 30, 2017, or until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 333

RESOLUTION NO. 14-200 – RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Asheville-Buncombe Community Relations Council (CRC).

The term of Tracy Miles expired on December 31, 2013.

The following individuals applied for the vacancy: Fyffe Aschenbrenner and Kate Sampson.

The CRC requested any consideration of vacancies be delayed until April 8 in order for the Board to participate in a board profile process. On April 8, May 13 and July 22, the CRC requested a one-month delay in order to complete a recruitment event.

The CRC recommended appointment of Fyffe Aschenbrenner and it was the consensus of the Boards & Commissions Committee to appoint Fyffe Aschenbrenner.

Councilman Smith moved to appoint Fyffe Aschenbrenner to serve a three-year term, term to expire December 31, 2016, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 334

RESOLUTION NO. 14-201 – RESOLUTION APPOINTING MEMBERS TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Multimodal Transportation Commission.

The terms of Itiyopia Ewart, Marcia Bromberg and Till Dhose expired on July 1, 2014.

The following individuals applied for the vacancy: David Allen Wilson, Meredith Gregory, Till Dohse, Steven Obremski and John Stuart Ridout.

Because of the recent amendment to the members, all three vacancies will be for at-large members. It was the consensus of the Boards & Commissions Committee, with recommendation from the Multimodal Transportation Commission, to reappoint Till Dohse and appoint Steven Obremski and John Ridout.

Councilwoman Wisler moved to appoint the following three at-large representatives: Till Dohse, Steven Obremski and John Ridout, to each serve a three-year term, terms to expire July 1, 2017, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36- PAGE 335

RESOLUTION NO. 14-194 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Buncombe County Tourism Development Authority.

The term of Jim Ellis (individual who is involved in the tourist business and who has demonstrated an interest in tourism development but who does not own or operate a hotel, motel or other taxable tourist accommodation) expires on August 30, 2014.

The following individuals have applied for this vacancy: Brian Rowland, Michael Adams, Rebecca Hecht, W. Ken Stamps, Elizabeth Button, Kitty Love and Michael Whalen.

The Boards & Commission Committee recommended reappointing John Ellis.

When Councilman Smith noted the number of high qualified candidates that applied for this position and that he would prefer to interview them to get their views, Mayor Manheimer said that she and Vice-Mayor Hunt spoke with Mr. Ellis regarding his potential representation of Asheville and felt comfortable in his reappointment.

At Mayor Manheimer's request, Councilwoman Wisler moved to recuse Mayor Manheimer from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Smith and carried unanimously.

Mr. Timothy Sadler felt that even though Mr. Ellis is an outstanding member, he felt it would be more appropriate for Council to look at appointing a brewer to the Authority.

Councilman Pelly moved to reappoint John Ellis (individual who is involved in the tourist business and who has demonstrated an interest in tourism development but who does not own or operate a hotel, motel or other taxable tourist accommodation) to serve an additional three-year term, term to expire August 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried on a 5-1 vote, with Councilman Smith voting "no" and Mayor Manheimer being recused.

RESOLUTION BOOK NO. 36 - PAGE 327

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Judy Strong spoke to Council about fiscal issues and felt that we should be spending the City's taxpayer dollars on making sure that the Asheville Police Department is well funded and equipped.

Mr. Timothy Sadler suggested a plain clothes initiative in the Police Department. He also suggested the City dedicate 1-2 seats on the Tourism Development Authority for the brewing community.

Mr. Warren Furmann was concerned that Splashville has not been functioning for two weeks. He also spoke in strong support of transit service on Sundays. City Manager Jackson said that he would provide an update on Splashville via e-mail to City Council before the end of the week. Councilman Smith noted that City Council has budgeted for limited Sunday transit service.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:15 p.m.

Magdalena Bulleson
CITY CLERK

MAYOR

Tuesday – September 9, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 21, 2014, AS "DAY OF PEACE"

Councilman Bothwell read the proclamation proclaiming September 21, 2014, as "Day of Peace" in the City of Asheville. He presented the proclamation to Kala Shaffer, representing Peace is Possible North Carolina, who briefed City Council on some activities taking place during the day.

ANNOUNCEMENT

Mayor Manheimer was pleased to announce that the City of Asheville has received the U.S. Dept. of Transportation's Fiscal year 2014 National Infrastructure Investments or TIGER VI Discretionary Grant for the River Arts District Transportation Improvement Plan. This $14.6 Million grant will go towards the $30 Million project. The City received help from RiverLink, Riverfront Redevelopment Plan, Buncombe County Tourism Development Authority, N.C. Dept. of Transportation, Land-of-Sky Regional Council, former City leaders, Representatives Meadows and McHenry, and others. She said this is a step in the right direction.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 26, 2014

B. RESOLUTION NO. 14-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A UTILITY RELOCATION AGREEMENT WITH PROPERTY OWNER OF 311 COLLEGE STREET (PULLIAMSPAKE LLC) TO TO RELOCATE A FAILING STORM DRAINAGE PIPE

Summary: The consideration of a resolution authorizing the City Manager to execute a utility relocation agreement with property owners of 311 College Street (PulliumSpake, LLC), to construct a new storm drainage pipe paralleling South Charlotte Street on City property to replace a failing storm drainage pipe on this property with a 50%/50% cost share.

During the investigation of a future development for 311 College Street, the development team found an arch concrete culvert bisecting the property. After thorough investigation by the City's legal staff, it was determined that during the early 1920's the City had acquired an easement and constructed the drainage structure in this location. Upon further investigation from

the development team which involved physically entering the system, it was discovered that there are several concerns with the drainage system including partial failure in a couple of locations.

As the legal team continued to research this area, it was discovered that the section of pipe located along the Buncombe County parcel was also installed in a partnership between the property owners at that time and the City. This was also performed in the 1920's.

As staff discussed this with the development team, a plan to relocate the system along South Charlotte Street and reconnect the system on the property currently owned by Buncombe County became the most cost effective and viable option.

As this system is beginning to fail, this partnership would be the most cost effective method to correct these issues. The plan would involve the City reverting the easement back to the property owners, (Buncombe County and PulliumSpake, LLC) and obtaining new easements from both property owners for the new drainage system.

The plan would be for the development team to design and construct the system and the City would then reimburse the development team up to 50% of the cost of design and construction not to exceed $245,002.50.

This work will involve placing a new drainage system running along S. Charlotte Street the crossing back under S. Charlotte Street to connect in to a stable section of the concrete culvert. The project will need additional easements to make the connections.

Staff recommends that a new pipe be installed along S. Charlotte Street to bypass the failing storm drainage system.

Pro:

- If this recommendation is approved, the construction team would be able to move quickly on the construction of the new pipe, minimizing future damage to properties.

Con:

- The City Stormwater Utility is paying a portion of the cost of the project.

The engineer's estimate with a 10% contingency is $490,005. $245,002.50 is proposed to be funded by the Stormwater Utility Enterprise Fund using capital funding already included in the FY 2014-15 adopted budget. The remaining cost of $245,002.50 is proposed to be paid by the private property owners. The project will be completed by the developers' construction crews.

City staff recommends City Council authorize the City Manager to execute an utility replacement agreements with property owners (PulliumSpake, LLC) to construct a new storm drainage pipe along S. Charlotte Street to replace a failing storm drainage pipe.

RESOLUTION BOOK NO. 36 - PAGE 336

C. RESOLUTION NO. 14-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH THOMAS CONSTRUCTION CO. INC. FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT

ORDINANCE NO. 4338 - BUDGET AMENDMENT FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a construction agreement with Thomas Construction Co. Inc., for the bid amount of $1,779,590.40; (2) a contingency amount of $266,939.60 for a total project budget in the amount

of $2,046,530.00 for the Horizon Hill Waterline Improvement Project; and (2) a budget amendment in the amount of $1,873,762 from Water Resources Fund Balance.

This project consists of the construction and installation of: approximately 13,150 linear feet of 8-inch & 6-inch ductile iron pipe, a limited amount of 2-inch copper pipe, and all necessary accessories and appurtenances to replace the existing water mains, including valves, hydrants, service connections, abandonment of existing water mains and appurtenances, and other miscellaneous work in order to improve water service to the Horizon Hill Neighborhood. The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received six (6) bids.

Companies responding were:

1. Davis Grading, Inc. – Shelby, NC
2. Dilliard Excavating – Sylva, NC
3. Buckeye Construction Company, Inc. –Canton, NC
4. Cooper Construction Company, Inc. – Hendersonville, NC
5. T&K Utilities, Inc.– Asheville, NC
6. Thomas Construction Co. Inc., - Johnson City

Following a review of bids by City staff and W. K. Dickson & Co. Inc., Thomas Construction Co. Inc., was selected as the lowest responsible bidder at a bid of $1,779,590.40. A contingency amount of $266,939.60 has been added for a total project budget amount of $2,046,530.00.

Pros:

- This project will replace existing waterlines, which are undersized for adequate fire protection and due to age, have a high risk of failure causing costly repairs for the City and Water Resources Department and frequent outages for the customers; with a durable, reliable sustainable water system for the Horizon Hill Neighborhood.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of this important waterline system improvement.

The Water Resources Department currently has $172,768 budgeted for the construction contract. The remaining funds of $1,873,762 needed for the contract and contingency will be appropriated from Water Resources Fund Balance. In order to transfer funds from the Water Resources Fund Balance, a budget amendment is necessary.

Amount in Horizon Hills Waterline Project for Construction Contract	$ 172,768
Additional Amount Needed for Construction Plus Contingency	$1,873,762
Total Amount Needed for Project, including contingency	$2,046,530

City staff recommends City Council take the following actions: (1) authorize the City Manager to enter into a construction agreement with Thomas Construction Co. Inc., for the bid amount of $1,779,590.40; (2) authorize a contingency amount of $266,939.60 for a total project budget in the amount of $2,046,530 for the Horizon Hill Waterline Improvement Project; and (3) authorize a budget amendment in the amount of $1,873,762 from Water Resources Fund Balance.

RESOLUTION BOOK NO. 36 - PAGE 337
ORDINANCE BOOK NO. 29 - PAGE 154

D. SECOND READING OF ORDINANCE NO. 4330 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY BIKE TOUR SERVICE (PUB-CYCLE) WITHIN THE CITY OF ASHEVILLE

Summary: See August 26, 2014, minutes for first reading.

ORDINANCE BOOK NO. 29 - PAGE 131

E. SECOND READING OF ORDINANCE NO. 4331 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A PEDAL BICYCLE TAXI SERVICE (PEDI-CYCLE) WITHIN THE CITY OF ASHEVILLE

Summary: See August 26, 2014, minutes for first reading.

ORDINANCE BOOK NO. 29 - PAGE 138

F. SECOND READING OF ORDINANCE NO. 4332 - ORDINANCE RENEWING THE FRANCHISE AGREEMENT TO OPERATE A TROLLEY SERVICE (GRAY LINE TROLLEY) WITHIN THE CITY OF ASHEVILLE

Summary: See August 26, 2014, minutes for first reading.

ORDINANCE BOOK NO. 29 - PAGE 143

G. RESOLUTION NO. 14-2-4 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FISCAL YEAR 2014 EMERGENCY SOLUTIONS GRANT FUNDS

Summary: The consideration of a resolution to apply for Fiscal Year 2014 Emergency Solutions Grant funds.

In the process approved by Housing and Community Development Committee at the August 19, 2014 HCD meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant (ESG) funding. This funding supports community agencies who are providing eligible emergency response and housing stabilization activities for those who are homeless. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

The following are the agency project applications being submitted in the City of Asheville's Regional Application:

	Emergency Response	Housing Stabilization	Total
Organization			
ABCCM	$	$ 18,500	$ 18,500
Helpmate	$ 22,000	$ -	$ 22,000
Homeward Bound	$	$ 71,992	$ 71,992
Salvation Army	$ 20,000		$ 20,000
City of Asheville	$	$ 12,000	$ 12,000
TOTAL REQUESTS	$ 42,000	$ 102,492	$ 144,492

These awards are conditional on the application being approved by the State. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City), except in the case of the proposed allocation to the City. That allocation will support the administration of the Homeless Information Management System (HMIS), and the City provides matching funds through its annual allocation of general funds for the Homeless Initiative.

The application and proposed agency funding was unanimously supported by the HCD Committee at their August 19, 2014, meeting.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid rehousing of persons experiencing homelessness;

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the resolution authorizing the City to apply for ESG funding, and to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

RESOLUTION BOOK NO. 36 - PAGE 343

H. RESOLUTION NO. 14-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

This funding makes possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, and to develop programs required by the Federal Transit Administration for recipient and subrecipients to ensure compliance with federal regulations.

FY 2014-15 funding totals $84,230. The subject grant will provide 80% of the anticipated funding ($67,384), the North Carolina Department of Transportation will provide 10% ($8,423), and the City will provide the remaining 10% ($8,423). The grant funding and the City's local

match in the amount of $8,423 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for two existing positions.
- The subject grant enables the City of Asheville to use $75,807 in Federal and State funds for transit planning activities. Transit planning activities include but are not limited to: analysis of transit data, implementation of the transit master plan, route development and scheduling; operational improvements, development of the Title VI and DBE programs; development of specifications related to transit products; bus stop program and shelter installation.

Con:

- A 10% local match in the amount of $8,423 is required.

The total grant funding for Fiscal Year 2014-15 is $84,230. The City is required to provide a 10% local match in the amount of $8,423. The anticipated grant funding and the City's local match in the amount of $8,423 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2014-15.

RESOLUTION BOOK NO. 36 - PAGE 344

I. RESOLUTION NO. 14-206 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2014-15

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Apprentice/Intern Program for FY 2014-15.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program, which starts July 1st, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. After a selection program was conducted by the NCDOT the City has hired Gregg Godwin to work in the Transportation Planning Division, Transportation Department. Mr. Godwin will focus specifically on improving the ADA program, which include updating the eligibility criteria to use the paratransit system and the city's discount program for people with disabilities, developing a user guide, and looking at reducing inefficiencies in program operation. He will also assist with route planning, analysis of transit related surveys and procurement processes.

FY 2014-15 funding totals $32,423. The North Carolina Department of Transportation will provide 90% of the anticipated funding ($29,180), and the City will provide the remaining 10% ($3,243). The grant funding and the City's local match in the amount of $3,243 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for an apprentice position for FY 2014-15.
- The subject grant enables the City of Asheville to use $29,180 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of $3,243 is required.

The total grant funding for Fiscal Year 2014-15 is $32,423. The City is required to provide a 10% local match in the amount of $3,243. The anticipated grant funding and the City's local match in the amount of $3,243 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the Apprentice/Intern program for FY 2014-15.

RESOLUTION BOOK NO. 36 - PAGE 345

J. RESOLUTION NO. 14-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP FOR THE 482 SUNSET DRIVE RETAINING WALL CONSTRUCTION PROJECT

ORDINANCE NO. 4339 - BUDGET AMENDMENT FOR THE 482 SUNSET DRIVE RETAINING WALL CONSTRUCTION PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $740,688.00 plus a contingency of 15% ($111,103.20) with Patton Construction Group, Inc. for the project known as 482 Sunset Drive Retaining Wall Construction; and (2) a budget amendment in the amount of $476,069.63 from reimbursements from the Federal Emergency Management Agency and the N.C. Dept. of Public Safety for the declared disaster identified as FEMA-4146-DR-NC to fully fund the contract and other costs associated with the project.

From January 1, 2013, to July 8, 2013, the Asheville area received 41.67 inches or rainfall, exceeding the City's normal annual rainfall for the same time period by 4.68 inches. More specifically, the Asheville area received almost 5 inches of rain within the 24-hour period from July 3 to July 4, 2013. During this 24-hour period stormwater runoff rapidly undermined steep soil banks, causing damage to the asphalt/pavement shoulders of many City roads due to the wearing pressure of the high-velocity stormwater flow. In particular, the stretch of Sunset Drive adjacent to and above the property located at 482 Sunset Drive experienced significant structural damage to the soils underlying the road surface.

Several large and complicated landslides required consultation outside the City workforce, and several consultants were chosen for the more extensively damaged areas. To reinforce the road surface, a design including a soldier pile and lagging retaining wall was chosen for this site, and includes some road rebuilding. The project was advertised on July 29, 2014. Bids were opened and the following bids were received:

Patton Construction Group Inc.	Asheville NC	$740,688.00
NHM Constructors, LLC	Asheville NC	$908,400.00

Patton Construction Group, Inc. was the lowest responsible bidder with a bid of $740,688.00. A 15% contingency ($111,103.20) has been added to allow payment for any

unforeseen costs that typically arise during construction. The work produced from this contract would resolve liability issues associated with a deteriorating road structure and rebuild the road's underlying support. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 1, and Focus Area 3 Goal 1.

Pros:

- Will remove a potential liability issue from the City's transportation network.
- Improve access to an area of valuable residences, improving the City's tax base.

Cons:

- Project management and contract administration will consume staff time.
- Temporary financial obligations of project work.

In March 2014, City Council adopted an initial budget for this project that totaled $562,326.95. Staff now anticipates that the total cost for this project will be $1,038,396.58. The budget amendment tonight in the amount of $476,069.63 will fully fund the contract and other costs associated with the project. As noted above, this project is fully funded by reimbursements from the Federal Emergency Management Agency and the North Carolina Department of Public Safety for the declared disaster identified as FEMA-4146-DR-NC.

City staff recommends City Council adopt (1) a resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $740,688.00 plus a contingency of 15% ($111,103.20), for a total of $851,791.20, with Patton Construction Group, Inc. for the project known as 482 Sunset Drive Retaining Wall Construction; and (2) a budget amendment in the amount of $476,069.63 from reimbursements from the Federal Emergency Management Agency and the N.C. Dept. of Public Safety for the declared disaster identified as FEMA-4146-DR-NC to fully fund the contract and other costs associated with the project.

RESOLUTION BOOK NO. 36 - PAGE 346
ORDINANCE BOOK NO. 29 - PAGE 156

K. RESOLUTION NO. 14-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER FOR ENGINEERING DESIGN SERVICES WITH W.K. DICKSON & CO., INC. FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of $104,480 to increase the engineering design services contract for W. K. Dickson & Co., Inc. from a total in the amount of $205,350 to $309,830 for the Horizon Hill Waterline Improvement Project.

On July 23, 2013, City Council awarded the engineering design services contract to W. K. Dickson & Co., Inc. for the Horizon Hill Waterline Improvement Project. The contract originally consisted of a survey, a hydraulic analysis, engineering design, construction administration, and other related professional services for approximately 9,500 linear feet of 6-inch and 8-inch waterlines within the Horizon Hill area neighborhoods. During the initial design and analysis phase, it was determined that more of the existing water system needed to be replaced and the area and scope of the project needed to be expanded in order to meet the project objectives of the replacement of existing substandard and failing waterlines in favor of new waterlines to create improved water service and fire protection. An additional 3,650 linear feet of waterline survey, hydraulic analysis, engineering design, construction administration, and other related professional services was added to the engineering design services contract.

The additional engineering services for the increased linear feet and scope of waterline replacement creates the need for a change order to increase the contract amount by an additional $104,480.00 for a total contract amount of $309,830.00.

Pro:
- Approval of the change order will allow the city to complete the engineering services for the entire project.

Con:
- If the change order is not approved, then the project cannot be completed to meet the intent of the project.

The funding needed for this change order is currently allocated within the Horizon Hill Waterline Improvement Project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order in the amount of $104,480 to increase the engineering design services contract for W. K. Dickson & Co., Inc. from a total in the amount of $205,350 to $309,830 for the Horizon Hill Waterline Improvement Project.

RESOLUTION BOOK NO. 36 - PAGE 347

L. ORDINANCE NO. 4340 - BUDGET AMENDMENT FOR SERVICES WITHIN THE PARKS AND RECREATION DEPARTMENT

Summary: The consideration of a budget amendment in the amount of $53,795 from donations for services within the Parks and Recreation Department.

The City of Asheville has received donations totaling $53,795 from the Asheville Parks and Greenways Foundation and other donations to support projects and programs within the Parks and Recreation Department. Funds will be used to support the projects listed below.

- $51,594 to purchase supplies, materials and equipment for FY15 activities at recreation centers, swimming pools, special events, senior programs, summer camp, outdoor recreation, and therapeutic recreation.

- $2,201 to purchase materials for maintenance in parks.

Pro:
- Provide funds to support parks, facilities and programming enhancements

Con:
- None

These donations enhance parks and recreation services at no impact to the General Fund operating budget.

Staff recommends City Council to approve a budget amendment in the amount of $53,795 from donations for projects within the Parks and Recreation Department.

ORDINANCE BOOK NO. 29 - PAGE 158

M. ORDINANCE NO. 4341 - BUDGET AMENDMENT FOR AN ALLOCATION FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of $72,400 for an allocation from the North Carolina Department of Commerce for the WNC Nature Center.

Each year the State of North Carolina in the Department of Commerce allocates funds to museums, science centers and zoos in North Carolina. The WNC Nature Center is eligible to annually receive an allocation to be used for capital improvements, animal exhibits, materials, and goods and services at the WNC Nature Center.

The allocation is intended to support the 20/20 Vision Site Plan for the WNC Nature Center. The funds will be used to support construction of a pavilion and restroom which is identified as a high priority in the site plan.

Pros:

- Provides funds to support capital improvements at the WNC Nature Center.
- Provides funds to enhance special projects and services to WNC Nature Center visitors.
- Provides funds to assist in fulfilling standards and maintaining WNC Nature Center accreditation with the Association of Zoos and Aquariums.

Con:

- None

The project budget for one-time facility improvements at the WNC Nature Center will increase by $72,400. This increase is funded by an allocation from the State of North Carolina Department of Commerce. Thus, there is no impact to the City's General Fund budget.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to accept funds from the North Carolina Department of Commerce to increase the project budget by $72,400 for capital improvements at the WNC Nature Center.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE HAYWOOD ROAD FORM BASED CODE FOR THE HAYWOOD ROAD CORRIDOR

ORDINANCE NO. 4342 - ORDINANCE ADOPTING THE HAYWOOD ROAD FORM BASED CODE AS AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE AND ASSOCIATED MAP AMENDMENTS FOR THE REZONING OF THE CORRIDOR PARCELS

Urban Planner Alan Glines said that this is the consideration of adoption of the Haywood Road Form Based Code (HRFC) amendment to the Unified Development Ordinance (UDO) and associated map amendments for the rezoning of corridor parcels. This public hearing was advertised on August 29 and September 5, 2014.

Mr. Glines said that Form Based Codes are a newer zoning tool that focuses on the form and placement of new structures on parcels instead of relying on a list of permitted uses. By emphasizing the building form, the character of the area is enhanced and protected because the buildings with their defining features and their placement in relation to the street and sidewalk create a strong neighborhood context. The Haywood Road Form Code is a redevelopment tool and is divided into six zoning types based on their location on the corridor and potential for a mix of development. The proposed zoning will support orderly investment and new neighborhood-scaled construction (while encouraging the retention of existing building) along Haywood Road and includes community-identified pedestrian oriented requirements. While the proposal is centered along Haywood Road, in some limited areas adjoining properties are also included in the proposed district that could relate to or support Haywood Road properties. The Haywood Road Form Code (HRFC) has been developed through the work of a consultant team led by Lee Einsweiler of Code Studios from Austin Texas and other consultants including Sasha Vrtunski, a local planner and team members who considered traffic and market analyses.

The HRFC will be a document within the Unified Development Ordinance (UDO). In some ways the form code is a stand-alone piece but in places general sections of the UDO are also relevant for development proposals and will overlap for purposes of plan review. The form code contains a zoning map, descriptions and requirements for each of six proposed districts. The common theme of the new zoning is pedestrian-oriented development with a mix of uses encouraged but not required. Buildings will be oriented towards the street-facing portion of their lot with parking to the side or rear of the building. While most of these concepts are ***not*** new to Asheville and are found in other districts in the UDO, they are assembled together and presented in a new way with a focus on the scale of the building appropriate to the specific context and presented in a visually accessible format. Form Based Codes could be a positive precedent for other areas and corridors of Asheville.

Six general districts outlined in the HRFC:

- **Core District (HR-1):** The Core District is associated around the community's two historic Haywood Road main street areas that for many people define the character of west Asheville. This district focuses on commercial uses and permits office and residential uses on upper floors. While there are no existing structures taller than two stories, the height of new buildings would allow a maximum height of four stories with a step-back above the second-story level. The Core District is red on the new zoning map and is replacing the two central business districts on the corridor. Since west Asheville has the only two CBD areas outside of the downtown CBD district, the proposed ordinance also includes the removal of a west Asheville CBD description from 7-8-18 of the UDO.

- **Expansion District (HR-2):** The Expansion District is a mixed-use district that will support a wide range and scale of commercial buildings. Residential units are encouraged on upper floors of structures. The height of new buildings is limited to four stories (with a step-back required above the second story). The two Expansion District areas are located to the east of the two proposed Core Districts with building standards that will extend the strong character of the Core area. The Expansion area is orange on the new zoning map and replaces mainly Community Business II (CB II) zoning.

- **Corridor District (HR-3):** The Corridor District is a mixed-use district found in two large sections of Haywood Road. These areas are located to the west of the two historic Core areas and will be most suitable for residential uses and limited office and retail activities. The building height in the Corridor District is three stories and unlike the other districts, the buildings may provide a wider setback from Haywood Road to create additional pedestrian or green spaces in front of the building. The Corridor District is green on the new zoning map and replaces mainly Institutional and CB II zoning.

- **Traditional District (HR-4):** The Traditional District provides a limited range and scale of development because the character of this area is of much smaller structures on small shallow parcels. New construction in this district will be limited to two stories. The Traditional District is below Beecham's Curve and is bright blue on the new zoning map and replaces CB II zoning.

- **Live-Work District (HR-5):** The Live-Work District is located above the French Broad River and focuses on residential uses while providing an opportunity to work in a shared space. The non-residential uses are limited to those that complement a residential environment such as studios or office uses. Building heights in this district will be limited to three stories. The Live-Work District is located in the area above the French Broad River and is yellow on the new zoning map. Currently this area is primarily CB II zoning with a limited amount of residential multi-family medium density parcels (RM-8).

- **Town District (HR-6):** The Town District is focused along Patton Avenue and although it is a mixed-use district it will relate closely to the highway environment in that area. The Town District allows new construction up to six stories tall but with the potential to have a network of smaller streets with a unique urban environment. The Town District is centered in the area close to Patton Avenue and Parkwood Road and is dark blue on the new zoning map. Currently this area is zoned Highway Business (HB).

The HRFC draft was developed after a five day charette held in West Asheville in September 2013. That effort continued with the release of a charette report in February 2014 followed by a large community meeting and smaller meetings with stakeholders in March. Since then the plan has been presented in a work session with the Planning and Zoning Commission in April. A letter was mailed to all property owners whose property was under consideration for a zoning change in advance of the April work session. Since then staff has continued to meet with stakeholders who had questions about the specific districts and concerns about changes to the development potential on their parcels. Regular updates for these meetings were provided to the Planning and Zoning Commission at several of their scheduled meetings during the intervening months.

In preparation of the formal hearing process for adoption of HRFC for the Planning and Zoning Commission and City Council, notification measures were undertaken which included:

- Legal advertisement in the newspaper listing all property parcel identification numbers with proposed zoning categories.
- 900 letters sent to owners affected by the proposed zoning changes and to neighboring property owners within 200 feet of those properties.
- Posting of almost 40 'Z' signs with the date for the meeting along the corridor area.
- Updates to the web site and staff provided an interview for the local newspaper (story was published on Tuesday August 12, 2014).
- Updates for the West Asheville Business Association website and Facebook.
- Email to an on-going list of interested residents and property owners (numbering about 250)

Since the letters were sent and notifications made there have been about 45 citizen inquiries to staff via email, phone calls or in-person visits to understand the zoning changes or ask specific questions pertaining to their property or specific use.

The Comprehensive Plan encourages denser sustainable infill development along existing corridors in the city. Changes to the UDO that further these goals are encouraged. Form codes are a newer innovative tool that focus on community goals developed through public

processes highlighting input and involvement and this is encouraged in the Comprehensive Plan. Part of the Comprehensive Plan is the *Haywood Road Vision Plan* that was adopted in February 2014. This plan created with extensive community input provides a view for the future of Haywood Road that includes mixed-use development and multimodal transportation along with a number of other community identified goals such as historic preservation and economic health. The details of the form code proposal provide specific requirements that mesh with the community vision and furthers the objectives of the Comprehensive Plan.

The Haywood Road Form Code fits within City Council's goal for *Economic Growth and Financial Stability* because the strategic plan seeks to create strong mixed-use neighborhoods that identify underperforming zones and focus redevelopment efforts to include job growth, housing, recreation, and multi-modal transportation. The Haywood Road Form Code is a redevelopment plan that embodies these goals along an important corridor in the city. The proposal also aligns with Council's goal of providing a *High Quality of Life* in that development must focus on the public realm, providing multimodal transportation access, wider sidewalks and safe and vibrant community spaces.

The HRFC was developed through a public process that included a 5-day community charette held in September of 2013 and numerous community meetings with community stakeholders and the large presentations to the community. Although precise numbers are difficult to determine it is estimated that several hundred community members and property owners participated at some point in the development of this plan. After a work session with the Planning and Zoning Commission in April, staff continued to meet with community members and owners of property to answer questions about the proposal and in some cases recommended amendments to the proposal based on those conversations.

The Planning and Zoning Commission reviewed the plan at their mid-month meeting on Thursday August 21, 2014, and recommended approval with a vote of 6-0. There were a large number of attendees at the meeting for the form code which was the only item on the agenda and nine people spoke during the public hearing period. There were some concerns about the scale of potential development along the corridor (although existing zoning permits similar scale) and some concern about the growth of traffic and the need for sidewalks along Haywood Road. Overall the level of support for the plan was high. The Planning and Zoning Commission recommended some minor amendments to the draft which have been incorporated into the final draft version to be presented to City Council.

Considerations:

- As with any new ordinance of this scale there may be unintended omissions which once discovered would be brought forward as future amendments to the ordinance
- The consultants proposed limited strategic expansions of commercial zoning into the residential areas surrounding Haywood Road but in the future there may be others that may be proposed and would be considered through individual rezoning applications
- Although staff have been aware of this zoning proposal since its inception there will be a normal learning curve as new projects come in since there are a number of new concepts in the proposed plan

Staff recommends the adoption of the Haywood Road Form Code and amendments to the zoning map and believes that the form code and rezoning proposal are reasonable and in the public interest and are consistent with the Comprehensive Plan because the goals of the Comprehensive Plan for denser and sustainable infill redevelopment are met and because it aligns with the goals of the strategic plan for creating strong mixed-use neighborhoods focusing redevelopment efforts to include job growth, housing, recreation and multi-modal transportation through the form code document and rezoning of the identified parcels.

Mayor Manheimer opened the public hearing at 5:18 p.m.

The following individuals spoke in support of the Code, however, noted some various concerns as follows: increased density on corridor; parking spill-over in neighborhoods; need for Haywood Road Parking Study to be completed before implementation of Code; 4-story buildings too high; and need for more green space:

Ms. Deidra Duffy
Resident on Craggy Avenue
Rev. Christopher Chiaronmonte
Mr. Austin Walker
Ms. Linda Giltz
Mr. Michael Connelly
Mr. Timothy Sadler
Ms. Liz Pryor

Mayor Manheimer closed the public hearing at 5:43 p.m.

Councilman Pelly noted that this is an evolving process and would look forward to seeing how it evolves over the years.

In response to Councilman Pelly, Mr. Glines explained how the Code is reflecting potential growth. At the two-story level, there is a setback which will reduce the impact from the street. He noted that not every property is sized for a 4-story building.

Councilman Smith said that the City is working on some foundational infrastructure investments. He was pleased that we will have a parking plan moving forward, which may include some one-way streets, permit parking, or perhaps some on-street meter parking. He'd also like to explore a shorter transit route, like a loop from Haywood Road to Patton Avenue to the River District and then to downtown. He did acknowledge that there is a lot of cut-through speeding traffic on Druid Drive. He said we will continue to work with the N.C. Dept. of Transportation to examine how to move pedestrians safely across Haywood Road.

Vice-Mayor Hunt was eager to see the Form Based Code move forward.

Mayor Manheimer said that the only other form based code that the City has is the Downtown Master Plan and that has worked well as a usable tool in guiding development downtown. City Council is interested in seeing our urban corridors rezoned for form based codes. This is a community based process.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt moved to approve the Haywood Road Form Code amendment and the Council finds that the request is reasonable and in the public interest and is consistent with the Comprehensive Plan and other adopted plans, because the proposal encourages denser sustainable infill development and will facilitate creating strong, safe mixed-use neighborhoods focusing redevelopment efforts to include job growth, housing, recreation and multi-modal transportation for a high quality of life and based on information provided during the hearing. This motion was seconded by Councilwoman Wisler and carried unanimously.

Vice-Mayor Hunt moved to adopt the zoning map amendment to implement the Haywood Road Form Code for the properties identified in the proposed zoning map and the Council find that the request is reasonable and in the public interest and is consistent with the Comprehensive Plan and other adopted plans, because the amendment supports denser sustainable infill development and will facilitate creating strong, safe mixed-use neighborhoods focusing development efforts to include job growth, housing, recreation and multi-modal transportation and

based on information provided during the hearing. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone Greymont Village Apartments located on Sardis Road from Industrial District and Commercial Industrial District to RM-16 Residential Multi-Family High Density District for the construction of a multi-family apartment development. This public hearing was advertised on August 29 and September 5, 2014.

The overall project location straddles the City of Asheville / Buncombe County jurisdictional line and consists of a total of 41.1 acres. The portion of the project within the City limits is a single parcel, approximately 11.8 acres in size. The parcel is currently spit-zoned with a small portion Commercial Industrial and the bulk of the site zoned Industrial. The parcel has a "flag lot" configuration with approximately 123 feet of frontage along Sardis Road; the "pole" (zoned CI) contains a 70 foot wide Progress Energy transmission line easement and will not be disturbed.

Adjacent zoning includes CI to the north, IND to the east and County zoning to the west (EMP) and south (R3). The (City) site is currently owned by Industries for the Blind, with their use adjacent, located on Sardis Road. Other nearby uses include multiple car dealerships and light industrial uses (metal roofing, plastic manufacturing), the forestry service offices/garage and a truck rental business.

Overall Project Proposal: The multi-family apartment complex development proposes a total of 356 units in 14 residential buildings and one community building with 713 parking spaces throughout the site. The City and County portions are divided by a stream running through the site (with existing wetlands and a required 30 foot buffer area).

Buncombe County approved the project as a Conditional Use Permit in 2008; however those approvals have lapsed. The proposal has been approved by the County's Board of Adjustment (August 2014) and includes variances to allowed height as well as parking.

City Portion: Within the City of Asheville jurisdiction, the project includes four buildings containing 108 units: one building is 3-stories and three buildings are a ¾ split configuration and all have a maximum height of 30.5 feet (44'3" to the top of the roof peak). Plans propose a mix of 1-bedroom (24 units), 2-bedroom (60 units) and 3-bedroom (24 units) layouts.

Access, Sidewalks, Parking: Vehicles access the site from Greymont Lane, which is within the Buncombe County jurisdiction and is proposed to be improved to 18 feet with 18 inch curb and gutter. No secondary access point is shown on plans.

Greymont Lane circles through the site and into the COA portion of the project, terminating in a parking area with a total of approximately 198 parking spaces, including six accessible spaces. Also, 10 bike parking spaces are provided, distributed among the buildings.

There are no sidewalks shown along the portion of the property fronting on Sardis Road, which is the only COA right-of-way frontage, nor are there sidewalks proposed along the access

road (Greymont Lane). There are internal walkways within the site, linking the parking area and buildings.

Landscaping & Open Space: Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping and tree save area. There is a significant area of the site that will not be disturbed due to a required stream buffer and existing vegetation within this area may be used to satisfy some landscaping requirements if needed.

Fifteen percent of the total lot area is required to be dedicated as open space, which would be approximately 76,909 square feet for this site. Just over that minimum is provided, with 76,980 square feet shown on the plans (or approximately 1.77 acres).

There are two retaining walls on the City's portion of the site, showing a maximum height of 17 feet. Aesthetic treatment or landscaping is required for all walls over eight feet in height, according to Section 7-10-5 of the UDO.

This proposal was approved with conditions by the Technical Review Committee (TRC) on July 21, 2014, and requires review by City Council and Final TRC prior to zoning approval.

The Planning & Zoning Commission reviewed this request at their meeting on August 6, 2014, and ultimately voted to support the request by a vote of 4-3 with an additional condition that the applicant provide an accessible walkway for visually-impaired residents to connect with the IFB property adjacent. At the meeting, Commissioners in support of the project felt that:

- The addition of rental units in this part of town was a needed element,
- That the proposed density on the "buildable area" (as presented by the applicant) was sufficient,
- That the industrial suitability of this particular site was low and
- That the pending approval of the County piece supported the development of the City portion.

Commissioners in opposition to the proposal:

- Wanted to see hard numbers on how many units would be provided for visually-impaired residents (*the applicant stated at the meeting that these units are something they are planning to provide but haven't worked out the details yet),*
- Wanted to know what the actual rents would be *(at the meeting the applicant indicated that their rents would be at or below workforce levels as established by the City of Asheville but haven't established numbers yet),*
- Did not believe they had received any conclusive evidence that the site isn't well suited for an industrial use and
- Felt that the site itself was not compatible with a residential use due to the lack of typical residential-infrastructure in the immediate vicinity.

No communication has been received from the public as of the writing of this report.

Zoning: The proposal requires a change in zoning due to the fact that the maximum residential density in the Industrial district is only 2 units per acre and would result in only approximately 24 units allowed on the City portion of the site. The current proposal for 108 units on 11.8 acres is approximately 9 units per acre.

Per the applicant, only 6.8 acres of the site is buildable due to restrictions from the Progress Energy easement and stream buffer. The applicant contends that therefore their proposed density should be considered as 16 units per acre (or further contends that the "buildable area" should only include the 5.05 acre portion of the site to the north of the stream,

resulting in a density of around 20 units per acre). Staff disagrees with this analysis presented by the applicant at the Planning & Zoning Commission meeting and retains the 9 unit per acre determination because while a (horizontal) portion of the site might not be buildable, staff practice does not factor out encumbered areas on a site when determining density. An applicant could use those existing site constraints as a justification to request additional height and build "up" rather than "out" to maximize the allowed density on a parcel.

There was some internal discussion whether to apply the conditional rezoning request to the entire City parcel as RM-16 or to leave the "flag pole" currently zoned as CI as is. With the entire site as RM-16, any future redevelopment on the CI-zoned sites to the north and the Industries for the Blind site would be required to include a 20 foot landscaped property line buffer. This is required by the UDO whenever non-residential development is proposed adjacent to residential uses and is an appropriate mitigation tool; however it does result in a burden to that industrial development that would not apply if this land stayed zoned CI. It is worth noting that the "flag pole" portion is encumbered by a 70 foot wide utility easement which essentially acts as a buffer already.

Conversely, leaving the CI zoning in place results in a split-zoned parcel which is not ideal and would result in setback discrepancies. The City generally seeks to avoid creating split-zoned lots and the application is proceeding with a full site rezoning request as shown on plans.

Industrial Suitability: At the Planning & Zoning Commission hearing, the applicant's stance was that the site is not suited to an industrial use due to the access and size of the resulting buildable area (as described above). Staff finds that a parcel of this size, access and topography is not unsuitable for uses allowed in the Industrial zoning district, based on an analysis of existing industrial parks throughout the City and Buncombe County. There are a variety of sizes of sites currently active with industrial uses across the region, ranging from less than one acre up to 19 acres, with varying topography and with similar access on two and three-lane roads.

Recent Zoning Actions: The most applicable zoning actions related to this project are not necessarily geographically-related but more so of a similar zoning nature. However, notable projects in the area include the Franklin School of Innovation (Level I – under review); the Buncombe County Intermediate School and the larger piece of this residential development within the County.

Relating to zoning, most recently City Council approved a conditional rezoning from IND to RM-16 for the development of a multi-family apartment complex on Sweeten Creek Road (The Avalon; 5-2 vote, February 2014). While this request was ultimately approved by City Council, it was not without considerable discussion regarding balancing the loss of industrially-zoned land and the need for projects to meet City goals on residential density and affordability.

Compatibility Analysis: Zoning and uses adjacent to this site include CI to the north (vacant parcel, metal roof manufacturing, heating and cooling contractor); IND to the east (Industries for the Blind); Buncombe County R3 to the south (vacant, proposed extension of this residential development) and Buncombe County EMP to the west (Progress Energy sub-station). Along the northwest property line is a 70 foot wide high power transmission line easement. The current uses in the immediate vicinity are not definitively incompatible with a residential development; however the context is generally thought of as having a low level of compatibility.

The proposed development is located back off of Sardis Road behind and among industrial and manufacturing uses. Per submitted plans, there are no sidewalks proposed along Buncombe County's Greymont Lane and no sidewalks exist along Sardis Road either, which otherwise could get residents safely out of the complex. When staff is evaluating the suitability of an area for a new use, the analysis includes examining factors such as whether or not there are community amenities and infrastructure that would be found in a typical residential area and the

answer is no, not at this time. Outside of the immediate area there are neighborhoods and residentially-supported community uses (library over a mile away, proposed intermediate school approximately 0.5 mile away, Buncombe County Sports park over two miles away) however the lack of sidewalks or transit is not conducive to safe pedestrian or bike access to these uses.

City staff did another analysis of over 50 sites throughout the City and Buncombe County and found many active, successful industrial uses and manufacturing operations. A lot of the sites have very small parcels and similar access. We found that the average parcel size was 5 acres, and this site is 11.8 acres. Staff felt that even with the challenges of stream buffers and small pockets of steeper slopes, it would still be suitable in terms of size and access for an industrial use.

Conditional Zoning Findings: Section 7-7-8(d)(2) of the UDO states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The site has a stream bisecting it with significant wetlands and some existing vegetation. The proposed development protects the stream with a 30 foot buffer and preserves the wetlands and trees by incorporating this area into the required open space and tree save area. The natural features will be protected during the construction process. There are several retaining walls within the development to accommodate grade changes on the site (approximately 60 feet of vertical change across the site).

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The proposed use of the land for residential use is not expected to injure the value of adjoining or abutting property; with perhaps the only exception being that once the site is zoned residentially, adjacent properties would be required to install a landscape buffer along the common property line in the case of new construction or substantial improvement to their sites.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   While there are residential uses in the larger area (primarily westwards towards Biltmore Lake, over a mile from the site) the general area surrounding this project location along Sardis Road is not of a residential nature. The character is largely commercial and industrial, with predominant uses including car dealerships, truck rental, light industrial uses (metal roofing, plastic manufacturing) and the forestry service offices/garage. Prior to reaching the residential neighborhoods off of Sand Hill Road is the Jacob Holm Way industrial park and Coca-Cola bottling plant. Additionally, there is a 70 foot wide high power transmission line running along the northwest boundary of the proposed project.

Several proposed projects in the vicinity are more compatible with and supportive of a residential environment, such as the Buncombe County Intermediate School, Franklin School of Innovation and the larger County piece of this same development. Also, the proximity to AB-Tech Enka Campus and Buncombe County Sports Park is supportive of a residential use.

Ultimately, because of the existing non-residential nature of the immediate vicinity, the proposed use is not considered to be in harmony with the scale, bulk, coverage, density and character of the current uses in the area in which it is proposed. For reasons identified in the compatibility analysis above, even with the construction of the County-portion of the project, staff does not believe that this is an appropriate and harmonious location for a residential development at this time.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
   As enumerated below, the proposal is not aligned with several key goals of the City's plans and policies, most notably the loss of industrial land and not maximizing residential density, the lack of dedicated affordable housing and locating a residential development in an area lacking in transit, pedestrian and bike access.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
   The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. Aside from those attributed to a personal vehicle, transportation facilities are lacking as the site is approximately 1.7 miles from the nearest transit stop (W2) at the Biltmore Square Mall and there are no sidewalks in the area.

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*
   A traffic impact study (TIS) is required because the volume of traffic is expected to warrant a study and is under review. The project is not expected to create a hazard or undue congestion based on the proposed plans, and the recommendations contained by the TIS.

Compliance with Comprehensive Plan: One of the smart growth principles in the Asheville City Development Plan 2025 highlights the importance of [infill] development where infrastructure can be easily provided. Also there are comments within the Plan relating to schools as "places of...important neighborhood and community centers." There are two new schools proposed in close proximity to this site. However, the Plan does stress the importance of linking residential neighborhoods, schools and residential amenities with safe pedestrian and bike access and this location is lacking in that regard.

Also in the Plan is a recommendation for residential projects to have a higher density, especially able to support transit and the future expansion possibilities of the Asheville Regional Transit system (currently no City transit routes run along Sardis Road). This proposal is at just around 9 units per acre (when taking into account the full acreage, as staff does as standard practice to determine maximum residential density) which is at the low end of the minimum density determined as necessary for optimum transit performance and doesn't maximize the density potential for the site.

Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, no dedicated affordable or workforce rents are proposed.

One of the City of Asheville's adopted Smart Growth Land Use policies noted in the Plan states that Industrially zoned land should be reserved for industrial purposes and not lost to lower density development. The proposed conditional rezoning does not comply with this policy. Additionally, the Sustainable Economic Development Strategic Plan (2000) notes that the shortage of industrial sites within the City as an area of potential concern, stating that the City should seek to ensure the availability of suitable sites will meet the business needs of the City into the future. Staff's analysis is that the size, access and slopes/encumbrances on this site are comparable to other industrial areas and do not impede its suitability for industrial uses.

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. This project does not offer any dedicated affordable units and there is some question as to whether locating residential uses in an area surrounded by non-residential and industrial uses is the most ideal location to enhance quality of life. Additionally, Council has a goal on expanding the supply of housing and this proposal does not maximize the residential density in the proposed zoning district. Additionally, one of Council's strategic goals is to support economic growth and this rezoning would be a loss of scarcely available industrial land; a loss of land on which to locate a business that has the zoning in place to attract private investment and create jobs.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does not find this request to be reasonable, consistent with the comprehensive plan or within the best public interest.

Considerations:

- The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially-zoned land for industrial uses and ensure the availability of sites for future business needs. Staff's analysis has found that the size of and access to the site is not inconsistent with other industrial uses through the City.
- Application does not propose to dedicate any units as affordable, which is a clearly stated goal for the City.
- The residential density is at the low end of the optimal density for supporting transit or maximizing the site.
- The project preserves sensitive environmental area through the stream buffer.
- There are two new schools proposed in the vicinity and residential amenities nearby, which this proposal could support *(however there is not safe pedestrian or bike access along Sardis Road nor transit)*.
- The larger portion of the overall project has been approved by the County, which would bring residential into this industrial area regardless of City support.

Based on policies stated in the Comprehensive Plan and other plans, as well as direction provided by City Council in recent policy discussions, staff cannot recommend support of the proposed rezoning. With the concern over the loss of Industrially-zoned land for a proposal that does not substantially align with City Council's adopted strategic plan goals, the basis for support is low.

However, both the Planning and Zoning Commission and City Council have supported similar rezoning actions in the recent past and the EDC did not pose strong objections to the proposal when consulted. City Council may consider this rezoning independent of the existing policies. While staff still does not support approval, should Council decide otherwise, staff strongly recommends that the conditions be requested of the applicant in order to allow the application to further some important City policies and the public interest.

Pursuant to Section 7-7-8 of the UDO, the conditions pertaining to this application must be mutually agreed upon by both the applicant and City Council. The applicant has not agreed to the suggested Conditions 2, 3, 4 and 11 (m) outlined below.

1. Approval is for a 108-unit apartment complex contained in four buildings with 24 one-bedroom units, 60 two-bedroom units and 24 three-bedroom units, in accordance with the attached site plan.
2. *WORKFORCE RENTS – All units will be offered at the workforce maximum or lower. The workforce rent limits are according to income standards determined by the City of Asheville Community Development Department.*[1]
3. ACCESSIBLE UNITS – *The project will provide at least 20 units specifically for visually-impaired residents.*[2]
4. ACCESSIBLE WALKING PATH TO ADJACENT LOT – *The applicant will provide an accessible walking path from the residential structure(s) to the Industries for the Blind facility adjacent to this site.*[3]
5. There are 198 parking spaces with six accessible spaces and 10 bicycle parking spaces.
6. Signage shall be separately permitted and shall meet the standards of the City of Asheville Sign Ordinance (Article XIII of Chapter 7 of the Code of Ordinances).
7. All site lighting must comply with the City's Lighting Standards (Section 7-11-10 of the Code of Ordinances). Proposed lighting plans must be submitted at Final TRC.
8. All landscaping must meet the minimum size requirements set forth in Section 7-11-3(f)(3) of the UDO. All existing vegetation that is to be preserved must be clearly indicated and dimensioned on the site, landscape and grading plans.
9. The applicant is providing 76,980 acres of open space and thirty-percent of the lot as tree save area. There is a 30-foot stream buffer in the open space area.
10. Retaining walls will comply with aesthetic treatments or landscaping as required in Section 7-10-5 of the UDO.
11. The project shall comply with all conditions outlined in the TRC staff report as indicated below:
    a. Street trees are required along all road frontages (Sardis Road) per 7-11-3.
    b. If required, the applicant must obtain driveway permit and encroachment agreement from NCDOT. Submit the driveway permit package, which includes four sets of plans and applications, to the Planning Department to be forwarded to the Transportation & Engineering Department *(Ted Williams)* for signatures and the City will then forward them to the appropriate NCDOT office.
    c. If required, all driveway connections to public streets must conform to City of Asheville Std. Detail 3.15A including 42 inch corner radii. Include the appropriate detail on the plans. ADA accessibility must be maintained through the driveway.
    d. Sidewalk and curb and gutter construction is required for property frontage along Sardis Road. Sidewalk must be 5 feet wide with a 5-foot wide buffer strip between street and sidewalk. A 10-foot wide easement/right of way area, centered on the sidewalk, is required for sidewalk maintenance. Revise plans accordingly. Sidewalk requirements along Sardis Road must be met through construction of the sidewalk or via a recorded easement and payment of a fee-in-lieu.
    e. Bicycle racks must support the bicycle frame in at least two places, allowing the frame and wheel to be locked using a u-lock or cable lock; prevent the wheel of the bicycle from tipping over; not damage the bicycle; be durable and securely anchored; and allow front in or back in parking. Inverted "U" racks or "A" racks, as well as some other designs, meet this requirement. Detailed information may be obtained from Barb Mee at (828) 232-4540.
    f. Access drive must meet all applicable codes and be a minimum of 20 feet wide.
    g. Accessible routes within the site shall be provided from public transportation stops; accessible parking; accessible passenger loading zones; and public streets or sidewalks per 1104.4
    h. Per 1107.4 At least one accessible route shall connect accessible building or facility entrances with the primary entrance of the (residential buildings and with those facilities that serve the units; dumpster, club house, playground etc.)- If taking exception 1; please indicate the slope of the finished grade which makes

this requirement *technically infeasible.*

i. Accessible parking count does not comply with the requirements of NCBC Section 1106.2. This is a parking requirement above and beyond those found in table 1106.1; by my calculations you should have 15 HC parking spaces dispersed among the parking areas at the apartment buildings.
j. The parking area adjacent to the playground should also provide HC parking. "Where parking is provided, accessible parking shall be provided" Ref Section 1106.1
k. All required exits to provide an accessible route to the Public Way or a Safe Dispersal Area per section 1027.6 of the 2012 NCBC. It is likely that the residential buildings will have more than one point of egress; please coordinate the egress locations with the Architect and provide additional sidewalk as needed.
l. Based on current Emergency Operations Center CAD mapping system Buncombe County emergency services will respond to and serve all buildings with Greymont Ln street address assignments.
m. Single access road only approved if ALL buildings are sprinklered using NFPA 13 standard.
n. Show turning radius for fire trucks.
o. Hydrants to be no further than 600' from building.
p. FDC to be within 100' of hydrant.
q. Water Engineering will perform an independent review of the plan for water service for this project. Applicant should follow the Plan Review process described on Water's Home Page.
r. Specific grading, erosion control, stormwater and/or flood plan review comments are not covered under this zoning review and will be covered under separate permit review. Separate grading and stormwater permits will be required and applications shall be submitted concurrent or prior to submittal of TRC final plans. Detailed plans and calculations will be required with the Permit Applications. Any revisions or re-submittals are to be submitted to the Development Services Department per the instructions at the end of this letter.
s. Quality and quantity stormwater management <u>will</u> be required for this project in accordance with Section 7-12-2 of the City of Asheville Unified Development Ordinance.
t. Stormwater BMP's must comply with the requirements of the City of Asheville Unified Development Ordinance, Section 7-12-2, the City of Asheville Standard Specifications and Details Manual and the NCDENR Stormwater BMP Manual unless otherwise approved by the Stormwater Administrator.
u. Please note that there appear to be jurisdictional streams and wetlands in the proposed area of work. Copies of the Corps of Engineers 404 and NCDENR 401 Permits for work within jurisdictional waters will need to be provided to the City of Asheville, Development Services Department prior to release of Grading and Stormwater Permits.
v. An NCDOT Driveway Permit and/or Encroachment Agreement will be required to perform work within an NCDOT maintained right-of-way. Copies of any required permits must be submitted prior to release of the Grading Permit.
w. A pre-construction conference will be required for this project. The conference will be scheduled after all City departments have completed their review, and after any required Grading, Stormwater and Flood Permits have been approved.
x. A security for re-vegetation is required for all land-disturbances which will exceed five acres. The security shall be in the form of a construction bond or letter of credit and must be provided prior to issuance of the grading and stormwater permit. The security shall be sufficient to re-vegetate proposed disturbed areas and must be valid for one year from the issuance of the permit and be updated throughout the process. The City of Asheville has set the re-vegetation amount at $3,500.00 per acre.

y. Setback from existing adjacent property and right-of-way lines for retaining walls and constructed moderate and severe slopes must be at least equal to the height of the retaining wall or slope, unless a subsurface exploration analysis of the area is provided by a North Carolina registered professional engineer with geotechnical expertise and the analysis indicates that the reduction in the setback will not cause greater risk of damage to adjacent public and private properties.

z. A wastewater allocation approval has been issued for this project. A sewer extension and separate review is required for this project. Recommend approval with conditions that applicant completes all the requirements listed on the allocation approval letter and complies with any other comments during plan review.

aa. A sewer service application for each building along with payment of applicable fees will be required prior to release of building permits.

bb. Certificates of occupancy will be held until sewer extension project has been completely closed out by MSD.

12. The project will undergo final review by the TRC prior to issuance of any permits and compliance with the items listed above will be required at that time.
13. A planning inspection is required prior to obtaining a certificate of occupancy. This inspection should be scheduled through the Development Services inspection line.

She explained that Conditions 2-4 were statements made by the applicant to the Planning & Zoning Commission on different aspects they would put into the project but unwilling to commit to them. Regarding workforce rents, the applicant stated that all of the units would be at the City's workforce maximum or lower, but when staff asked the applicant to commit, they would not. Accessible units were discussed as the site is adjacent to the IFB. The applicant is planning to incorporate specific units into the development that were for visually impaired residents. The Commission felt that would be a great benefit, so staff asked them to state how many units they would dedicate, but they were unwilling to commit to a specific number of units. Staff suggested 10 units. Regarding the walkable path, the applicant stated that they wanted to put in a walking path from the development to the IFB site. Staff recommended it be an accessible walking path, given the path was specifically for the visually-impaired residents. The applicant has agreed to provide a walking path, but not commit to making it an accessible walking path. Regarding Condition 11 (m), typically with this number of units, the City would require two points of access, so in lieu of providing two points of egress, because there is only 108 units in the City, it would not trigger two access points, but the overall project would trigger 2 access points. The Fire Department has recommended that when you only have the one access point is to do the NFPA-13 sprinkler standard. But, because it is not technically required because Council is only looking at the City's portion of 108 units, that is just a suggestion. She did note that although the County's portion is not under City Council's review, the City contracts with the County to provide the fire protection in this area, so essentially from the fire protection standpoint, they are all the City's units to protect.

Mr. Lou Bissette, attorney representing the developer, explained the IFB's need to be in a position to market their property. He said that he has the utmost respect for Planning staff; however, he disagreed with their recommendation on this project. He said Buncombe County has just approved the construction of 248 units on their property. He is now asking for City Council to approve 108 units on 11.77 acres of adjacent land in the City's jurisdiction. The estimated investment in the City by the developer will be approximately $10 Million for the 108 units. The need for multi-family housing in Asheville and Buncombe County is great. The Sardis Road corridor is primarily rural in nature but is becoming a rapidly growing area in our community. There are two new schools going in across from this site, the Buncombe County Sports Complex is nearby and the Asheville Outlets will be employing 1,500 people, which will need places to live. The Planning & Zoning Commissioner Jim Edmonds stated that they need this type of housing in his community. In addition, the Chairman of the Planning & Zoning Commission Jeremy Goldstein said that as a commercial realtor he didn't see any economic benefit from the site for a

very long time if it remains industrial, and that the City would benefit from the development by gaining the apartments plus needed tax revenues if rezoned. Mr. Bissette said that the property is not suited for an industrial designation. Out of the 11.77 acres, only 5.5 acres are suitable for construction. The other acres are either under the power lines or in the wetlands. Using a map, he showed that even the 5.5 acres has several severe slope issues, which will require extensive grading and retaining wall construction. He recently talked with Mr. Ben Teague, Vice-President of Economic Development for the Chamber of Commerce, who thanked Council for trying to retain industrial land in the City of Asheville. He also said that Mr. Teague said that this property is totally non-competitive and supported the rezoning. Mr. Teague said that the Chamber doesn't even market that site as its grade would be low and very uncompetitive for their clients. He said that there are at least 20 IFB employees who have indicated an interest of renting units in the Greymont Village Apartments. Discussions have taken place for many months between the developer and IFB about upfits what would be appropriate for blind and visually-impaired tenants. In addition, the two parties have agreed to an acceptable walking path from the Greymont property to the IFB plant. Regarding the affordability of the units, the rates are planned to be reasonable and affordable for a broad range of our citizens. Using a graph, he showed the workforce/current market/affordable housing rates. He said the City's maximum affordable rent for workforce housing is 1-bedroom - $1,267; 2-bedrooms - $1,418; and 3-bedrooms - $1,563. Although they cannot commit to dedicated rental rates due to a number of issues (including financing), if the development opened tomorrow, the leasing rates would be as follows - 1-bedroom - $846; 2-bedrooms - $923; and 3-bedrooms - $1,409. All those rates are well below the maximum workforce housing rates. The development will not come on-line for at least two years and the developer is not prepared to commit to rental rates. He explained why he felt the project does meet all seven conditional use standards. He urged City Council to support the rezoning request.

Mayor Manheimer opened the public hearing at 6:35 p.m.

Mr. Patrick Bradshaw, representing Civil Design Concepts, said that on the building area of 5.5 acres, it will require about 30 feet of retaining wall to even get the 5.5 acres suitable. He felt that while the property is industrially zoned, from an engineering perspective it is not industrially suitable. Regarding the sprinkler system, he said that NFPA-13R speaks to residential units. All the occupied spaces are sprinklered. The primary difference between NFPA-13R and NFPA-13 draws a line between life safety. Both are on an equal footing on a life safety prospective. NFPA-13 speaks to property coverage (sprinkling unoccupied spaces, i.e. attics). Based on other projects constructed by the developer, NFPA-13R is very much the norm. He said there is a true dollar sign attached to the NFPA-13 standard.

Mr. Randy Buckner, Director of Operations for IFB, gave an overview of the IFB. He explained how this is a very important project and if rezoned, it will allow them to finish their work on their capital campaign projects to improve the quality of life for their employees. They have 20 employees who are interested in relocating to the residential development, which will save them in transportation costs to and from the IFB. The developer has agreed to make a blind-friendly walking path, which will not cross any traffic. The developer has also agreed to work with the Low Vision Department to make some of the units more blind-friendly. He urged City Council to approve the rezoning.

Mr. Charles Pine, Chairman of the local IFB Advisory Board, explained the other capital projects that would be built for their employees. If the land is sold, it will allow them to give their employees what they need. He supported the rezoning.

Ms. Kendra Penland, member of the IFB Advisory Board, explained how IFB serves a critical purpose. The sale of the property (if rezoned) will allow them to expand their operations, retain and add new employees. It's about quality of life.

Ms. Lucille Mahoney, employee at IFB, spoke about the wonderful organization of IFB. She urged the Council to rezone the property as it will be a wonderful convenience for any employee who lives in the residential development.

Brother Christopher Chiaronmonte agreed that it was important to keep industrially-zoned land, but felt that if the property is rezoned, that the developer commit to the number of blind-friendly apartments.

Mayor Manheimer closed the public hearing at 6:55 p.m.

In response to Vice-Mayor Hunt, Mr. Buckner said that they do have (1) an agreement with the developer for a suitable walking trail between the plant and the residential development; (2) an arrangement for a significant number of units that the developer will make blind-friendly; and (3) an agreement that there will be a preference for the IFB's employees for the blind-friendly units. Vice-Mayor Hunt felt that those items can be managed between the IFB and the developer and the City doesn't need that assurance.

In response to Vice-Mayor Hunt, Mr. Buckner showed a map outlining where the expansion of the IFB can occur to handle their future needs.

Vice-Mayor Hunt, member on the Economic Development Coalition Board, said that there there is an indication that over the next five years this community does not have industrial sites sufficient to entertain the kind of growth and jobs that we have had over the past five years. Our greatest deficiency is industrial land. We must be able to provide sites for companies to employ people. However, based on the Mr. Teague's statement that this site is not suitable for industrial development, he would support the rezoning. He will, however, work hard to reorganize our zoning to know where those industrial sites are located and defend the zoning of them in the future.

Vice-Mayor Hunt moved to approve the conditional zoning request for Greymont Village Apartments on Sardis Road from Commercial Industrial and Industrial to Residential Multi-Family High Density-CZ, based on the site plan and conditions in Exhibit B.1 agreed upon by the applicant (minus 2, 3, 4 and 11 (m)), and find that the request is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The project adds needed residential rental units to the City; and (2) The project preserves sensitive environmental area through the stream buffer.

City Attorney Currin wanted to make sure that Mr. Bissette agrees to the condition that the approval is in accordance with the site plan attached to the staff report. Mr. Bissette agreed with that condition.

Mr. Bissette said that the conditions not agreed to are Conditions 2, 3, 4 and 11 (m). Again, he said that their market rents are well below the workforce maximum rents. They are not agreeable to committing to those rents. They are also not willing to dedicate a certain number of units since they don't know what will happen in 5-10 years. They have agreed to make the units blind-friendly but don't know what the word "accessible" means. Regarding the walking path, they have agreed to construct a walking path, but again, they don't know what "accessible" means. Regarding the sprinkler system standard, the developer has built hundreds of apartment complexes and they have never used NFPA-13 - always NFPA-13R. He was told that the City's Fire Marshal agreed that there was no difference in life safety between the two standards. The problem for them is the NFPA-13 standard is so much more expensive - the difference between NFPA-13 and NFPA-13R represents $750,000 in additional costs.

In response to Mayor Manheimer, Development Services Director Shannon Tuch explained that with a large portion of the development not being in the City's jurisdiction, there is a question about whether or not the City can consider the portion of the property that is not in our

jurisdiction. There was some concern about whether we could call it one development or if we needed to limit ourselves to just the portion of the property that is within the City limits. But, as Council has heard earlier, the City will be responsible for providing the fire protection services in that area. From a technical standpoint, we were prepared to stay it would not be required because we would be limiting ourselves to the 108 units that are in the City's jurisdiction, however, looking larger, and in an effort to meet higher City goals to provide adequate service in that area, we would require the NFPA-13 standard for the project as a whole through the conditional zoning. If 200 units were in the City's jurisdiction, there would be no question - it would be required.

Councilman Smith was pleased to hear about the proposed lower rents and noted they are about 82% of medium rents. He was puzzled that there have been many developers that have come before Council that have been able to commit to rent rates. He wondered if there was an openness to committing to 82% of medium, so it can move with the market, or with the base rates suggested being able to adjust those upwards 3% per year to create some kind of commitment. Since we are going to lose this industrial land and help the folks who most need it, he would want us to have a commitment in place. Without a commitment, he did not think he could support the rezoning.

Mr. Dennis Burton, land development manager representing the owner, said that it's only a good business decision to work with the people close by. As far as affordable housing, they cannot have any economic restrictions on the units based on how this project was put together initially. The owner is receptive to enter into discussions about partnering with the City to build affordable housing on another site. They are a market rate developer and those are the current market rates we have in this area. Regarding the NFPA-13 vs. the NFPA-13R, he said this is not a life safety issue. The additional cost for the NFPA-13 will raise the pro forma of this site and it will be a deal-killer.

Councilman Bothwell was concerned about the loss of industrially-zoned land. He noted that land values change a lot over time and what was not buildable in 1920 is buildable in 1970. He did not believe that this is not a good industrial site. If you can put up retaining walls and build an apartment complex, you can put up retaining walls and have an industrial site. He is also troubled about the lack of commitment to the cost of the units. Conditional zoning is to get something good for the community. Other developers are able to commit to 10-years for some framework for the rents. Regarding the fire protection, he suggested a second access be constructed. He could not support the rezoning request.

Councilwoman Wisler understood that the developer intends to do the right thing with rents, but since he won't commit, it puts City Council in a bad position in the future. She could not support the rezoning.

Councilman Pelly believed the development is in the wrong location. City Council is prepared to commit to rezone the property; however, he could not support the rezoning if the developer is not willing to make a commitment in return.

Councilman Davis felt this apartment complex will be built in an area of town with no affordable housing. He felt the area will grow. He felt that the funds generated from the sale of this land will allow them to complete some of their capital projects. The County has already approved their portion of the project, and felt this is an opportunity for the City. He will support the rezoning.

In response to Mayor Manheimer, City Attorney Currin said that if the project is voted down by City Council, there is a one-year waiting period before the project can be brought back for review, unless the project is substantially different.

Mr. Bissette said that they will be willing to work on some of the outstanding issues and hoped that the City will reciprocate.

Vice-Mayor Hunt withdrew his motion.

Councilwoman Wisler moved to continue this matter until October 14, 2014. This motion was seconded by Councilman Bothwell and carried unanimously

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-209 - RESOLUTION ADOPTING THE RIVERSIDE DRIVE DEVELOPMENT PLAN

Urban Planner Stephanie Monson Dahl said that this is the consideration of a resolution adopting the Riverside Drive Redevelopment Plan

In 2013, The City of Asheville hired a team led by Heritage Directions, LLC, to identify redevelopment strategies for ten acres of underutilized City owned land in the heart of the City's River Arts District Transportation Improvement Plan (RADTIP) project area. The plan is complete and has been reviewed by staff, the Asheville Area Riverfront Redevelopment Commission, and the Planning and Economic Development Committee of City Council.

Plan Summary

The Riverside Drive Development Plan (RDDP):

- Recommends that the preferred renovation strategy for 14 Riverside Drive- an existing 1900 square foot building just to the north of 12 Bones restaurant- revolve around providing visitor amenities such as public restrooms and district information, and providing a place where one can always find some arts and culture programming happening
- Recommends an open space concept plan for several acres of city owned riverfront, just south and north of existing Jean Webb Park, that aligns with the RADTIP plans, leverages the arts and culture character of the district, and provides attractive improvements to stormwater management/water quality
- Presents four massing scenarios (with corresponding fiscal analyses sketches) for new mixed-use construction, centered around the historic smokestack and former Ice House site, that suggest the potential direction for a feature redevelopment partnership
- Suggests improvements in circulation, arts and culture, preservation, and environmental stewardship that helps tie the redevelopment effort together.

Key Recommendations/Policy Considerations from the Plan

The consultants have identified the following as integral to the success of the plan:

- RADTIP implementation
- Careful development of riverfront open space amenities and greenway between 12 Bones and the Captain Bowen Bridge
- Creation of better connections between New Belgium Brewing and Riverside Drive open space
- Installation of River District Wayfinding and Orientation for visitors
- Design and construction of a parking garage that connects to Roberts Street from Riverside Drive
- Coordination and construction of a flood zone sensitive piece of infrastructure called the Pedestrian Transition Zone
- Development of better regulations for the area such as a Form Based Code with design guidelines

- Speedy renovation of 14 Riverside Drive as a community and visitor resource
- Maximizing the City's development potential on property designated for higher density mixed use buildings
- Encouraging partnerships with nearby landowner and stakeholders to leverage the City's land resource and create better development opportunities.

Community and Advisory Board Engagement in the Plan

- The consultants had over sixty points of contact with the public which ranged from individual stakeholder meetings to widely publicized public engagement efforts on site (at 14 Riverside Drive)
- A final public presentation occurred on March 18 at the Rev. Wesley Grant Sr. Southside Center
- The AARRC has received multiple plan updates and received a presentation on key findings for the final draft in March 2014; the Planning and Design Review subcommittee of the Commission reviewed and provided edits to the plan.
- The AARRC, at their at their August 14, 2014, meeting, voted unanimously In favor of the following motions:

  1) *"We advise City Council to adopt the Riverside Drive Development Plan as presented.*

  2) We advise City Council to adopt the Riverside Drive Development Plan as an update to the City's adopted Wilma Dykeman RiverWay Master Plan, and adopt it as a plan that shall stand on its own, a plan not to be excluded from use if the Wilma Dykeman RiverWay Master Plan becomes outdated.
- At their regular August 19, 2014, meeting, PED members, after receiving a presentation and asked clarifying questions of staff and the lead project consultant, voted unanimously to recommend that Council consider adopting the plan as recommended.

Alignment with Strategic Operating Plan:

This plan, if adopted, can be a significant contributor to achieving goals set in Council's 2014-2015 Strategic Operation Plan. The plan:

- Will help implement the Economic Development Capital Improvement Plan (Goal 1, under Economic Growth and Sustainability): The RDDP provides recommendations on how to program, design and construct the open space and greenway portions of the RADTIP, a signature initiative within the City's EDCIP.
- Will help the City invest and leverage investment in community infrastructure (Goal 2, under Economic Growth and Sustainability): The RDDP evaluates ten acres of City owned property to determine its best use; evaluation of City owned property is an action item outlined under this Council goal.
- Directly addresses Goal number 3 in Economic Growth and Sustainability, i.e. it suggests economic development and community investment opportunities through partnerships, planning and incentives.
- Provides financials for staff to evaluate how to " work with developers to increase production of affordable housing units by providing financial assistance and other development incentives" which is an action item under Goal 1 for Affordability and Economic Mobility
- Promotes redevelopment that prioritizes "transportation that supports and multimodal system, including walking biking, greenways and transit," an action item for Goal 2 under the High Quality of Life focus area.

Pros:

- The adoption of this plan as an update to the Wilma Dykeman RiverWay Master Plan reaffirms the City's commitment to professionalism in planning by promoting the regular review and update of adopted plans for current relevancy/alignment.
- The adoption of this as a stand-alone plan sends a clear message to citizens and other stakeholders that their vision for this section of the riverfront will be considered by elected

officials, and that the City continues to commit to riverfront revitalization as an economic development initiative.
- An adopted plan is a tool for local governments to further partnerships and pursue funding opportunities for implementation of the plan.

Con:
- None

While the adoption of this plan will not have a fiscal impact on the City's budget, there are many recommendations within the plan that could have an impact on future City budgets. Staff recommends that Council consider asking staff to work with PED on the review of a recommended implementation schedule, including review of any potential future fiscal impacts.

City staff recommends City Council adopt the Riverside Drive Development Plan as an update to the Wilma Dykeman RiverWay Master Plan and as a stand-alone plan to be used to guide economic development. Staff proposes that, if Council adopts the plan, that staff return to PED with an implementation schedule and other analyses for PED review

Mr. Tom Gallagher, consultant, hoped that City Council would adopt the plan as an amendment to the Wilma Dykeman RiverWay Master Plan. He hoped that Council would (1) develop a RAD-specific form-based code; (2) maximize the redevelopment potential for both the open space and developable land; and (3) encourage creative partnerships.

Mayor Manheimer opened the public hearing at 7:57 p.m.

Ms. Pattiy Torno, Chairman of the Riverfront Redevelopment Commission, spoke in support of the Plan and hoped that whenever there are discrepancies between the Wilma Dykeman Plan and the Riverside Drive Development Plan, that the Riverside Drive Development Plan will be followed, because it is more current. She also felt it was time to do a River Arts District Master Plan.

Mayor Manheimer closed the public hearing at 8:01 p.m.

In response to Councilman Smith, Ms. Monson Dahl explained the promising relationship with Norfolk Southern.

Councilman Smith supported massing on the land in order to meet the needs outlined in the Plan. He was also in favor of the 2% budget for art.

Vice-Mayor Hunt said that regarding the rehabilitation of 14 Riverside Drive that one of the first things we should construct are restrooms.

Mayor Manheimer was very pleased that his Plan is a product of the community.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Davis moved for the adoption of Resolution No. 14-209, and that the Riverside Drive Development Plan be used as an update to the Wilma Dykeman RiverWay Master Plan and as a stand-alone plan to be used to guide economic development. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 348

RESOLUTION NO. 14-210 – RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

66

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Affordable Housing Advisory Committee.

The terms of Allison Bond, Jayden Gurney, William Irby, Brian Alexander and M. Mae Creadick expired on September 1, 2014. There also currently exists a vacancy left by Ms. Allison Bond, whose term expired on September 1, 2014.

The following individuals applied for the vacancy: ,Randall Barnett, James Mastrogiacomo and Laura Simmelink.

On August 26, 2014, it was the consensus of Council to (1) reappoint Mr. Gurney and Ms. Creadick to each serve a three-year term, terms to expire September 30, 2017, or until their successors are appointed; and (2) interview William Irby, Brian Alexander, Randall Barnett, James Mastrogiacomo and Laura Simmelink. Mr. Alexander and Mr. Irby were not available to attend the interview.

After speaking about the qualified candidates, Mr. Irby received no votes, Mr. Alexander received no votes, Mr. Mastrogiacomo received 7 votes, Mr. Barnett received 7 votes, and Ms. Simmelink received 7 votes.. Therefore, James Mastrogiacomo, Laura Simmelink and Randall Barnett were each appointed to each serve a three-year term respectively, terms to expire September 1, 2017, or until their successors have been appointed.

In addition, Council confirmed reappointment of Jayden Gurney and M. Mae Creadick, to each serve a three-year term, terms to expire September 1, 2017, or until their successors have been appointed.

RESOLUTION BOOK NO. 36- PAGE 349

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler brought to Council's attention a rogue cell phone tower that is not registered with the FCC.

Closed Session

At 8:11 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, lawsuits involving the following parties: Caledonia, LLC and the City of Asheville; Roger Aly and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries or other businesses in the area. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:57 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:57 p.m.

Magdalen Burleson
City Clerk

Esther E. Manheimer
Mayor

Tuesday – September 23, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 15-OCTOBER 15, 2014, AS "HISPANIC HERITAGE MONTH"

Mayor Manheimer read the proclamation proclaiming September 15-October 15, 2014, as "Hispanic Heritage Month" in the City of Asheville. She presented the proclamation to Ms. Esther Chavez, representing Asheville Latin Americans for Advancement Society; and Ms. Norma Brown, representing Children First/Communities in Schools, who briefed the Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of City staff, Consent Agenda Item D was removed from consideration.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 9, 2014

B. RESOLUTION NO. 14-212 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO (1) ADD A WORKSESSION ON AFFORDABLE HOUSING/COMMUNITY DEVELOPMENT ON OCTOBER 14, 2014, AT 3:30 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM IN CITY HALL; AND (2) CANCEL THE SEPTEMBER 30, 2014, COMMUNITY MEETING

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C. RESOLUTION NO. 14-213 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A CONSERVATION EASEMENT AT 61 TERMINAL DRIVE TO THE CAROLINA MOUNTAIN LAND CONSERVANCY

Summary: The consideration of a resolution authorizing the City Manager to convey a conservation easement on 8.3 acres of real property along the French Broad River located at the Asheville Regional Airport to the Carolina Mountain Land Conservancy (CMLC) for conservation purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey any interest in real property at this location, the City of Asheville must execute the deeds or easements of conveyance, and the FAA—in consultation with the Airport--must "release" the

property from FAA use restrictions. Because the property was acquired with FAA financial assistance, and has been held for use by the Airport, all financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property or must be utilized for airport purposes in the same proportion as the initial contribution to the purchase price.

Airport Authority staff has been working with the Carolina Mountain Land Conservancy ("CMLC") to establish conservation easements on airport property along the French Broad River. The airport property that is being recommended for the conservation easement is within the flood plain/flood way of the French Broad River and therefore would have limited development possibilities in the future. The establishment of the conservation easements on airport property would help to tie together other property along the French Broad River to enable the development of a future trail system.

Carolina Mountain Land Conservancy proposes to purchase conservation easements on approximately 8.3 acres of airport property on the French Broad River. In accordance with FAA regulations, the easements must be purchased for fair market value. A grant in the amount of $107,000 has been awarded through the NC Clean Water Management Trust Fund to the CMLC for the acquisition of conservation easements on Airport property. Prior to acquisition, the NC State Property Office must approve an appraised value of the proposed easements.

Pro:

- This conservation easement will protect public lands with the floodway and support a future trail system along the French Broad River.

Con:

- None.

There is no direct financial impact to the City. All financial proceeds associated with the conservation easement are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property and/or must be utilized for airport purposes.

Economic Development staff recommends adoption of the resolution to convey an 8.3 acre conservation easement at the Asheville Regional Airport to the Caroline Mountain Land Conservancy.

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D. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH BLAKLEY CONSTRUCTION SERVICES LLC FOR THE NORTH FORK WATER TREATMENT PLANT DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT

E. ORDINANCE NO. 4343 - BUDGET AMENDMENT TO ACCEPT THE 2013 HIGH INTENSITY DRUG TRAFFIC AREA (HIDTA) GRANT FOR THE ASHEVILLE AREA HIDTA TASK FORCE

Summary: The consideration of a budget amendment, in the amount of $20,000, from the 2013 High Intensity Drug Traffic Area (HIDTA) grant, for which the Asheville Police Department will serve as the fiduciary for investigative special purposes for the Asheville Area HIDTA Task Force.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The original designation of five HIDTA sites in 1990 has expanded into more than thirty areas around the country. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. The Asheville HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriffs Office, Henderson County Sheriffs Office and McDowell County Sheriffs Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The Asheville HIDTA has received $20,000 funding for investigative special purpose funds for which the Asheville Police Department will serve as the fiduciary.

Some recent successes of the task force, including some multi-state cases are; 1) Seizure the of 184 morphine and 484 Hydrocodone Tablets charging a subject or 5 counts of trafficking Opium; 2) Seizure of 1400 pounds of marijuana, 4 pounds of methamphetamine involving 11 individuals; and 3) Additional ongoing cases involving large distributers of crack cocaine involving gun and gang activities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City staff recommends City Council to adopt the budget amendment to accept the HIDTA 2013 grant funds.

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F. ORDINANCE NO. 4344 - BUDGET AMENDMENT TO ACCEPT THE 2014 HIGH INTENSITY DRUG TRAFFIC AREA (HIDTA) GRANT FOR THE ASHEVILLE AREA HIDTA TASK FORCE

Summary: The consideration of a budget amendment, in the amount of $45,000, from the 2014 High Intensity Drug Traffic Area (HIDTA) grant, for which the Asheville Police Department will serve as the fiduciary for investigate special purposes for the Asheville Area HIDTA Task Force.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The original designation of five HIDTA sites in 1990 has expanded into more than thirty areas around the country. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. The Asheville HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriffs Office, Henderson County Sheriffs Office and McDowell County Sheriffs Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The Asheville HIDTA has received $45,000 funding for investigative special purpose funds for which the Asheville Police Department will serve as the fiduciary.

Some recent successes of the task force, including some multi-state cases are; 1) Seizure the of 184 morphine and 484 Hydrocodone Tablets charging a subject or 5 counts of trafficking Opium; 2) Seizure of 1400 pounds of marijuana, 4 pounds of methamphetamine involving 11 individuals; and 3) Additional ongoing cases involving large distributers of crack cocaine involving gun and gang activities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City staff recommends City Council adopt the budget amendment to accept the HIDTA 2014 grant funds.

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G. RESOLUTION NO. 14-215 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. OFFICE OF JUSTICE PROGRAMS THROUGH THE US DEPARTMENT OF JUSTICE FOR THE 2014 BALLISTIC VEST PARTNERSHIP PROGRAM

ORDINANCE NO. 4345 - BUDGET AMENDMENT FOR THE 2013 BALLISTIC VEST PARTNERSHIP PROGRAM

Summary: The consideration of (1) a resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of $23,778.51; and (2) a budget amendment, in the amount of $47,557.02, from US Department of Justice Ballistic Vest Partnership (BVP) funds and previously approved City General Fund money, to establish a project budget in the Special Revenue Fund for the 2014 BVP Program.

The City of Asheville Police Department currently participates in the US Department of Justice BVP program. The funds allocated through this program are designed to offset departmental cost associated with purchasing ballistic vests. The City of Asheville has been awarded $23,778.51 through this program, which requires the City to match this amount dollar-for-dollar. Expenditures for this program will be recorded in this City's Special Revenue Fund. The budget amendment is necessary to authorize the full project budget amount of $47,557.02 in this fund. The City's match of $23,778.51 will come from the Police Department's adopted FY 2014-15 operating budget. The funding will enable the purchase of 76 bulletproof vests over the next 2 years.

Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment

Con:

- None

As noted above, this grant requires a match of $23,778.51, which will come from the Police Department's existing General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept this grant award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of $23,778.51; and 2) a budget amendment, in the amount of $47,557.02, from US Department of Justice BVP funds and previously approved City General Fund money, to establish a project budget in the Special Revenue Fund for the 2014 BVP Program.

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H. ORDINANCE NO. 4346 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF N.C. STATE DRUG SEIZURE FUNDS TO PURCHASE URINE DRUG SCREENS/LAB TESTING RELATED TO THE BUNCOMBE COUNTY DWI TREATMENT COURT

Summary: The consideration of a budget amendment, in the amount of $5,000, to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

The North Carolina State drug seizure program is an equitable sharing program which divides the illegal proceeds from drug dealing between the North Carolina State government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

This amendment will authorize the use of $5,000 in North Carolina State drug seizure funding for the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

Pro:

- North Carolina State drug seizure revenue used to fund Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the APD allowing us to better equip our employees and provide safety measures to protect the public. There is no impact to the General Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment in the amount of $5,000 authorizing the use of North Carolina State Drug Seizure Funds to fund the purchase of Urine Drug Screens/Lab Testing related to the Buncombe County DWI Treatment Court.

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I. RESOLUTION NO. 14-216 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MAIL MANAGEMENT SERVICES, LLC, TO PROVIDE MAIL SERVICES TO THE CITY OF ASHEVILLE

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Summary: The consideration of a resolution authorizing the City Manager to enter into a three year contract with Mail Management Services to provide mail services for the City of Asheville.

In the Fiscal Year 2014/ 2015 adopted budget, a total of $393,000 was appropriated across department accounts to provide for citywide postage and mail services.

The City provides municipal services to more than 60,000 accounts which primarily encompasses the following: water meters, business license, permits and general correspondence to residents and visitors. The customer base is divided into multiple billing cycles and by general information correspondence each month. All water, sewer and storm water accounts are billed monthly.

In 2009 the City issued a Request for Proposals (RFP) to contract with a vendor to provide mail services. The City selected and contracted with Mail Management Services, LLC for a period of three years and exercised the option to renew for two successive one year periods. In 2014 the City issued a new RFP. Based upon a review of the proposals by a staff committee, the committee recommends selection of Mail Management Services, LLC. The contract is for a period of three years with an option to renew for two successive one year periods upon agreement between the City and Mail Management.

While the postage and service costs will vary from year to year based on postage rate, volume, type of service provided, due to the trends and advancements in communication technology, the annual cost is not expected to exceed $393,000. The multi-year contract is subject to the annual appropriation process. If the adopted budget does not include an appropriation for the service, the City shall have the right to terminate the contract.

Pros:

- Provide more predictable pricing for mail services
- Lower costs for mailing city bills and correspondence

Con:

- None identified

$393,000 was approved in the City's fiscal year 2014-15 budget for mail services in both the General and Enterprise Funds.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a three year contract with Mail Management Services, LLC ., with an option to renew for two successive one year periods, to provide mail services to the City for the amount of the approved budget. Each fiscal year contract shall be subject to funding appropriation approval by City Council.

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J. ORDINANCE NO. 4347 - BUDGET AMENDMENT FOR NEW ENERGY EFFICIENT LIGHTING AT SHILOH AND STEPHENS-LEE COMMUNITY CENTERS

Summary: The consideration of a budget amendment from General Fund assigned fund balance to establish a FY15 budget in the amount of $48,500 for contracting the purchase and installation of energy efficient lighting at Shiloh and Stephens-Lee Community Centers through participation in the Duke Energy Progress (DEP) Small Business Energy Savers (SBES) Program.

In April 2011 City Council approved a resolution to set the annual municipal carbon footprint reduction goal at 4%. The mechanism Council approved to fund this initiative is the Green Capital Improvement Program (Green CIP). Through the Green CIP, the City borrowed money to fund the installation of LED streetlights and is now using the operational energy savings from that project to pay off the debt and to fund other energy saving projects. This lighting project would be paid for out of those operational energy savings.

In November of 2013, Council approved Resolution No. 13-236, authorizing the City to participate in the DEP SBES program.

At the Linwood Crump Shiloh Complex, the SBES program will replace 126 existing T12 light fixtures throughout the complex with high efficiency, electronically ballasted T8 lighting. In the gymnasiums of both the Shiloh Complex and the Stephens-Lee Center, the combined 50 existing metal halide lights will be replaced with high bay LED fixtures. These improvements coincide well with other upgrades at these facilities that the Parks department is initiating.

Pros:

- Installation of energy efficient lighting in two facilities will generate an estimated $7,500 in annual avoided electrical costs
- Leverages $30,000 of utility incentives to finance a capital improvement project
- This activity will result in 44 tons of avoided carbon dioxide annually

Con:

- None foreseen

The City's share of these improvements would be paid out of the General Fund, from the Sustainability Division's contracted services budget. The budget amendment will appropriate $48,500 in LED streetlight savings which have been held in General Fund assigned fund balance.

City staff recommends City Council adopt a budget amendment to purchase and install energy efficient lighting at Shiloh and Stephens Lee centers.

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K. RESOLUTION NO. 14-217 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE BUDD GROUP INC. FOR THE U.S. CELLULAR CENTER'S CUSTODIAL SERVICES CONTRACT

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with The Budd Group Inc. for custodial services at the U.S. Cellular Center.

Historically the U.S. Cellular Center (USCC) has utilized temporary staffing companies to assist City staff with custodial needs at the venue; before, during and after events. The group that has been used at the venue in recent years has proven time and again to lack the experience and ability to deliver the service level needed and expected, especially with the higher standards expected after the completion of renovation of the venue. Staff advertised a Request for Proposals for full scale custodial services, with a goal of finding a company that provides more than simply temporary staffing to work events. Staff requested a custodial services company which would handle day to day operation and event coverage at the USCC. Innovative use of technology for efficiency purposes plans to use more 'green' cleaning products, and an hourly wage paid to part time staff closer to the current living wage at $10.00/hr were some of the primary RFP considerations. The previous temporary staffing company paid staff minimum wage. Four companies attended the mandatory site visit held at the USCC in May. The Budd Group Inc was selected due to their proven experience in venues hosting live events, their commitment to work in a more sustainable fashion with green certified products, to utilize program based work

order systems, as well as their voluntary commitment to pay closer to living wages to their staff. The Budd Group Inc. has a proven history of professionalism and effective services delivered.

The contract has a one (1) year term with a base cost of $83,059.20 annually plus additional part time staff hours during events billed at a set hourly rate (estimated to total approximately $70,000 annually based on past history of staffing levels). Full contract amount is not to exceed $160,000 annually with two (2), one (1) year options to renew at a base and hourly rate that will not exceed a 3% increase.

The terms of this contract were discussed at the Civic Center Commission meeting on August 5, 2014, and the Civic Center Commission supported staff's recommendation to enter into a contract with The Budd Group Inc.

Pros:

- Creation of one (1) full time benefitted position and one (1) part time benefitted position in the private sector.
- Improved custodial service with a proven professional company contractually obligated to keep our facility clean and presentable on a daily basis.
- Enables current staff to dedicate significantly greater amounts of time to building upkeep and preservation

Con:

- Elimination of (1) vacant maintenance laborer position.

The cost for this contract was included in the FY2014-15 adopted U.S. Cellular Center budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with The Budd Group inc. for custodial services at the U.S. Cellular Center.

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L. RESOLUTION NO. 14-218 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE ON OCTOBER 4, 2014

RESOLUTION NO. 14-219 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST ON OCTOBER 11, 2014

RESOLUTION NO. 14-220 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY MARKET ON OCTOBER 18 AND 25, 2014

RESOLUTION NO. 14-221 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BROTHER WOLF NEW YEAR'S RESOLUTION RUN ON JANUARY 1, 2015

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Blue Ridge Pride on October 4, 2014; Asheville Oktoberfest on October 11, 2014; Asheville City Market on October 18 & 25, 2014; and Brother Wolf New Year's Resolution Run on January 1, 2015.

- Blue Ridge Pride has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

  Blue Ridge Pride will be held on Saturday, October 4, 2014, from 12:00 p.m. – 6:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Asheville Oktoberfest and allow for consumption at this event.

  Asheville Oktoberfest will be held on Saturday, October 11, 2014, from 1:00 p.m. – 6:00 p.m. on Banks Avenue between Collier Avenue and Coxe Avenue and on Coxe Avenue between Hilliard Avenue and the intersection of Buxton Avenue, as per the event area limits referenced on the accompanying site map.

- Appalachian Sustainable Agriculture Project has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine on two occasions of the Asheville City Market and allow for consumption at those occasions.

  Asheville City Market occasions with the sale of beer and/or unfortified wine will be held on Saturday, October 18 and Saturday, October 25, 2014, from 8:00 p.m. – 1:00 p.m. at the city-owned parking lot located at 161 S. Charlotte Street as per the event area limits referenced on the accompanying site map.

- Brother Wolf has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Brother Wolf New Year's Resolution Run and allow for consumption at this event.

  Brother Wolf New Year's Resolution Run will be held on Thursday, January 1, 2015, from 10:30 a.m. – 1:30 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Blue Ridge Pride, Asheville Downtown Association, Appalachian Sustainable Agriculture Project, and Brother Wolf

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at at Blue Ridge Pride on October 4, 2014; Asheville Oktoberfest on October 11, 2014; Asheville City Market on October 18 & 25, 2014; and Brother Wolf New Year's Resolution Run on January 1, 2015.

RESOLUTION NO. 14-218 - RESOLUTION BOOK NO. 36 - PAGE 358
RESOLUTION NO. 14-219 - RESOLUTION BOOK NO. 36 - PAGE 361
RESOLUTION NO. 14-220 - RESOLUTION BOOK NO. 36 - PAGE 364
RESOLUTION NO. 14-221 - RESOLUTION BOOK NO. 36 - PAGE 367

M.1. RESOLUTION NO. 14-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH SMART ELECTRIC COMPANY FOR THE NORTH FORK WATER TREATMENT PLANT DAM ELECTRICAL IMPROVEMENTS PROJECT

ORDINANCE NO. 4348 - BUDGET AMENDMENT FOR THE NORTH FORK WATER TREATMENT PLANT DAM ELECTRICAL IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a construction agreement with Smart Electric Company, for the bid amount of $318,379, with a contingency amount of $47,757.00 for a total project budget in the amount of $366,136; and (2) a budget amendment in the amount of $216,436.00 from the completed Automated Meter Reading Capital Project for the North Fork Water Treatment Plant Dam Electrical Improvements Project.

The North Fork Water Treatment Plant Dam Electrical Improvements Project (Project) consists of all materials, labor, incidentals, and equipment necessary for the replacement of the main electrical switchgear and associated electrical system improvements at the North Fork Water Treatment Plant in Black Mountain, North Carolina. If a power failure occurs at the main water treatment plant, a reliable backup power source is needed to continue the treatment and distribution of potable water into the system. The existing system, installed in 1992, has become unreliable, reached the end of its useful life, and is in need of replacement.

In response to an Advertisement for Bids for the construction project on July 9, 2014, the Water Resources Department (WRD) received one bid. Pursuant to N.C.G.S. § 143-132, three competitive bids are required for formal construction projects. Upon rebidding the project on August 18, 2014, the WRD received two bids in response to the second advertisement. Pursuant to N.C.G.S. § 143-132, the WRD is allowed to award the contract to the lowest responsible bidder even though only two bids were received in response to the second advertisement. Companies responding were:

1. Haynes Electric Construction Company – Asheville, NC
2. Smart Electric Company – Connelly Springs, NC

Following a review of bids by City staff and the project engineers, McGill Associates, Smart Electric Company was selected as the lowest responsible, responsive bidder for the bid amount of $318,379. A contingency amount of $47,757 has been added for a total project budget in the amount of $366,136.

Pros:

- This project will replace outdated, unreliable electrical equipment to ensure a backup power source for the North Fork Water Treatment Plant.
- This project is aligned with the City and Water Resources Department goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of this project, which would prevent operation of the department's main water treatment plant during an emergency power outage.

The Water Resources Department currently has $149,700 budgeted for the construction contract. The remaining funds of $216,436 needed for the contract will be transferred from the Water Resources Automated Meter Reading (AMR) Capital Project, which was completed under budget. In order to transfer funds from the AMR Project, a budget amendment is necessary.

Amount in NF WTP Electrical Project for Construction Contract	$149,700.00
Additional Amount Needed for Construction Contract	$216,436.00
Total Amount Needed for Contract, including contingency	$366,136.00

The amount remaining in the AMR Project will be reallocated to other capital projects as the need arises. Staff will seek Council approval on any future reallocation of these funds.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a construction agreement with Smart Electric Company, for the bid amount of $318,379, with a contingency amount of $47,757.00 for a total project budget in the amount of $366,136; and (2) a budget amendment in the amount of $216,436.00 from the completed Automated Meter Reading Capital Project for the North Fork Water Treatment Plant Dam Electrical Improvements Project.

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N. RESOLUTION NO. 14-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH B ALLEN CONSTRUCTION INC. FOR CONSTRUCTION OF PAVILION AND RESTROOMS AT WNC NATURE CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to design and construct the restroom and pavilion at the WNC Nature Center for an amount not to exceed $132,900.

In February 2009, City Council approved the Parks, Recreation, Cultural Arts and Greenways Master Plan which recommends the development of a master site plan for future development of the WNC Nature Center. In 2011, the city completed the 2020 Vision Master Site Plan that directs future improvements at the WNC Nature Center.

Based upon the 2020 Vision Master Site Plan, a new playground was constructed in 2013 as part of the enhancements to the red wolf exhibit, and a new boardwalk and trail. The 2020 Vision Master Site Plan prioritizes the importance to continue to enhance the playground area with the design and construction of a restroom and picnic pavilion.

In response to a Request for Qualifications to seek qualified, professional firms to perform the design and construction of the restroom and pavilion, three applications were received. Following a thorough review and evaluation by staff, B. Allen Construction, Inc., located at 340 Wiggins Road, Candler, North Carolina, is recommended as the most qualified, responsive and responsible applicant to design and construct the project.

The project is fully funded by a donation from the Friends of the WNC Nature Center, and allocations from the State of North Carolina Department of Commerce.

Pros:

- The project adheres to the WNC Nature Center 2020 Vision Master Site Plan
- The project will enhance the visitor experience and performance through increased level of service
- Improves public health and safety through increase recreation opportunities and amenities
- Provides investment in community infrastructure
- The project is fully funded with non-General Fund sources

Con:

- None

The project is fully funded with non-General Fund sources. The $132,900 to support the design and construction contract for the restroom and picnic pavilion is funded by a $28,170

donation from the Friends of the WNC Nature Center, $32,330 balance of previous year allocation from the North Carolina Department of Commerce, and $72,400 FY15 allocation from the North Carolina Department of Commerce.

Staff recommends the adoption of resolution authorizing the City Manager to enter into a contract for design and construction services relative to the design and construction of the restroom and pavilion at the WNC Nature Center with B. Allen Construction, Inc. for an amount not to exceed $132,900; and authorization to approve change orders to the contract which may arise during the design and construction of the project up to the budgeted amount.

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O. ORDINANCE NO. 4349 - ORDINANCE TO AUTHORIZE THE USE OF THIRD PARTY PROPRIETARY SOFTWARE FOR FIRE PROTECTION SYSTEMS DATA

RESOLUTION NO. 14-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BRYCER, LLC, FOR A THIRD PARTY REPORTING SYSTEM FOR FIRE PROTECTION SYSTEMS DATA

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Brycer, LLC, to utilize third party proprietary software to track and manage commercial fire system inspection, maintenance, and testing requirements; and (2) an ordinance to authorize the use of third party proprietary software in the third party reporting system process for fire protection systems data.

The Asheville Fire Department relies on third party monthly, quarterly, semi-annual, and annual inspection reporting from third party agencies to ensure all fire suppression, fire detection and other life safety systems installed in commercial establishments are up to date and functioning correctly. The reliability of all systems proves essential for proper life safety needs and property conservation requirements, which in essence assists with maintaining a healthy tax base. The proper operation of all fire related systems also helps cut down on false alarms and the need for costly "fire watch" conditions in businesses. Unfortunately, due to the state mandated inspection frequencies, the Fire Marshal's division may only visit a facility once every three years (or at most, annually) to review and confirm requirements are being met. History proves that many businesses fail to comply with third party inspection mandates and only comply after a fire inspection notes the deficiency.

Brycer, LLC and their proprietary "Compliance Engine" software desires to provide a service to all commercial occupancies in the City of Asheville to collect, organize and store all code-required third party inspection and testing records. This item and the amendment to the City's Ordinance are being proposed to authorize the use of third party proprietary software in this process.

This proposal was heard before the City of Asheville Public Safety Committee on August 25, 2014, and was recommended unanimously for approval.

Pros:

- The Compliance Engine automates the delivery of third party inspection and testing reports for fire and life safety systems.
- The City can access the database anytime to review and respond to inspection requirements.
- It provides the City a more comprehensive and accurate reporting system.
- Other municipalities in North Carolina are using the same system.

- This is a proprietary solution, similar to using the Knox Company for our premise key control system, provided at no cost to the city.
- The inspected premise will not be billed nor are they responsible for submitting the reports via the Compliance Engine; their inspecting contractors will submit the required documents and pay the fees.

Cons:

- There will be a minimal charge from the vendor to the affected inspecting contractor of $10.00 annually per each fire system reported on; however, monthly, quarterly and semi-annual reporting within the same service year will not incur additional fees. The fire dept. will review their fee schedule to make this a neutral impact on affected businesses.

There is no budget impact for the City.

Staff recommends that the Asheville City Council to adopt (1) a resolution authorizing the City Manager to enter into an agreement with Brycer, LLC, to utilize third party proprietary software to track and manage commercial fire system inspection, maintenance, and testing requirements; and (2) an ordinance to authorize the use of third party proprietary software in the third party reporting system process for fire protection systems data.

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RESOLUTION BOOK NO. 36 - PAGE 373

P. RESOLUTION NO. 14-225 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT AND SPONSORSHIP AGREEMENT WITH PEPSI-COLA BOTTLING COMPANY OF HICKORY FOR THE U.S. CELLULAR CENTER

ORDINANCE NO. 4350 - BUDGET AMENDMENT FOR ONE-TIME SIGNING BONUS

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract and sponsorship agreement with Pepsi-Cola Bottling Company of Hickory, NC; and (2) a budget amendment in the amount of $65,000 from the Pepsi sponsorship one-time signing bonus for digital menu boards at venue concession stands.

After completing a bid process for non-alcoholic beverage pouring rights and sponsorship at the U.S. Cellular Center staff has come to agreement with the winning bidder (Pepsi-Cola) on sponsorship deal points and product pricing within a four (4) year contract/sponsorship agreement with two (2), one (1) year mutually agreeable extension options. Pepsi has agreed to provide product at pricing rates which are lower than staff is currently purchasing at. Pepsi has also agreed to provide a $65,000 one-time signing bonus provided to the U.S. Cellular Center exclusively to be used for the purchase, installation and maintenance of digital menu boards at venue concession stands. Comparable venues throughout the country have seen a 10-20% increase in sales at concession stands after the installation of digital menu boards in their facilities. Pepsi will continue to provide and maintain all necessary equipment needed for the distribution of product as well as an annual sponsorship fee of $5,000.

Pros:

- Signing bonus of $65,000 for use of purchase, installation and maintenance of digital menu boards.
- Annual sponsorship fee of $5,000
- Exceptional service and assistance for staff at major events
- Free to the City equipment and maintenance related to the sale of Pepsi-Cola products

Con:

- None

The FY 2014-15 U.S. Cellular Center budget is being amended by $65,000 to account for the revenue from the one-time signing bonus, which will provide funding for the purchase, installation and maintenance of digital menu boards at venue concession stands.

City staff recommends City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract and sponsorship agreement with Pepsi-Cola Bottling Company of Hickory, NC; and 2) a budget amendment in the amount of $65,000 from the Pepsi sponsorship one-time signing bonus for digital menu boards at venue concession stands.

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Q. RESOLUTION NO. 14-226 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF OF BROAD STREET AND SETTING THE PUBLIC HEARING FOR OCTOBER 28, 2014

Summary: The consideration of a resolution of intent to permanently close an unnamed alley off of Broad Street and setting a public hearing for October 28, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Jim Hitt at 137 Broad Street and 9999 Broad Street also known as 133 Broad Street, have requested the City of Asheville to permanently close an unnamed alley off of Broad Street. One adjacent property owner has not joined the request to permanently close the alley off of Broad Street. A copy of this resolution of intent shall be sent by registered or certified mail to all owners of property adjoining this alley, not joining in the petition to close. Additionally, a copy of this resolution shall be published once a week for four (4) consecutive weeks prior to a hearing on this matter, and a notice of the closing and public hearing shall be prominently posted in at least two (2) places along the alley.

The Multimodal Transportation Commission met on August 27, 2014, and approved the closure of the unnamed alley off of Broad Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley off of Broad Street and set a public hearing on October 28, 2014.

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R. RESOLUTION NO. 14-227 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF BRADLEY STREET AND SETTING A PUBLIC HEARING FOR OCTOBER 28, 2014

Summary: The consideration of a resolution of intent to permanently close a portion of Bradley Street and setting a public hearing on October 28, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Sandra Alexander of 8 Moore Avenue Megan and John Griffin of 430 State Street, Jay Fiano – multiple properties adjacent to the closure area, Aaron Marmaret and B. J. Harden Jones of 147 Bradley Street, have requested the City of Asheville to permanently close a portion of Bradley Street. A copy of this resolution of intent shall be sent by registered or certified mail to all owners of property adjoining this alley, not joining in the petition to close. Additionally, a copy of this resolution shall be published once a week for four (4) consecutive weeks prior to a hearing on this matter and a notice of the closing and public hearing shall be prominently posted in at least two (2) places along the alley.

The Multimodal Transportation Commission met on August 27, 2014, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Bradley Street and set a public hearing on October 28, 2014.

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S. RESOLUTION NO. 14-228 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR AND ENTER INTO AN AGREEMENT WITH THE US DEPT OF JUSTICE THROUGH THE 2014 BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION

ORDINANCE NO. 4351 - BUDGET AMENDMENT FOR THE 2014 BYRNE JUSTICE ASSISTANCE GRANT -LOCAL SOLICITATION

Summary: The consideration of (1) a resolution authorizing the City to apply for an enter into an agreement with the US Dept. of Justice through the 2014 Byrne Justice Assistance Grant – Local Solicitation; and (2) the accompanying budget amendment in the amount of $56,677.

The Asheville Police Department requests authorization to apply for the Byrne JAG – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. If approved the Asheville Police Department and Buncombe County Sheriff's Department will be allocated $56,677 based on the award matrix, with Asheville receiving $42,143 and Buncombe County receiving $14,534. The distribution of funds is approved through a signed MOU.

APD plans to purchase in-car video systems to place in patrol cars. These recordings would generally serve as evidence to be utilized in court for the prosecution of criminal cases. However, these recordings could also be used to aid in resolving allegations of wrongdoing by officers. This would allow for an even greater level of protection of officers and citizens. The digital cameras provide high quality and high resolution video/audio recording of events in and around the patrol car. Recordings such as this help protect the interests of citizens as well as the interests of police officers. Recordings captured with these cameras could potentially aid in mitigating potential civil liability for the City of Asheville by illustrating in detail the actual events that transpired. The secure evidentiary storage and wireless upload capabilities of the system create a user friendly system that is extremely secure and versatile.

The Buncombe County Sheriff's Department plans to purchase thermal imaging equipment. This thermal technology is useful during night time applications when trying to locate a suspect or an endangered person. This equipment could be used in a variety of ways to save lives and apprehend suspects, while helping protect the officers engaged in the pursuit.

There will be an expense of $42,143 by the APD for the in-car video systems. The Buncombe County Sheriff's Department will expend $14,534 for the purchase of thermal imaging equipment. This accounts for the total allocation of $56,677 for this Grant.

This is a 100% funded non-local match grant that will enable the APD to greatly enhance documentation of patrol related activities such as vehicle stops, pursuits, etc. The video evidence will prove to be very valuable in court for both civil and criminal offenses. Additionally, such evidence will be valuable to for internal investigations into officer actions and encounters. This will enhance accountability for officer actions and increase officer and public safety.

Pros:

- Increasing In-Car video will allow for better documentation of police related incidents.
- Increases officer and citizen accountability through recorded interactions.

Cons:

- Additional burden on the electronic secure storage capacity for storage of the videos
- Maintenance and replacement costs for the camera equipment which has an expected average service life of five years

There is a minimal fiscal impact at this time for City Council to approve the resolution authorizing the City to apply for the grant. If the grant is awarded, there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets. Additionally, funding will be needed to provide additional secure server/storage space to maintain the evidentiary video.

City staff recommends City Council adopt (1) a resolution authorizing the City to apply for an enter into an agreement with the US Dept. of Justice through the 2014 Byrne Justice Assistance Grant – Local Solicitation; and (2) the accompanying budget amendment in the amount of $56,677.

In response to Ms. Judy Strong, City Manager Jackson said that the Police Department's Strategic Operating Plan calls for both body cameras and vehicle cameras.

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T. RESOLUTION NO. 14-214 - RESOLUTION APPROVING CO-SPONSORSHIP OF THE AFFORDABLE CARE ACT OPEN ENROLLMENT KICK-OFF SPEARHEADED BY PISGAH LEGAL SERVICES

Pisgah Legal Services has met the current criteria for city sponsorship, representing a public purpose for the Affordable Care Act Open Enrollment Event on November 15, 2014.

The Affordable Care Act Open Enrollment Kick-off, spearheaded by Pisgah Legal Services, on November 15, 2014, is approved as a city sponsored event and waiving of fees for placement of advertisements in City ART Buses.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SIX-MONTH UPDATE OF GOVERNANCE COMMITTEE

Mayor Manheimer said that the Governance Committee was established by motion on December 10, 2013, as a policy review and discussion arm of the City Council. The Committee was set up to provide an opportunity to explore implications of policy alternatives and the policy development process while serving in an advisory capacity to Council as a whole. During the past six months the Governance Committee has reviewed policy matters referred to them and informed City Council on the existing city programs and issues including the following:

- Developed the City Council's legislative agenda for approval by all of Council prior to the General Assembly's 2014 short session.
- Reviewed and recommended full Council approval of the 2014-2015 City Council Strategic Plan. Strategic Operating Plan was approved by all of Council on April 22, 2014.
- Initiated and reviewing progress for a City Satisfaction Survey to coincide with strategic communications plan.
- Developed plan for April 29 Neighborhood Meeting held at Koontz Intermediate School on Tuesday, April 29 at 6:30 pm. The agenda focused on City Council's 2014-15 Strategic Operating Plan.
- Initiated staff review of Council Boards and Commissions and approved plan for additional improved strategic alignment and trainings.

Mayor Manheimer said that this initial 6-months has been a learning process of the functions of the Governance Committee. After meeting with Councilwoman Wisler and going through a list of things that worked well and what hadn't, she felt it would be appropriate for the Governance Committee to discuss it's role to determine if it needs tweaking or move to a different concept altogether.

Mayor Manheimer noted that she will be delivering the State of the City address on October 1 at the U.S. Cellular Center and invited the public to attend.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING 21 JEFFERSON DRIVE FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4352 - ORDINANCE REZONING 21 JEFFERSON DRIVE FROM INSTITUTIONAL DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

Urban Planner Blake Esselsytn said that this is the consideration of an ordinance to rezone 21 Jefferson Drive from Institutional District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on September 12 and 19, 2014.

Mr. Esselstyn said that the site sits on the west side of Jefferson Drive, about sixty yards south of West Haywood Street, in the West End/Clingman Avenue Neighborhood. The area proposed for rezoning consists of the northern portion (roughly 0.12 acres) of a parcel with a total area of roughly 0.3 acres. The southern portion of the parcel includes a single-family house built in 1905, but the northern portion, which is the subject area, is currently vacant, save some fencing and trees/shrubs. The lot slopes fairly steeply from the rear property line down to the frontage on Jefferson Avenue. A stormwater pipe crosses through the northwest portion of the subject area, presenting an obstacle to development. The subject area is currently zoned INST, while the southern part of the parcel is zoned RM-8.

The applicant (Lee and Rebecca Lance) is proposing a standard rezoning of the subject area from INST to RM-8 to be consistent with the remainder of the parcel. The applicant purchased the subject area from the City of Asheville in May of this year, and a recombination plat recorded in February had indicated that the purchased area would be combined with the house lot. Further, the purchase agreement stipulated that the applicant would pursue this rezoning petition.

At their September 3, 2014, meeting, the Planning and Zoning Commission voted unanimously to recommend approval of the rezoning request.

The area to the north and west of the subject site is all part of the City of Asheville Transit Maintenance facility, zoned Institutional. To the south and east, Jefferson Drive is residentially developed, mostly with single-family homes, with RM-8 zoning directly to the south and east of the subject area, and some RM-16 zoning to the southeast. The proposed rezoning would simply move the dividing boundary between INST and RM-8 some 55 feet north and 90 feet east. Staff feels any uses allowed in the subject area would be appropriate and compatible with the vicinity under the proposed rezoning.

Often in the past, practice has been to assign Institutional zoning to large parcels of publicly-owned land, such as the City's property to the north and west. But, as has been discussed with recent zoning actions (e.g. near Caledonia Road, and the UNC-Asheville campus), the appropriateness of such zoning can be questioned when and if ownership shifts to the private sector. By carving off this portion of land south and east of the stormwater pipe and conveying it to a property owner on Jefferson drive, the City and the applicant have created a small tract that now relates more to Jefferson Drive and the context of the detached residences than to the government-operated large parcel on the hill above which is accessed from West Haywood Street.

One of the principles most commonly invoked in the *Asheville City Development Plan 2025* (and other adopted plans) is compatibility; indeed, the words compatible and compatibility appear more than 40 times in the document. One example would be on page 31, under the Smart Growth Land Use Policies: "City staff is directed to [...] use existing zoning tools to promote compatible land use projects." As noted above, staff's assessment is that any of the uses

permitted in RM-8 would be compatible in this specific location; however, many of the uses permitted in Institutional zoning would not.

The *Plan* also states that "Protection, preservation, and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction." While some may view such a downzoning as a reduction of development potential, staff feels that if this modest map amendment can offer an opportunity to adapt and enhance a distinctive century-old house on the block or add a compatible home next door, the benefit to this block, and hence the neighborhood, must be recognized.

Owing to the small extent of the proposed modification (less than one-eighth of an acre), the proposed rezoning can be said to neither support nor hinder the goals of the *Strategic Operating Plan*.

While not identified in either of the plans mentioned above, accepted zoning practice is to favor zoning district boundaries placed so as to follow property lines, and to avoid "split-zoning" of properties when possible. The proposed change would remedy such a split-zoning.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Amending the zoning map would resolve a split-zoned situation.
- The proposed zoning would promote compatibility along Jefferson Drive, as encouraged in the *2025 Plan*.
- Preservation and enhancement of an existing neighborhood, a principle espoused in the *2025 Plan*, would be incrementally bolstered by the proposed change.
- If approved, the rezoning would result in a decrease in allowed residential density for this small area, reducing the capacity from two units to one.

Staff recommends approval of the proposed rezoning, finding that the shift in the zoning district boundary is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 5:18 p.m., and when no one spoke, she closed the public hearing at 5:18 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the zoning map amendment of 21 Jefferson Drive from Institutional District to RM-8 Residential Multi-Family Medium Density District as a standard rezoning and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the compatibility of uses and development standards would be improved compared to the existing zoning designation; (2) the preservation of the established immediate neighborhood of residences would be encouraged. This motion was seconded by Councilman Davis and carried unanimously.

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V. UNFINISHED BUSINESS:

A. GRAFFITI UPDATE AND DIRECTION ON NEXT PHASE OF PROJECT

Public Works Director Greg Shuler said that staff is requesting guidance from Council on how to best proceed with the Graffiti Removal Initiative.

On April 22, 2014, City Council approved Ordinance 4306. This ordinance allowed the City to remove graffiti from private property with execution of an approved waiver signed by the property owner. Prior to approval, staff presented Council with a three step process that would aid in the long term removal of graffiti in Asheville.

The first step was to impose escalating civil penalties on perpetrators. This initiative has been enacted, and application will occur as violations are enforced.

The second step included a 90 day period that would have the City pay to remove up to $500 per site, per occurrence to remove graffiti from private property. That period began on July 1, 2014, and is scheduled to end on October 1, 2014. At this time, a small percentage of the allocated funds have been used. Despite a concentrated media effort that included distribution of brochures, presentations at community groups and commissions, social media, radio, television, print and a dedicated hot line for citizens to call, many still claim to be unaware of this initiative.

As of today, the clean-up initiative has funded graffiti removal of over 141 incidents, using 14% or $41,700 of the allotted $300,000.

As we near the end of the 90 day period, more property owners are becoming aware of the opportunity, and our participation has increased each month. The presentation that accompanies this staff report offers different alternatives to improve participation in the program.

The alternatives are varied in nature, including the following options:

- Alternate #1 Keep the program as is
- Alternate #2 No max full clean up
- Alternate #3 Percentage split
- Alternate #4 Bracket split

- Alternate #1 Keep the program as is.

  This would have the City assisted clean up cease on October 1, 2014. Property owners would then be required to remove the graffiti within 7 business days.

  Another variation of this option would be to simply extend the initiative to allow additional time to reach more citizens. This could be for an additional 90 days, the remainder of the fiscal year, or until the funds are gone.

  Why was this alternate recommended?

  This was the original plan. It gave willing citizens an opportunity to receive City assistance to remove graffiti from their property, yet required minimal accountability from the property owner, if the costs exceeded $500. With the trends of greater participation each month, it may warrant extending the program to achieve a higher success rate.

- Alternate #2 No max full clean up

  The goal of this alternative would be to do a short duration effort to remove all graffiti from willing owners at no cost to them. Many property owners aren't willing to pay to remove graffiti from their property due to the cost. Most have already paid a great deal of money to repaint/wash their buildings only to have it vandalized again. Many of these large areas have taken a long period of time to complete the tags. If the graffiti were to be removed,

and then monitored, they shouldn't be able to get to such an unruly size again. Presumably, the owners could better deal with a smaller tag.

Why was this alternate recommended?

The goal if this ordinance/initiative was to remove graffiti. This alternative would most likely best accomplish this. The major drawback of this option is the absence of accountability from the property owner. This effort would likely remove the most expansive graffiti areas. Based on dialogue with many of the citizens impacted by graffiti, staff feels like the removal of some of the large and very visible areas would send a clear message of our intent to eradicate graffiti.

- Alternate #3 Percentage Split

This alternate would put much more accountability on property owners, yet reduce the financial responsibilities of those same owners, as well as the City on larger jobs. It could be said that it is a more equitable scenario since it would be an even partnership between the City and the property owner. This option may allow more owners to participate, therefore removing more graffiti.

Why was this alternate recommended?

As mentioned before, our staff has heard repeatedly that owners with large areas vandalized can't afford to pay their share. This isn't nearly as big of a problem with smaller tags. Our staff feels strongly that once some of the larger sites have been cleaned, other folks will be more receptive to participating in the program.

- Alternate #4 Bracket Split

This alternate would set minimum and maximum amounts that each partner would be responsible for, depending on the size of the job. The City would pay a minimum of $500 on jobs valued at $1,000 or less. On sites that range from $1,000 to $10,000, the owner pays a maximum of $500, with the City paying the rest. On projects that exceed $10,000, the owner would pay $1,000, with the City paying the rest.

Why is this alternate recommended?

As with other alternates, this would allow for opportunities to deal with large sites, yet keep accountability of property owners in play. This alternate may provide a better balance, and produce more incentive for owners to participate. So far, very few sites would exceed the $10,000 threshold. The ones that do would be pivotal in accomplishing the goals of the program.

Unless otherwise stated, these alternates would require the program to be extended at least an additional 90 days. Other timeframes options would be the remainder of the current fiscal year. In all cases the initiative would end upon all funds being spent.

The third step is the ideal long term goal of the ordinance that would require the property owner to promptly remove any graffiti from their property. This is where we need to end up long term.

Staff is providing an update on the progress of the Graffiti Clean-up Initiative, and requesting guidance on potential changes to the program. As we have progressed with the Clean-up Initiative, it has been discussed that we may be able to eradicate more graffiti if the initiative were revised.

Pros:

- Potential increase in the removal of more graffiti in Asheville.
- A more vibrant, safer feeling community.
- Higher Quality of Life for our citizens

Con:

- City resources utilized on private property

$300,000 was already included in the FY 2014-15 general fund budget for contracts associated with the City's graffiti removal initiative. The FY 2014-15 adopted budget also includes $200,000 for administrative costs associated with this program.

The Public Safety Committee reviewed this on September 22 and City Council on September 23. City staff requests that Council consider the alternatives and offer direction on how to proceed with the graffiti removal initiative.

After discussion, Councilman Smith moved to begin notifications on October 1 (per the ordinance) but amend the policy to allow a one-time $500 City contribution, for properties that did not take advantage of the initiative previously, during the first year of the ordinance or until we hit our cap. This motion was seconded by Councilwoman Wisler.

Because there are between 10-20 larger properties that will cost in the range of $8-10,000 for clean-up, Vice-Mayor Hunt suggested setting a specific amount aside ($70,000) to clean up the larger properties, with a maximum of $10,000 per property and have it expire in 60 days (December 1, 2014).

Councilman Bothwell opposed the program from the beginning, but when staff researched what is effective in other cities, the answer was to fine the property owners for not cleaning it up. He said we have approximately $300,000 to spend, and felt that money could be better spent on incentivizing affordable housing. He was opposed to spending tax money on private property to paint over somebody's idea of art.

After hearing the discussion, Mr. Shuler recommended the City pay a minimum of $500 on jobs valued at $1,000 or less. On sites that range from $1,000 to $10,000, the owner pays a maximum of $500, with the City paying the rest. On projects that exceed $10,000, the owner would pay $1,000, with the City paying a maximum of $10,000 per property up to $70,000.

Several individuals spoke regarding the issue, some suggesting solutions to remove the graffiti, while others felt the money should be used for other projects.

Regarding the larger properties, it was the consensus of Council to have Mr. Shuler bring back a proposal, and provide Council with information, i.e., their location and why the property owners have chosen not to clean it up, whether it be they feel it is art or they simply cannot afford to clean it up.

The motion made by Councilman Smith and seconded by Councilwoman Wisler carried on a 6-1 vote, with Councilman Bothwell voting "no."

Closed Session

At 6:04 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To

consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a potential lawsuit involving the following party: Robert Frost and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (4) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 6:50 p.m., Vice-Mayor Hunt moved to recess the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting. This motion was seconded by Councilman Smith and carried unanimously.

B. RESOLUTION NO. 14-229 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A DEVELOPMENT AGREEMENT WITH PUBLIC INTEREST PROJECTS FOR THE DEVELOPMENT OF WORKFORCE HOUSING AT 56 S. LEXINGTON AVENUE

Community Development Director Jeff Staudinger said that this is the consideration of a resolution authorizing the Mayor to enter into a development agreement between the City of Asheville and Public Interest Projects (PIP) for the development of workforce housing at 56 S. Lexington Avenue.

Included in the November, 2008 development agreement for the 51 Biltmore parking structure was the acknowledgement of a Phase 2 process, in which "PIP intends to design and construct a combination of mixed use and multi-family housing." It was also stated that prior to Phase II, the blank street-side facades of the parking garage would likely need to be mitigated.

The City and PIP knew at that time that development of the parcel under PIP's control would have challenges, especially because of the narrow site (about 30- 35 feet, from sidewalk to the façade of the parking garage), with the need to extend the sidewalk to a ten foot width. The width issue was further exacerbated by the presence of overhead utility lines within that 35 foot width. As PIP explored the issue of development there, they became aware of OSHA regulations that prohibited the construction of the new building within 10 feet of the lines. Development of the site therefore requires that the power lines be buried underground. The cost of this is estimated to be $250,000.

The City explored in turn the issues of mitigation of the blank façade. A working estimate of $100,000 was developed for the installation of public art or landscaping at a sufficient scale to address the length of Lexington Street at that location. Any public sector installation would also have concurrent maintenance expenses, which staff estimates at $50,000 over the ten-year life of the installation.

PIP has determined that it wishes to exercise its intention to build mixed-use and workforce housing on this site. It plans to construct a total of 32 workforce housing units, a mixture of one and two-bedroom units, all of which would be rented at or below the City's workforce housing rental standards. Five of the units would be suitable for live-work occupancy. One commercial space would also be constructed.

In order to achieve workforce rents, PIP needs to adjust both its investment return expectations and seek City assistance in the project. The assistance sought at this time is an agreement with the City to bury the power lines to enable project construction.

The City may provide this assistance via Downtown Development Agreement, pursuant to N.C.G.S. § 160A-458.3. This statute authorizes such an agreement when the City Council finds and determines that the Project is likely to have a significant effect on the continued revitalization of the Central Business District of the City in the form of increasing the property tax base of the City and serving as a catalyst for further development in the downtown area. Staff has determined that the proposed project meets these criteria by increasing the tax base by an estimated $4- $5 million. Additional benefits of the project include:

- 32 new workforce housing units;
- Model "locational efficient" housing, in line with the recommendations of the 2011 Center for Neighborhood Technology report;
- It will provide significant employment in its construction.

Pros:

- The project will create 32 units of workforce housing in the most locationally efficient area of the City- its downtown;
- The project will provide significant construction employment;
- The project will increase the City's taxable property by an estimated $4 million.

Cons:

- The developer needs to find sufficient equity and financing to construct the project. However, the developer's track record is strong in this regard.

The estimated cost of the City's share of this project is $250,000, which would be sourced from the existing FY 2014-15 EDCIP budget. At an anticipated taxable value of $4 million, the annual City property tax at current rates would be $18,400. The City's investment would conservatively be recouped through taxes alone in 13.5 years. Additionally, the project would result in avoided costs of approximately $100,000 for the installation and maintenance of the blank-wall façade mitigation project. Taking that into account, the City's investment would be conservatively recouped through taxes in 8 years.

Staff recommends that Council approve a resolution that would authorize the development and execution of a Downtown Development Agreement between the City of Asheville and Public Interest Projects or their subsidiary for 56 S. Lexington Avenue.

In response to Councilwoman Wisler, Mr. Staudinger said that there is a guarantee that if the project is not built, then PIP will have to repay the City the $250,000. That provision will be in the development agreement.

In response to Councilman Smith, Mr. Staudinger said that any construction within that corridor is going to require the burying of the power lines.

Councilman Bothwell questioned if the burying of the power lines is new information since the construction of 51 Biltmore Avenue parking deck.

Mr. Pat Whalen, representing PIP, gave a brief track record of his projects in the downtown area, noting that over 23 years, they have built a number of projects in downtown - 5 were apartment buildings. In those 5 downtown buildings they creating 77 apartments, and 95% of those apartments have been, and remain, at the workforce housing rental rates. On this site, they are already losing 15% of the first and second floors because the City wants to increase the width of the sidewalk by 5 feet. With the City burying the power lines, it will allow them to do the workforce housing. He said that all of their rents will be substantially under the 120% of medium. He could not commit, however, to conventional affordable housing.

Mr. Whalen committed to working with the City in tweaking the Land Use Incentive Policy so we can generate more sustainable, workforce, and affordable housing in the community.

Councilman Smith explained the federal term "workforce housing" means that people who are making between 80-120% of the area medium income will spend no more than 30% of their income on housing.

In response to Councilman Smith, Mr. Whalen said that parking spots are not guaranteed.

Mr. Whalen said that not having the lines buried has been the biggest impediment for them moving forward. He thought they could work out the power line issue as they went along, but OSHA requirements say they can't even start construction until the lines are buried.

In response to Vice-Mayor Hunt, Mr. Whalen hoped that they can integrate car-sharing into the project.

When Councilwoman Wisler asked if Mr. Whalen would commit to workforce housing for a certain period of time, Mr. Whalen said that if they don't do workforce housing, they will have to return the $250,000 to the City per the draft development agreement. He reiterated that of their 77 downtown units, 95% have been workforce housing for a number of years. He would like to come back to Council and work through the Land Use Incentive Policy and at that time he will agree to a term. He asked that Council trust him based on his history.

Councilman Bothwell felt that PIP should have known they couldn't build under a power line. He also felt the City overpaid for the property and could not support the development agreement.

Councilman Pelly recalled that a developer on Sardis Road asked Council to trust him as well when he would not commit to maintaining workforce housing. That developer asked for a continuance and will be back before Council. On this particular project, however, he felt PIP has a terrific track record in serving our City, especially downtown, and he would support the agreement.

Councilman Smith said that the City will have to spend $250,000 to bury the power lines whether it's for PIP or some other developer. PIP has built in the downtown area has has kept the apartments affordable, so he would support the agreement.

Ms. Lauren Baucus was confused on what constitutes workforce housing in Asheville.

Ms. Clare Hanrahan hoped that the terms "affordable housing" and "workforce housing" are defined clearly so that people understand.

Mr. David Nutter hoped that Council would approve the development agreement.

Mr. Jason Humes felt that goals should be accomplished voluntarily without forced aggression or coercion.

Councilman Smith noted that City Council will be holding a worksession on affordable housing/community development on October 14, 2014, at 3:30 p.m. in the First Floor North Conference Room of City Hall.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 14-229. This motion was seconded by Councilman Pelly and carried on a 6-1 vote, with Councilman Bothwell voting "no."

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VI. NEW BUSINESS:

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A. RESOLUTION NO. 14-230 - RESOLUTION AUTHORIZING THE CITY TO APPLY TO THE FEDERAL AVIATION ADMINISTRATION FOR APPROVAL OF A PLAN OF REORGANIZATION REGARDING THE ASHEVILLE REGIONAL AIRPORT, AND TO TRANSFER PROPERTY AND OPERATIONAL RESPONSIBILITY FOR THE AIRPORT TO THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Mayor Manheimer said that this is the consideration of a resolution authorizing the City to: (a) prepare and submit an application to the Federal Aviation Administration (FAA) recognize the Greater Asheville Regional Airport Authority (GARAA) as the operator and sponsor of the Asheville Regional Airport; (b) proceed with the transfer of the Airport property to GARAA; and (c) proceed with the transfer of operational responsibility for the Airport to GARAA.

In the late 1950's and early 1960's, the City of Asheville, with FAA assistance, acquired the property that is now the Asheville Regional Airport. The City operated the Airport as a City department until 1980. In 1980, the Asheville Regional Airport Authority (Authority) was established by interlocal agreement between the City and Buncombe County. Pursuant to that agreement, the City and County gave the Authority broad power to operate the Airport, including the power to hire personnel and improve and lease property. An agency established by interlocal agreement cannot own real property, so the City leased the Airport property to the Authority. The initial terms of the interlocal agreement and the lease were for 30 years. In 2008, the interlocal agreement and the lease were amended and restated, and renewed for an additional 30 years.

Over the years and after the establishment of the Authority, property has been acquired with Authority/FAA funds and titled in the City's name, thereby expanding the lease; some Airport property no longer needed for Airport use has been sold or, as in the case of the WNC Agricultural Center, leased. Each of these conveyances required FAA approval in the form of a release. Most recently, the FAA approved the conveyance in fee of the WNCAC property to the State, and the City is in the process of completing that transaction.

FAA regulations require that public airports be sponsored by a governmental agency that posses certain powers that are important for purposes of airport operation, like the ability to own property, obtain financing, and exercise the power of eminent domain. Because the Authority did not possess these powers, the City and Buncombe County were (and still are) the co-sponsors of the Airport for FAA purposes. Among other things, the City and County sign all grant assurances when the Airport receives federal funds.

Beginning in about 2007-08, the Authority began exploring the possibility of becoming an independent Authority, with full powers of operation and FAA recognition. This led to the enactment, in 2012, of a local act by the NC General Assembly (SL 2012-121 (technical amendment in sec. 69.1 of SL 2012-194; herein "Airport Law"). The Airport Law established GARAA as a "special purpose" government, and provided for the City and County and the Authority to transfer operational responsibility for the Airport to GARAA, and to transfer ownership of all real and personal property (and any liabilities or obligations) to GARAA. Pursuant to federal law, and as provided in the Airport Law, this reorganization and transfer of property is subject to approval by the FAA.

Following enactment of the Airport Law, discussions involving the City and GARAA (including their legal representatives and consultants), and the FAA, revealed the need for clarifications to the Airport Law. These clarifications were enacted during the 2014 session of the General Assembly (SL 2014-52), and the City and the Authority are now poised to seek the FAA's approval of the plan of reorganization provided in the Airport Law (as amended), and the recognition of GARAA as the sponsor of the Airport. Buncombe County adopted a resolution to this effect in February of 2014.

In addition to approving of the change in sponsorship, the resolution does three things: (1) authorizes the City, through the City Manager, City Attorney, or a designee, to work with GARAA to prepare and submit appropriate documentation to the FAA for approval of the reorganization of the Airport governance structure, as set out in the Airport Law (as amended), and FAA recognition of GARAA as the sponsor of the Airport; (2) authorizes the City to transfer all real and personal property used for Airport purposes (and associated obligations and liabilities) to GARAA, subject to any required FAA approval; and (3) authorizes the City to transfer operational responsibility for the Airport to GARAA. Since the Authority currently operates the Airport, (3) may be technically unnecessary, but would signify to the FAA the City's intent to transfer complete control of the Airport. As a practical matter, the Airport staff will coordinate the approval process with the FAA, but it is important that the City participate actively, and facilitate where possible.

Pros:

- Allows GARAA to operate as an independent authority, and simplifies the governance structure.
- Relieves the City of operational and financial responsibility for the Airport
- Complies with a legislative directive

Cons:

- City loses a degree of influence over the direction of a regional economic asset in that the interlocal agreement will be superseded. However, since 1980, the Authority has set the policy direction for the Airport, and controlled operations. The City will retain two appointments on the GARAA board.
- City relinquishes ownership of property, but property reverts to City if Airport operations cease or if GARAA is dissolved.

[Note: under FAA regulations, property that was acquired for airport purposes must be used for that purpose. Any sale or disposition must be approved by the FAA, and the proceeds from any sale must be used to reimburse the FAA in proportion to its initial contribution (usually 90%) or reinvested at the Airport.]

The transfer of ownership has no direct impact on municipal expenditures and revenues.

Adoption of the resolution is recommended. At this time, it is not recommended that the interlocal agreement establishing the Authority be dissolved, or that the City's lease to the Authority be terminated. When the transition is complete, Council should take appropriate action to wind down the Authority's operations.

When Mr. Warren Furmann asked if the GARAA is a County or State authority, Mayor Manheimer said that it is an independent authority created by the State but recognized by the FAA.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-230. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jimmy Bright, representing the Tarheel Challenge Academy Program, explained the program for at Risk Kids from the ages of 16, 17 and 18 years of age. The program is sponsored by the N. C. National Guard and is a quasi-military program for at-risk high school dropouts. The

mission of the Academy is to redirect the efforts of young adults who have had trouble succeeding in the normal high school environment, and give them the skills and attitude to become productive citizens in their communities. Three thousand, nine hundred and thirty-eight (3,938) proud young men and women have graduated from the program.

Mr. Warren Furmann offered his service to serve on a graffiti oversight committee.

Mr. Jonathan Robert urged the City Council to have Police Chief Anderson stop the video surveillance of public gatherings and destroy the tapes. This activity is counter to the Civil Liberties resolution City Council adopted. If City Council does not accomplish this, he will use the ACLU and file a federal injunction.

Ms. Clare Hanrahan agreed with Mr. Robert and asked City Council not film public gatherings.

Mr. Todd Stimson passed out a brochure regarding Cannabinoids and urged City Council to educate the public about medical use of cannabis for cancer patients.

Mr. Rodney Jones was concerned about the Pritchard Park warden not allowing the public to use the electrical outlets to charge their cell phones or wheelchairs. He also asked that the light above the chess table be replaced.

Ms. Judy Strong spoke about the City's fiscal responsibility and questioned why the Asheville Art Museum lease and the Diana Wortham leases were not signed yet.

Mr. J.J. Hicks urged Council to work towards legalizing cannabis for medical and residential use. Other states are taking away our tourist dollars.

Councilman Bothwell said that he worked hard to get the Civil Liberties resolution adopted by Council. He would work to get the video surveillance at public gatherings stopped and request a process to destroy the video surveillance tapes if they are not being used for a criminal investigation.

At the request of Councilman Smith, City Manager Jackson said that he would work with the City Attorney's Office to provide a recommendation to the Police Department regarding how their policy should align with the Civil Liberties resolution adopted by City Council.

Closed Session Continued

At 8:02 p.m., Councilwoman Wisler moved to continue the closed session. This motion was seconded by Councilman Smith and carried unanimously.

At 8:19 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:19 p.m.

Magdalen Burleson
CITY CLERK

MAYOR

Tuesday – October 14, 2014 - 3:30 p.m.

Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Affordable Housing/Community Development Worksession

Assistant Community & Economic Development Director said that the purpose of this report is to receive City Council's feedback on a draft Comprehensive Affordable Housing Strategy.

The Comprehensive Affordable Housing Strategy (CAHS) is a next generation housing policy framework, combined with an implementation toolkit, that will focus on:

- Strengthening the city's affordable housing programs for low- and moderate-income households;
- Continuing the development of a housing crisis management system to prevent and end homelessness;
- Expanding housing opportunities for middle-income households;
- Exploring innovative approaches to providing additional housing and a broader range of housing options, particularly for housing needs not being met by the market;
- Prioritizing action items that provide the highest return on investment as measured by number of affordable units, percentage of permanently affordable units, contributions to long-term economic and tax base growth, and sustainability.

The CAHS is envisioned as a "living document" that will guide ongoing work related to housing policies and programs. In other words, adoption of the strategy will not signal the end of the City's housing-focused discussions, but rather inform annual work program priorities aimed at continual monitoring, evaluation and action to strengthen and expand housing opportunities through a variety of tools and coordinated initiatives.

Purpose of Strategy (1) Strengthen the City's affordable housing programs for low- and moderate-income households; (2) Continue the development of a housing crisis management system to prevent and end homelessness; (3) Expand housing opportunities for middle-income households; (4) Explore innovative approaches to providing additional housing and a broader range of housing options, particularly for housing needs not being met by the market; and (5) Prioritize action items that provide the highest return on investment as measured by number of affordable units, percentage of permanently affordable units, contributions to long-term economic and tax base growth, and sustainability.

City Council is being asked to (1) Provide feedback on the draft goals and assumptions outlined in the framework; (2) Consider an affordable housing goal for Fiscal Year 2014-2015; (3) Identify short- and long-term priorities that need to be incorporated into the city's work plan; and (4) Provide direction on the prioritization of action items, projects and policy recommendations. Staff will edit the strategy based on Council's direction today and bring it back for adoption.

After he explained what affordable housing is, he explained that low wages (1) Retail Trade and Accommodation & Food Services have provided more than 26% of all new jobs created in past year; and (2) Jobs paying an average annual wage of less than $25,000 comprise 31% of our workforce.

Housing costs - a high percentage of households are "cost burdened" (i.e. pay more than 30% of their income for housing costs).

The Affordable Housing Scorecard findings are for the City of Asheville (1) is outperforming annual targets for affordable housing production and assistance; (2) is outperforming all four comparison cities: Greenville, SC, Wilmington, NC, Chapel Hill, NC and Durham, NC, is using its state and federal grant dollars efficiently; (3) Housing Trust Fund and rebate programs have been very effective at assisting developers to make affordable housing development feasible; and (4) has the political support as well as institutional/organizational capacity to tackle the affordable housing challenge. The local community development corporation, Mountain Housing Opportunities, has efficiently and effectively utilized Housing Trust funds, LIHTCs, HOME funds, NeighborWorks funds, and other funding to produce affordable rental and for sale housing.

Affordable Housing Scorecard recommendations are: (1) Permanent affordability; (2) Housing Trust Fund and dedicated funding for affordable housing; (3) Identify opportunity areas; (4) Neighborhood Planning; (5) Economic Development and Workforce Development; (6) Continue and expand affordable housing coordination with Buncombe County ; and (7) Expand affordable housing network.

Assumptions are (1) Build on Asheville's existing policy context; (2) There are no single solutions; (3) Low- to middle-income focus; (4) Continued focus on greatest need: affordable rental apartments; (5) Only considers land in the city's service area; (6) Increase supply through infill and redevelopment; (7) Support strong and diverse neighborhoods; (8) Housing near to jobs, schools and services enhances affordability; and (9) Asheville needs to grow "in and up."

Our goals are: (1) **Strengthen Our Current Commitments** - Reach or exceed Asheville's goals to serve people of in all life stages, incomes and abilities; adopt production goals that are ambitious and achievable; (2) **Maintain the Middle** - Provide greater variety of housing choices for middle-income families and for Asheville's workforce; (3) **Create Diverse Housing Choices in Every Neighborhood** - Facilitate the creation of a variety of housing options in every part of the city, including existing single-family neighborhoods and commercial districts; (4) **Create Vibrant Neighborhoods** - Foster mixed-income, mixed-use, highly walkable neighborhoods in amenity rich locations (e.g., close to transit, parks, open space and trails, employment, retail services, etc.) to maximize locational efficiency; and (5) **Strengthen Partnerships and Leverage Resources** - Strengthen current partnerships and explore creative new public-private-partnerships to address our community's housing challenges.

It was the consensus that the goals outlined by Mr. Staudinger are correct and reflective of City Council's vision.

Action items include (1) Initiatives underway (a) UDO Wording Amendment to allow housing density in commercial districts; (b) Affordable Housing Trust Fund Cycle for Fiscal Year 2014-2015; (c) Economic Development Capital Improvement Plan (EDCIP); (d) Eagle Market Place, Hudson Hills Developments; (e) Lee Walker Heights redevelopment project; (f) CDBG and HOME funding cycles; (g) Deaverview Road site disposition; and (h) Redevelopment of city-owned property initiative – Hilliard Avenue site; (2) Foundations for action (a) Adoption of a housing production goal for Fiscal Year 2014-2015; (b) Comprehensive Housing Market Analysis; (c) 2015-2019 Consolidated Plan for CDBG and HOME; and (d) Revisit production goal for Fiscal Year 2015-2016; and (3) Mid-term policy initiatives (a) Adopt Affordable Housing Policy Guidelines for Fiscal Year 2015-2016; (b) Comprehensive Recommendations on City Affordable Housing Tools for Fiscal Year 2015-2016; (c) Comprehensive Regulatory Analysis and Recommendations; and (d) Adoption of achievable and aspirational long-term goal to substantially impact affordable housing needs.

Staff is seeking your policy guidance on key questions as we continue to build the work program - (1) Are we ready to strategically prioritize the relocation of city facilities to pursue mixed-use project and affordable housing developments? Staff sees this as a high priority; (2) Are we ready to consider UDO and other regulatory changes to increase housing density and otherwise encourage affordable housing production; (3) Are we ready to focus financial and staff resources to maximize the return on housing production; (4) What are the attributes we seek in development partners; (5) Are we ready to move to adopt standards to guide City resource contributions to affordable housing developments; (6) Should we strengthen incentives that will result in affordable and "workforce" housing development in our Innovation Districts and other locationally efficient areas in the City; (7) Are we ready to consider strategies to prevent gentrification such as community land trusts, live-work housing, cooperative housing and strategic land banking; (8) Are we ready to move forward with policy decisions regarding the impact of short-term rentals on affordable housing, as soon as sufficient data and evidence is available to guide that policy; (9) Have we captured the right action items; (10) Are there other projects and initiatives that need to be added; and (11) What additional policy direction would you give us now as we develop the mid-term policy initiatives?

Vice-Mayor Hunt said from a capital planning standpoint, he was open to programming capital money in future years to address the lowest two income levels. He also supported revisiting the 2025 Comprehensive Land Use Plan to see how it and our Unified Development Ordinance relate to affordability. Regarding the community land trust, he felt if it is going to be effective then it should be inspired by the private sector

Councilwoman Wisler struggled on the question of balancing spending $1 Million to benefit 100 families vs. spending $1 Million to benefit a large group of people, i.e., increasing bus service.

Mayor Manheimer wanted to leverage dollars to get the greater change in trying to end the cycle of poverty.

Councilman Smith felt that affordable housing is a top priority for this City Council. He felt we may be missing the residential density in commercial districts. As we are trying to bring more partners forward, having that sort of voluntary affordable housing inclusion on those corridors invites private sector developers to be there in a way that some of the other programs don't. Also, the reform of our Land Use Incentive Grant is underway and that will also invite partners to join the City. The 2025 Comprehensive Land Use Plan revisit will look at different ways of approaching our urban landscape.

Councilman Davis was frustrated that employers who pay higher wages are locating just outside the bus range. City Council needs to find a way to incentivize higher-wage jobs being located closer to our transit lines and trying to find ways to raise people's ability to get those jobs.

Councilman Pelly supported us allowing more density in residential neighborhoods only if there is an increased percentage of amenities. He also felt we should look for ways to incentivize developers to want to provide affordable units.

Councilman Bothwell wondered how strategies from gentrification studies worked in other cities.

After Council members discussed the policy guidance questions, it was the consensus of Council that staff continue to proceed in this direction.

Mayor Manheimer said that there will be ample opportunity for community input into this process.

Mr. Staudinger said that staff will follow-up on answers not readily available, i.e., statistics of workforce vs. affordable; and studies of how the interplay of transportation and housing work in other cities.

Next steps is that (1) staff to report on progress regularly to Council committees; (2) staff to incorporate feedback from today into strategy and action items; and (3) City Council to adopt strategy and work program for next 12 months.

Mayor Manheimer adjourned the worksession at 4:34 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

Mayor Manheimer said that earlier today there was an official recognition of the Sister City delegation from Valladolid, Mexico, and a proclamation proclaiming October 2014 as "Sister City Month."

City Manager Jackson was pleased to introduce Mr. Terrell Mwetta, Senior at A.C. Reynolds High School, who is working on his civics project.

A. RECOGNITION OF ASHEVILLE TOURISTS - 2014 SOUTH ATLANTIC LEAGUE CHAMPIONS

Mayor Manheimer was pleased to recognize the Asheville Tourists for their winning the 2014 South Atlantic League Champions. Mr. Brian DeWine, President of the Asheville Tourists, was present to thank the City of Asheville for being a wonderful partner for several years and this particular group of City Council members who have gone above and beyond to support them.

B. PROCLAMATION PROCLAIMING OCTOBER 24, 2014, AS "FOOD DAY"

Mayor Manheimer read the proclamation proclaiming October 24. 2014, as "Food Day" in the City of Asheville. She presented the proclamation to Ms. Melanie Brethauer, representing the Asheville-Buncombe Food Policy Council, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 23, 2014

B. RESOLUTION NO. 14-231 - RESOLUTION ADOPTING A POLICY TO NAME CREEKS AND STREAMS IN ASHEVILLE

Summary: The consideration of a resolution adopting a policy that outlines the City's community partnership on the naming of creeks and streams.

In August of this year, RiverLink approached City staff with a request to sign a U.S. Geological Survey naming proposal form. City staff noted that while Council had recently adopted policy on naming of City owned buildings and other assets, no policy direction exists to support the naming of natural bodies such as creeks and streams. Staff now asks for Council guidance.

The Asheville Area Riverfront Redevelopment Commission, reviewed this request on August 11, 2014, and voted unanimously to approve the following motion: "We advise Council to adopt a policy that outlines the process for naming of creeks and streams in Asheville. A suggested process that can be used as policy ... with this resolution." In addition, the Planning and Economic Development Committee reviewed the item at their September 16, 2014, meeting and voiced support for the policy and asked that this item be moved to Council's consent agenda.

Pros:

- Adopting this policy provides guidance for staff when citizens or community groups are interested in naming a creek in their community
- Supporting this community-driven effort further develops partnerships between the City of Asheville, neighborhood and business organizations, City advisory boards, and non-governmental organizations

Con:

- None identified

City staff recommends City Council adopt a resolution outlining the policy for naming of creeks and streams.

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C. RESOLUTION NO. 14-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A U.S. GEOLOGICAL SURVEY APPLICATION TO NAME A CREEK IN WEST ASHEVILLE "PENLAND CREEK"

The consideration to authorize City Manager to sign U.S. Geological Survey application to name a creek in West Asheville "Penland Creek."

As part of their "Name that Creek" program, Riverlink recently performed a community engagement process to gather nominations and identify a preferred name for the short creek that runs along Waynesville Avenue in West Asheville, through the New Belgium Brewing site, and into the French Broad River. This is the same creek that will receive a stream restoration treatment as part of the partnership with RiverLink and the Clean Water Management Trust Fund for Craven Street Improvements.

The community chose the name "Penland Creek" in honor of the Penland family businesses that contributed to the West Asheville and the riverfront's cultural and economic development starting in the 1950's. The Penland family was then contacted to insure that there were no objections to using their name in this manner.

In order to complete the application to the United States Geological Naming Convention form to name this water body "Penland Creek", a local government official must sign the form to demonstrate support and to certify that the naming process followed U.S. Geological Survey (USGS) guidelines. This is a consideration for Council to support that USGS process and authorize the City Manager to sign the USGS form.

The Asheville Area Riverfront Redevelopment Commission reviewed this request on August 11, 2014, and voted unanimously to approve the following motion: "We advise Council to support the proposed name of "Penland Creek" for the stream in West Asheville flowing through the New Belgium site into the French Broad River." In addition, the Planning and Economic Development Committee reviewed the item at their September 16, 2014, meeting and voiced support for the naming and asked that this item be moved to Council's consent agenda.

Pros:

- Naming of a creek or stream can bring attention to its existence, help identify it as a part of neighborhoods ecosystem, and encourage environmental stewardship that enhances quality of life.
- Supporting this community-driven effort further develops partnerships between groups like RiverLink, EWANA, New Belgium Brewing, RADA and RADBA, and the City of Asheville.

Con:

- None identified.

City staff recommends City Council authorize the City Manager to sign the USGS form to name the creek in West Asheville "Penland Creek."

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D. RESOLUTION NO. 14-233 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE VAULT RENEWALS AND ZONE METERING PROJECT

ORDINANCE NO. 4353 - BUDGET AMENDMENT FOR THE VAULT RENEWALS AND ZONE METERING PROJECT

Summary: The consideration of the following items relative to the Vault Renewals and Zone Metering Project ('Project'): (1) resolution authorizing the City Manager to enter into a construction agreement with Cooper Construction Company, Inc., for the bid amount of $1,287,380; (2) contingency amount of $128,738 for a total project budget in the amount of $1,416,118; and (3) budget amendment in the amount of $500,000 to combine two capital projects into one in order to save time and money in the bidding and contract administration process.

The Project consists of all materials, labor, incidentals, and equipment necessary for the installation of zone meter vaults with Supervisory Control and Data Acquisition (SCADA) improvements and appurtenances at multiple job sites located within the City of Asheville's Water System. Additionally, there are improvements to be constructed at multiple customer meter points of service throughout the system. These improvements include vault improvements, vault replacements, meter installations and appurtenances at 40 sites. The zone meter installations will provide critical information for improved water auditing and water loss tracking. The customer vault / meter renewals will improve metering accuracies for some of the system's highest volume consumers and also correct safety issues for workers.

The Water Resources Department (WRD) issued an Advertisement For Bids for the construction project. In response to the Advertisement for Bids, the WRD received one bid on September 9, 2014. Bids were not opened due to formal bidding statues requiring at least three bids for the initial opening. The WRD issued a Re-Advertisement For Bids for the construction project. In response to the Re-Advertisement for Bids, the WRD received two bids on September 23 2014. Companies responding were:

1. Cooper Construction Company, Inc. – Hendersonville, NC
2. Pipeline Utilities, Inc. – Raleigh, NC

Following a review of bids by City staff and the project engineers, Cavanaugh and Associates PA, Cooper Construction Company, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of $1,287,380. A contingency amount of $128,738 has been added for a total project budget in the amount of $1,416,118.

Pros:

- This project will provide critical information for improved water auditing and water loss tracking, improve metering accuracies for some of the system's highest volume consumers and correct safety issues for workers.
- This project is aligned with the City and WRD's goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service. It will make our water system more sustainable and efficient.
- Approval of the construction contract to the lowest responsible, responsive bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would prevent the completion of this waterline system improvement and goal of continued investment in our infrastructure.

The Water Resources Department currently has $1,266,624 budgeted for this Project. The remaining funds needed for the contract and to combine two capital projects into one project will be transferred from the Pump Station Meters Project. The Pump Station Meters Project was going to be bid as a separate project, but the project engineers advised WRD to combine the projects in order to save time and money in the bidding and contract administration process. The entire balance of $500,000 will be transferred out of the Pump Station Meters Project. In order to transfer the funds, a budget amendment is necessary.

Amount in Meter/Vault Project Budget	$1,266,624
Transfer from Pump Station Meters Project	$ 500,000
Total Meter/Vault Project Budget	$1,766,624
Amount Needed for Construction Contract	$1,416,118
Available Balance in Meter/Vault Project for Future Contracts	$ 350,506

This will leave a balance of $0 in the Pump Station Meters Project, which will be made inactive and closed out.

City staff recommends City Council authorize the following relative to the Vault Renewals and Zone Metering Project: (1) a resolution authorizing the City Manager to enter into a construction agreement with Cooper Construction Company, Inc., for the bid amount of $1,287,380; (2) contingency amount of $128,738 for a total project budget in the amount of $1,416,118; and (3) budget amendment in the amount of $500,000 to combine two capital projects into one in order to save time and money in the bidding and contract administration process.

Mr. Ken Michalove questioned if it is standard operating procedure to adopt budget amendments to the operating and capital budgets from time to time, then why was it not done as it relates to the Pack Place and the Art Museum in the capital budget for 2014 and 2015.

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E. RESOLUTION NO. 14-234 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AMENDMENT TO THE JUST FOLKS AGREEMENT

Summary: The consideration of a resolution authorizing the City Manager to sign an amended Adopt-a-Park Agreement with Just Folks to include a waiver of permit fees in addition to the approved waiver for park use fees for Triangle Park for Fiscal Year (FY) 2014-2015.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area known as "The Block". On May 27, 2014, City Council approved a resolution authorizing the City Manager to sign an Adopt-a-Park Agreement with Just Folks that included a waiver of park use fees of up to $2,500. The waiver has made it possible for them to produce events that activate Triangle Park by providing a variety of positive activities including music festivals, community cookouts and other community-building events in the Park May to December on Saturdays and Sundays. These events have activated the area for more positive uses which has resulted in this area being frequented by a more diverse group of city residents and visitors.

Since May 2014, Just Folks has expanded the activities included in their events so tents and food preparation are required in the park. This in turn has necessitated additional permit fees for tent use and operational fire purposes. The City Legal Department and the Special Events/Economic Development Specialist recommend amending the original agreement to include permit fees in order to make it possible for Just Folks to produce their events as planned for this fiscal year. The additional permitting fees are minimal and can still be covered by the original fee waiver amount of $2,500.

The presence of Just Folks members and their programming in the park continues to contribute to the reduction of nuisance behaviors in and around the park and an improved appearance for the park. Over the past three years, its efforts have made the park safer and more attractive to downtown visitors and community members and helped the city meet specific City Council goals for economic and community development.

As a result, staff requests that the Adopt-a-Park agreement with Just Folks be amended for FY 2014-2015, to waive permit fees for its events in Triangle Park in an amount up to the previously approved $2,500.

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee wavier requests related to this group's events.
- This action is consistent with other partnerships the City has entered into for park programming in key community development areas.

Con:

- The inclusion of the permit fees in the agreement results in a loss of revenue; however, it does not change the impact of the original waiver which was not included in the FY 2014-2015 budget.

The estimated value of the waived park usage plus the permit fees remains to be $2,500; however, this revenue has not been included in the FY 2014-2015 budget.

Staff recommends that City Council authorize the City Manager to sign an amended Adopt-a-Park Agreement with Just Folks that expands the previously approved park usage fee waiver to include the waiver of permit fees with its programming in Triangle Park.

RESOLUTION BOOK NO. 36 - PAGE 389

F. RESOLUTION NO. 14-235 - RESOLUTION APPROVING THE 2013 LOCAL WATER SUPPLY PLAN

Summary: The consideration of a resolution adopting the 2013 Local Water Supply Plan as required by N.C. Dept. of Environment and Natural Resources.

Every year, the Water Resources Department is required to complete a Local Water Supply Plan (LWSP) update. On September 12, 2014, the N.C. Dept. of Environment and Natural Resources (NCDENR) issued a letter stating that the department's 2013 LWSP is complete and must be adopted by the water system's governing board. The LWSP contains a variety of information about the City of Asheville's water system, including:

- The distribution system (i.e. types/sizes of water lines);
- Water conservation programs;
- Water use (i.e. number of metered connections and average use by customer type);
- Water sales to wholesale customers;
- Monthly withdrawals from reservoirs;
- Surface water sources (i.e. locations and average monthly withdrawals);
- Wastewater discharge by the Metropolitan Sewerage District (MSD);
- Present and projected population;
- Present and future water supplies; and
- Other relevant information as NCDENR may require.

In order for the 2013 LWSP to be compliant with N.C.G.S. §143-355(l), City Council must formally adopt the plan. Once the City Council adopts the 2013 LWSP, NC DENR will change the status of the report from "Provisional" to "Compliant".

Pro:

- Adoption of the 2013 LWSP will ensure compliance with N.C.G.S. §143-355(l).

Con:

- If the 2013 LWSP is not adopted, then the City will not be compliant with N.C.G.S. §143-355(l) and may be issued a Notice of Violation from NCDENR.

City staff recommends City Council adopt the 2013 Local Water Supply Plan.

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G. RESOLUTION NO. 14-236 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE LAKESHORE DRIVE SIDEWALK IMPROVEMENTS PROJECT

ORDINANCE NO. 4354 - BUDGET AMENDMENT FOR THE LAKESHORE DRIVE SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a contract with Patton Construction Group, Inc. for the amount of $207,760 plus 15% contingency and any change orders within the project budget for the project known as Lakeshore Drive Sidewalk Improvements, City of Asheville Project #ENG-11-12-013; and (2) a budget amendment, in the amount of $43,079.04 from savings in other sidewalk projects, to provide adequate funding for the contingency and the cost of staff time for this project.

This project will build a much needed sidewalk along Lakeshore Drive and provide connectivity for the community along Lakeshore Drive to Merrimon Avenue. Pedestrians currently must walk along the road shoulder or in the street itself. The scope of work includes the installation of sidewalk, stand-up curbing, drainage structures, wheelchair ramps, driveway aprons, and utility relocations. The bids were opened on September 30, 2014, and the following is the result:

Patton Construction Group Inc., Asheville, NC	$207,760.00
Armen Construction, LLC, Charlotte, NC	$232,155.00
Land of the Sun, Inc., d/b/a Fletcher Grading Contractors	$272,936.25

Pros:

- Improves pedestrian safety.
- Encourages walking, thereby reducing carbon emissions.

Con:

- Project management and contract administration will consume staff time.

The project budget will be $260,425.04. The budget amount consists of $217,346.00 that was previously budgeted in the City's CIP, and $43,079.04 that will be allocated from savings in other sidewalk projects.

City staff recommends the City Council a resolution awarding the contract to Patton Construction Group, Inc.; authorizing the City Manager to execute the contract and any change order within the budgeted amount of $260,425.04; and adopt the associated budget amendment in the amount of $43,079.04.

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H. RESOLUTION NO. 14-237 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH MCGILL ASSOCIATES FOR THE STORMWATER ON-CALL PROFESSIONAL SERVICES CONTRACT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order with McGill Associates for the Stormwater On-Call Professional Services Contract for additional professional services for completing the design and construction administration of various stormwater projects within the City.

On June 14, 2013, the City Manager executed a contract with McGill Associates for the professional services for the stormwater on-call projects. The contract was a two year contract in the amount of $89,000. This change order will increase that contract amount to $214,000. The City has utilized the contract to assist with the evaluation of the stormwater utility fees, public meeting to discuss the vulnerabilities of the City as it relates to stormwater, and projects such as Westwood Road (currently in construction) and Westover Drive (currently in final design). The City had previously selected McGill Associates through a Request for Qualifications process in which 15 other teams had submitted.

The ongoing contract will focus on construction actives and will allow city crews to focus on maintenance activities. This work will include the design of the projects, assistance with permitting and construction administration. This was the goal for the use of the stormwater utility fee is to utilize city crews to address the maintenance concerns that exist throughout the City.

Pros:

- Provides additional design services necessary for the on-call project
- Allows the City forces to focus on the maintenance needs and design and contract out the larger projects.
- Utilize the stormwater utility fee for construction related projects

Con:

- The project management and contract administration will consume staff time and City Funds

The City's Stormwater Utility will be responsible for the cost for the professional services contract. The total contract for professional services will now be $214,000. Funding for this contract is included in the adopted FY 2014-15 Stormwater Fund budget.

City staff recommends City Council authorize the City Manager to execute change order with McGill Associates for the Stormwater On-Call Professional Services, said total professional services contract is not to exceed $214,000.

RESOLUTION BOOK NO. 36 - PAGE 397

I. RESOLUTION NO. 14-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE CONCRETE REPAIR - UTILITY CUT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $257,183.75 plus a contingency of $42,816.25 (17%) for a total of $300,000.00 with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP 14-15-001.

As part of the Street Cut Utility Program utilities that damage public concrete infrastructure during the installation or maintenance of their underground infrastructure do not perform repairs to the concrete. This is the second year that a private contractor has performed this service. The project was advertised on September 2, 2014, and the following bids were received:

Appalachian Paving and Concrete	Asheville, NC	$257,183.75
Patton Construction Group	Arden, NC	$262,235.00
Armen Construction	Charlotte, NC	$443,300.00

After the bids were opened, Appalachian Paving and Concrete, Inc. of Asheville, NC, was the lowest responsible bidder with a bid of $257,183.75. A contingency of $42,816.25 (17%) has been added to allow payment for any unforeseen costs that typically arise during construction. The work produced from this contract will ensure that concrete infrastructure damaged during utility installation will be repaired in a timely manner.

Pro:

- The previous contract eliminated our backlog of repairs. This contract will ensure that another backlog does not occur.

Con:

- Project management and contract administration will consume staff time.

The Street Cut Utility Program is an enterprise fund that is funded by fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery.

City staff recommends City Council adopt the resolution awarding the contract to Appalachian Paving and Concrete, Inc. and authorizing the City Manager to execute a contract in the amount of $257,183.75 plus a contingency of $42,186.25 (17%) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP-14-15-001.

RESOLUTION BOOK NO. 36 - PAGE 398

J. ORDINANCE NO. 4355- BUDGET AMENDMENT FOR ENERGY ASSESSMENT AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment from General Fund assigned fund balance to establish a FY15 budget in the amount of $55,000 for contracting the engineering-level energy assessment of the US Cellular Center.

In April 2011 City Council approved a resolution to set the annual municipal carbon footprint reduction goal at 4%. The mechanism Council approved to fund this initiative is the Green Capital Improvement Program (Green CIP). Through the Green CIP, the City borrowed money to fund the installation of LED streetlights and is now using the operational energy savings from that project to pay off the debt and to fund other energy saving projects. This energy assessment will be paid for out of those operational energy savings.

The US Cellular Center is the City's most energy-intensive facility, spending over $275,000 on utilities (electricity, natural gas and water/sewer) in FY14. Much of the USCC's heating, ventilation and air conditioning systems are still original from the 1970s construction, and are out of date and inefficient. This project would hire an engineering firm to do an in depth assessment of the USCC's HVAC, lighting, building envelope, plug load, controls, and water systems to determine what systems need attention soonest, and to develop a plan for deep energy savings at the facility. The $55,000 includes a 10% contingency.

Pros:

- Energy/water savings opportunities identified by the project could cut consumption by 30-50%, or more
- Capital needs assessment of aging equipment will aid in replacement planning

Con:

- None foreseen

The energy assessment will be paid out of the General Fund, from the Sustainability Division's contracted services budget. The budget amendment will appropriate $55,000 in LED streetlight savings which have been held in General Fund assigned fund balance; thus there will be no impact on the General Fund's unassigned fund balance.

City staff recommends City Council adopt a budget amendment to perform an energy assessment of the US Cellular Center.

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K. ORDINANCE NO. 4356- BUDGET AMENDMENT TO SET UP PROJECT BUDGETS FOR JOB ACCESS AND REVERSE COMMUTE PROJECTS

Summary: The consideration of a budget ordinance amendment in the City's Special Revenue Fund in the amount of $155,342 to set up the project budgets for the following Job Access and Reverse Commute (JARC) projects: 1) the Black Mountain Trailblazer route, which is operated by Mountain Mobility (Buncombe County); and 2) Employment trips to Buncombe County, which is a service provided by Mountain Projects (Haywood County).

The City of Asheville is the designated recipient of the Job Access and Reverse Commute (JARC), which is a program of the Federal Transit Administration (FTA). JARC is a formula grant program oriented to provide job access in the urbanized and suburbanized area. The formula is based on the number of eligible low-income and welfare recipients in these areas.

The job access refers to projects relating to the development and maintenance of transportation services designed to transport welfare recipients and eligible low-income individuals to and from jobs and activities related to their employment.

The reverse commute refers to a public transportation project designed to transport residents of urbanized areas and other than urbanized areas to suburban employment opportunities.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization (FBRMPO), Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. The plan was approved on March 29, 2012 by the French Broad River MPO's governing body (the Transportation Advisory Committee), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the rules to apply for projects and the projects were selected in a competitive process that was approved by the TAC.

This year's JARC projects were funded through the Statewide 2011 JARC 5316 allocation with funds that were turned over to the City of Asheville from the North Carolina Department of Transportation, as the funds were expiring in September 2014 and the FBRMPO region had already the process in place to select the new round of JARC projects.

In June 26, 2014, the projects below were selected as sub-recipients of the JARC grant. The projects are listed as follows:

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Buncombe County	Black Mountain Trailblazer	$115,381	$115,381
Mountain Projects – Haywood County Transit	Employment trips to Buncombe County	$39,961	$39,961
City of Asheville	ART Sunday Service	$112,131	$112,131
City of Asheville	Program Administration	$21,033	N/A

The City of Asheville components of the project (ART Sunday Service and Program Administration) will be accounted for in the Transit Services operating fund, and a budget amendment is not needed for those parts of the grant. The City, however, does need to set up a project budget in the Special Revenue Fund in order to pass through the funds to the other sub-recipients.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The city can use $21,033 for administration purposes.

Con:

- None.

The amount of grant funding that will be received through the JARC program to support local transportation programs totals $288,506. Buncombe County and Mountain Projects will be responsible for their sub-recipient matches. A portion ($80,000) of the City of Asheville's local match for ART Sunday service is included in the adopted FY 2014-15 Transit Operating Fund budget. The remaining match requirement will be part of the FY 2015-16 budget.

Staff recommends that City Council adopt a budget ordinance amendment in the City's Special Revenue Fund in the amount of $155,342 to set up the project budgets for the following Job Access and Reverse Commute (JARC) projects: 1) the Black Mountain Trailblazer route, which is operated by Mountain Mobility (Buncombe County); and 2) Employment trips to Buncombe County, which is a service provided by Mountain Projects (Haywood County).

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L. ORDINANCE NO. 4358 - BUDGET AMENDMENT FOR TRAFFIC SIGNAL POLE REPLACEMENT

Summary: The consideration of a budget amendment in the General Fund in the amount of $16,590 from insurance recovery funds from a damaged traffic signal pole to utilize towards the purchase of a new traffic signal pole.

On May 23, 2013, a City of Asheville traffic signal pole was knocked down by a third-party at the French Broad Street - Patton Avenue intersection and the City settled the property damage claim for $16,590. A temporary traffic signal control was installed to ensure traffic safety, however the Transportation Department seeks to utilize the settlement funds to purchase a permanent traffic signal pole.

Pro:

- Provides funding for Transportation Department traffic signal pole purchase.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the City's General Fund, where the traffic signal pole purchase will be made.

City staff recommends City Council adopt the budget amendment in the General Fund in the amount of $16,590 from insurance recovery funds to be utilized towards the purchase of a Transportation Department traffic signal pole.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. CONTINUATION OF PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT

At the request of the petitioner, Councilman Smith moved to continue this public hearing until December 9, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

B. PUBLIC HEARINGS TO CONSIDER THE CREATION OF A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT, THE SOUTH SLOPE EXTENSION, AND CHARLOTTE STREET CORRIDOR

Executive Director of Planning and Multimodal Transportation Cathy Ball said that this is the consideration of the adoption of three Municipal Service Districts (MSD's) to include the River Arts District MSD, the South Slope Extension MSD, and the Charlotte Street Corridor MSD in accordance with Article 23 of Chapter 160A of the N.C. General Statutes. These public hearings were advertised on October 3, 2014.

Following City Council's adoption of the budget in June 2013 that included a 2-cent tax increase for Community and Economic Development Capital Improvement Program, staff has been working on an implementation plan. In addition to developing a list of specific projects that would have the greatest return on investment, we have been working with Parker Poe, the City's Bond Counsel on the best ways to finance infrastructure capital improvements. She provided a memorandum from Scott Leo, an attorney at Parker Poe, detailing various methods of financing.

For the majority of the projects we anticipate constructing, Parker Poe is recommending that we pursue Special Obligations Bonds (SOB's). The City has never utilized this type of financing. One of the requirements of SOB's is that they can only be used for projects that are contained in an adopted Municipal Service District (MSD). A MSD is a geographically defined, special taxing district in which a city may levy property taxes in addition to those levied throughout the city, or utilize SOB's, in order to finance, provide or maintain services, facilities or functions specifically authorized in N. C. General Statute sec. 160A-536 for that district. Allowed projects include, but are not limited to, urban revitalization projects, street and sidewalk improvements, drainage projects, and off-street parking facilities. There is no intent to increase the tax rate in these proposed districts at this time; as previously noted, the intent is to use special obligation bonds to fund any improvements. Municipal Service Districts is the legal term of the boundaries as stipulated in the N.C. General Statutes. Staff *recommends the working name of these districts be* ***Innovation Districts.***

Staff is recommending the approval of three new MSD's this fiscal year. In 2013, City Council adopted a MSD for the Central Business District as recommended by the Business Increment Development (BID) Committee. The three additional areas are the Charlotte Street Corridor, the River Arts District and the South Slope Extension. These areas have planned infrastructure improvements in the proposed five-year capital improvement program.

Under Article 23 of Chapter 160A of the N. C. General Statutes, properties within these districts are legally eligible for an incremental tax increase. This action is not included in the request before you tonight. City Council would be required to take separate public action to establish an increase in taxes. Funding for the projects in these districts is included in the five-year capital improvement plan.

This item has been presented to the Planning and Economic Development and Finance Committees of City Council.

N.C. General Statutes require that any persons owning real or personal property within the district boundaries be notified of the public hearing to adopt these boundaries thirty days prior to the meeting. Notices went out to property owners on September 15, 2014. Additionally, the statutes require that a report describing the boundaries and the proposed improvements within the district be filed in the City Clerk's office thirty days prior to the public hearing. These reports were filed in the City Clerks office on September 15, 2014.

Staff held a drop-in meeting to answer community questions on October 6, 2014, and approximately 45 people attended the meeting.

Pro/Con Considerations:

- Allows funding mechanism for capital improvements at a lower interest rate and administrative cost than other funding methods.

- Article 23 of Chapter 160A of the N.C. General Statutes authorizes local governments to levy additional property taxes within MSD's. That is not the intention of staff to recommend this as an option or a reason to adopt a MSD. An MSD boundary must be adopted by City Council to utilize Special Obligation Bonds for specific capital projects. Staff is proposing a financing structure to pay the debt service on the bonds with funds from the 2 cent tax increase.

By utilizing Special Obligation Bonds, the City would save money on administration of issuing bonds as well as interest rates because the collateral for the bonds is more secure.

City staff recommends City Council adopt the three Municipal Service Districts (MSD's), hereinafter to be referred to as Innovation Districts, to include the River Arts District MSD, the South Slope Extension MSD, and the Charlotte Street Corridor MSD, in accordance with Article 23, Chapter 160A of the N.C. General Statutes.

RESOLUTION NO. 14-240 - RESOLUTION CREATING A MUNICIPAL SERVICE DISTRICT FOR THE RIVER ARTS DISTRICT

Ms. Ball said that some planned projects include the (1) River Arts Transportation Improvement Project; (2) Clingman Forest Greenway; (3) Town Branch Greenway; (4) 14 Riverside Drive; (5) Riverside Drive Development Plan; (6) Five-Points Round-About; (7) West-Side Greenways; and (8) low impact parking lot.

Mayor Manheimer opened the public hearing at 5:27 p.m.

Mr. Keith Jackson, owner of a residential lot on Grandview Street, said his lot is not in context with the properties included in the MSD. He was also concerned that the value of his lot will be diminished by moving the power lines closer to his property. He asked for confirmation that the service road from New Belgium to Amboy Road won't be used as a service road from New Belgium to move beer.

Brother Christopher Chiaronmonte said that this is the right of taxation without representation.

Ms. Wiggins, owner of residentially zoned lots, wants affordable housing or mixed-use housing in the area. She was concerned that the property owners will have to pay additional tax for the improvement maintenance.

Ms. Pattiy Torno, Chair of the Asheville Area Riverfront Redevelopment Commission, said that this is a way for the City to be able to finance infrastructure improvements. She spoke in support of the MSD.

A property owner on Riverview said his property was zoned residential and wondered what improvements he could expect.

Ms. Lisa Ramsey, owner of property on the edge of the RAD, was glad for any improvements to the area.

At 5:35 p.m., Mayor Manheimer closed the public hearing.

Ms. Ball responded to questions raised. She said that Ms. Wiggins' residential property is not included within the RAD MSD. Regarding Mr. Jackson's property, she said that the City obtained data from various sources and notified all real and personal property owners. It was difficult to sort out, so we erred on the side of sending the notices out to too many people. She would be happy to meet with Mr. Jackson and look at his property because she thought that on the west side of the river the only thing that was included was the area that Duke Progress owns for the greenway improvements. Regarding the question about the access road and the power lines, those are under the control of Duke Progress.

Councilman Bothwell opposed the downtown Business Improvement District because it was drawn to include a special tax for people in that area and a non-elected body to administer those taxes. We are not doing either of those in this case. Even though it does leave it open for a future Council to impose special taxes, he was comfortable in supporting this at this time.

Councilman Davis emphasized that this does not impose a special tax for people in that district. And, hopefully a return on investment will generate the cash flow that will enable the infrastructure changes, and the planning that takes place will make the property more valuable.

Councilman Smith said the reason we are doing this is to receive the Special Obligation Bonds in order to fund the infrastructure improvements rather than through property tax increases.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-240, establishing the River Arts District MSD. This motion was seconded by Councilman Smith and carried unanimously.

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RESOLUTION NO. 14-239 - RESOLUTION CREATING A MUNICIPAL SERVICE DISTRICT FOR THE SOUTH SLOPE EXTENSION

Ms. Ball said that some planned projects include the (1) Lee Walker Heights mixed-use redevelopment; (2) south Charlotte Street mixed-use redevelopment; and (3) Hilliard Avenue mixed-use redevelopment.

Mayor Manheimer opened the public hearing at 5:40 p.m.

Brother Christopher Chiaronmonte said that at anytime Council can decide to tax the people in that district.

The owner of property at 268 Biltmore Avenue asked what improvements are being planned for Biltmore Avenue.

Mr. Craig Jeffries, lives in the South Slope within the Central Business District, supported the Municipal Service Districts, but wanted to make sure that the word "Extension" was included in information regarding the South Slope Municipal Service District.

Mayor Manheimer closed the public hearing at 5:44 p.m.

Ms. Ball said that there is not a definite plan for Biltmore Avenue, but as part of the redevelopment area we would hope there is an opportunity to improve pedestrian and bicycle environment in that area. She encouraged the public to attend the multi-modal symposium on October 25, 2014, at the U.S. Cellular Center from 9:30 - 12:30 to get their views included in priorities in the plan.

Mayor Manheimer also noted that this particular area includes a complicated partnership to redevelop the Lee Walker Housing Project.

City Manager Jackson noted that the language of the resolution does include the word "Extension."

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-239. This motion was seconded by Councilman Pelly and carried unanimously.

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RESOLUTION NO. 14-241- RESOLUTION CREATING A MUNICIPAL SERVICE DISTRICT FOR NORTH CHARLOTTE STREET

Ms. Ball said that some planned projects include multi-modal improvements to (1) widen sidewalks; (2) underground utilities; and (3) streetscape improvements.

Mayor Manheimer opened the public hearing at 5:46 p.m.

Mr. Steven Brady, owner of property on Charlotte Street, was concerned that at some point in time the debt will fall to the property owners to repay. He was also concerned about how the City will deal with little or no rights-of-way for sidewalks on Charlotte Street.

A resident on Montford Avenue was excited to see a neighborhood corridor and encouraged the Council to add as much on-street parking as possible to enhance the pedestrian experience and slow cars down.

Mr. Ken Michalove felt that Charlotte Street is a neighborhood street not a major traffic corridor. He felt that Merrimon Avenue is a major corridor and should be improved by the N.C. Dept. of Transportation. He felt it was wasteful to invest $3 Million into Charlotte Street improvements.

Mayor Manheimer closed the public hearing at 5:52 p.m.

City Manager Jackson said that the debt is not tied to the property - it is city-wide debt.

Ms. Ball said that if the right-of-way for sidewalks is not available or occupied by a building, there may be instances were we would not get a full 10-foot width sidewalk. We might try to meander the sidewalk and there may be a short distance that we don't have a sidewalk. Until the design is complete, we don't know all the answers.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-241. This motion was seconded by Councilman Smith and carried unanimously.

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E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS

At staff's request, Councilman Davis moved to continue this public hearing until December 9, 2014. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. GRAFFITI REMOVAL INITIATIVE

Public Works Director Greg Shuler said that staff is requesting guidance from Council on how to best proceed with the Graffiti Removal Initiative as it relates to the removal of large sites.

On September 23, 2014, Council approved an extension of the $500 clean up assistance to property owners that had graffiti on their property, and signed a waiver. This extension applies only to those that haven't taken advantage of the initiative previously. The timeframe for this extension lasts until September 30, 2015, or until the allocated funds have been spent.

There was much discussion on how better incentivize owners that had larger areas of graffiti to be removed. Council asked that staff return with more details and possibilities to fairly distribute funds and remove more graffiti.

Program goals include (1) remove graffiti; and (2) manage a sustainable program for long term success in the eradication of graffiti.

Once guidance from Council has been received, staff will abide by the approved ordinance to inform owners of the presence of graffiti on their property, and offer assistance as approved by Council, until the time extension has elapsed, or the allocated funds have been spent.

Pros:

- Potential increase in the removal of more graffiti in Asheville.
- A more vibrant, safer feeling community.
- Higher Quality of Life for our citizens

Con:

- City resources utilized on private property

The fiscal impact is that $300,000 was already included in the FY 2014-15 general fund budget for contracts associated with the City's graffiti removal initiative. The FY 2014-15 adopted budget also includes $200,000 for administrative costs associated with this program.

City staff requests that Council consider the alternatives and offer direction on how to proceed with the graffiti removal initiative.

As of October 13, 2014, the Clean-Up Initiative has funded graffiti removal of 198 incidents using 17% or $50,400 of the allocated $300,000. Our current inventory of known graffiti sites include 90 properties.

Staff has reached out to many of the property owners in the community to get a feel for why they haven't taken advantage of the initiative, or cleaned the their property on their own. The following are their responses: (1) Most stated that they felt it would just happen again; (2) They all stated that they had already cleaned the area before, only to have it vandalized again; (3) Most said that they couldn't afford to remove it; and (4) A few said they may pay a minimal amount towards the removal.

Out of the current inventory of 90 known graffiti sites, as of October 9, 2014, outstanding properties consist of $0-500 - 64 properties; $501-5,000 - 19 properties; $5,001-10,000 - 3 properties; and $10,001-28,000 - 4 properties.

Alternative Proposal #1 - Keep program as is. Pay $500 as a one-time City contribution to remove graffiti on properties that haven't utilized the program before. Timeline would last until September 30, 2015, or until funds are exhausted.

Alternative Proposal #2 - 100% 1-time clean-up with no max amount. As of 10/09/2014 the program has spent $50,400 on clean-ups. There are 90 outstanding properties with a projected clean-up cost of $159,950. Equaling a projected total of $210,350.

City staff recommends that we select the first alternate. Based on discussions with many of the owners with impacted properties, there doesn't seem to be an equitable way to distribute additional funds for the larger sites in this initiative.

Vice-Mayor Hunt noted that we need to make it clear that the duty is ultimately the responsibility of the land owner. City Attorney Currin said that there is a two-step enforcement process - one is to send a notice of removal and then is no response a subsequent notice of violation. Throughout that process staff will continue to work with the property owner.

It was the consensus of Council to proceed with the current program - Pay $500 as a one-time City contribution to remove graffiti on properties that haven't utilized the program before. Timeline would last until September 30, 2015, or until funds are exhausted.

VI. NEW BUSINESS:

A. ORDINANCE NO. 4358 - BUDGET AMENDMENT TO APPROPRIATE ADDITIONAL FUNDS ANTICIPATED TO BE COLLECTED IN FISCAL YEAR 2014-15 FROM DEVELOPMENT SERVICES REVENUE GROWTH FOR ONGOING GENERAL FUND NEEDS AND TO APPROPRIATE EXCESS FUND BALANCE FROM THE HEALTH FUND AS A TRANSFER TO THE GENERAL FUND TO BE ALLOCATED FOR THE CLASSIFICATION AND COMPENSATION STUDY AND OTHER ONE-TIME NEEDS THAT BENEFIT ALL DEPARTMENTS

RESOLUTION NO. 14-242 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SEGAL WATERS

CONSULTING FOR A CITY-WIDE CLASSIFICATION AND COMPENSATION STUDY

Assistant City Manager Paul Fetherston said that this is the consideration of (1) a budget amendment , in the amount of $300,000, to appropriate additional funds anticipated to be collected in Fiscal Year 2014-15 from development services revenue growth for ongoing General Fund needs; (2) a budget amendment, in the amount of $200,000, to appropriate excess fund balance from the Health Fund as a transfer to the General Fund to be allocated for the Classification and Compensation Study and other one-time needs that benefit all departments; and (3) a resolution authorizing the City Manager to sign a contract for $150,000 with Segal Waters Consulting for a city-wide Classification and Compensation Study.

Development Related Revenue Growth

As the local, regional and national economy continues to recover, the City of Asheville experienced a marked increase in development related revenue in Fiscal Year (FY) 2013-14 with $1.1 million more collected than in FY 2012-13. While this increase was noted during the development of the FY 2014-15 budget, in an abundance of caution, additional development related revenue was budgeted at $800,000 over FY 2013-2014 budget.

Development related revenue received in the first quarter of FY 2014-15 has been better than anticipated with more than $850,000 collected by the end of September. If collections continue at this rate, total revenue for the year could be as much as $3.4 million. Based on the healthy activity the City is experiencing in the area of development related revenue, staff recommends that Council consider and authorize an increase of $300,000 in anticipated revenue which would raise revenue levels in FY 2014-15 to $3.2 million. Staff is confident that this proposed increase in development related revenue is sustainable moving forward.

The corresponding expenditures for the increase in revenue would be focused on retention of resources in Development Services, and improvements in the effectiveness and function of the Human Resources and Communications departments.

As a result, the following is recommended for Council consideration and action:

- Amend the General Fund budget to allocate an additional $300,000 in Development Services revenue to fund ongoing needs in the General Fund. Because this budget amendment increases both revenue and expenditures, there is no impact on General Fund balance.

If approved, the funds would be allocated as follows:

1) Address retention in the Development Services Department (DSD)

   The DSD is experiencing high turnover due to a number of factors including the (a) healthy economic recovery in the construction trade; and (b) salaries for the current incumbents are currently below market rates. The allocation of funds generated by development services to improve retention and make the department more competitive when hiring will significantly benefit the department, organization and the customer service the City is able to provide.

2) Reengineer the Human Resources Department's (HR) internal service model – 2.0 FTE increase

   In an effort to maximize support for departments in providing services to the community, HR has been evaluating its internal service model and has concluded that a change in organizational structure and a redefining of roles within the department will significantly

benefit the organization as a whole. HR intends to implement a Human Resource Consultant model in which full time employees in the role of HR Consultants will each be assigned to work with particular departments. This model allows each consultant to work as a strategic partner in supporting each department accomplish their goal and objectives, identifying opportunities and challenges, and working to improve internal customer service and efficiency.

3) Reengineer the City of Asheville Communication and Public Engagement Model – 1.0 FTE increase

In order to maximize the effectiveness of the Communication and Public Engagement Division, City Staff has proposed a model in which communication specialists will be assigned to specific departments within the City. This "embedded" model will allow the City to more effectively message taxpayer investments in core services, programs and projects and City Council vision and priorities to both the community and media. Assignments will rotate over time which will improve staff's depth of knowledge and improve continuity of communication support for all levels of the organization both internally and externally.

Health Fund

The City of Asheville's health insurance plan for employees is a self-insured program. This means that each year, the City budgets for a third party to administer its health insurance program based on actuarial estimates for claims. Depending on the City's actual experience in health insurance claims, the city can run at estimate, at a deficit or at a surplus.

FY 2013-14 was a good year for the City's self-insurance program. Revenues from premiums were approximately equal to expenditures on claims, leaving a $2.4 million fund balance in the Health Fund. Based on existing City Policy, a balance of $1.3 million is recommended to be held in reserve. As a result, the City currently has $1.1 million available in unrestricted fund balance which can be reappropriated under certain circumstances.

Fund Balance, Health Fund:	$2.4 million
Reserve Requirement:	$1.3 million
Available unrestricted fund balance:	$1.1 million

The following is recommended for Council consideration and action:

- Amend the Health Fund and the General Fund for a transfer of $200,000 from the Health Fund to the General Fund for the classification and compensation study to be completed by Segal Waters Consulting and other city-wide needs and improvements.

The funds shall be allocated for the classification and compensation study which will be completed in time to influence the fiscal year 2015-16 budget process. Any remaining funds will be used to fund one-time expenditures that benefit the organization as a whole.

Segal Waters was selected after a Request for Proposal (RFP) process, staff review and interviews with the responding firms determined that the services offered by Segal Waters were the most compatible with City of Asheville goals.

Pros:

- Increased expertise and efficiency of Communications Department.
- Increased effectiveness of Human Resources.
- Improved meeting and training space.

Con:

- None.

The $300,000 additional expenditures and offsetting revenue have a zero net effect on the General Fund financials. The transfer of $200,000 from the Health Fund to the General Fund will decrease fund balance in the Health Fund. This transfer in will cover one-time expenditures anticipated to benefit all departments and will have zero net effect on the General Fund Financials.

City staff recommends City Council approve (1) the budget amendments in the amount of $300,000 and $200,000, to appropriate funds anticipated to be received from development services activity and a transfer from the Health Fund, respectively; and (3) adopt a resolution authorizing the City Manager to enter into a contract with Segal Waters Consulting for a Classification and Compensation Study.

Mayor Manheimer said that members of Council have been provided with copies of the ordinance and resolution and they would not be read.

Councilman Smith moved to adopt Ordinance No. 4358. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 261

Councilman Smith moved to adopt Resolution No. 14-242. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 - PAGE 411

B. BOARDS & COMMISSIONS

Regarding the Recreation Board, the following individuals applied for the vacancy: Brian Rowland, Forrest P. Merithew and Dean Pistor. It was the consensus of Council to interview Brian Rowland and Forrest Merithew.

Regarding the Planning & Zoning Commission, the following individuals applied for a vacancy and completed the necessary paperwork: Mark DeVerges, Colin Dennehy, Laura Berner Hudson, Peter Alberice and Arthur Ollendorff; and the three seated members Jeremy Goldstein, Jane Mathews and Kristy Carter. Mr. Dean Pistor withdrew his application. Mr. Richard Fort and Mr. Eric Workman did not submit written responses and are not eligible to be considered. The Boards & Commissions Committee recommended, and it was the consensus of Council, to interview Laura Berner Hudson, Peter Alberice and Arthur Ollendorff; in addition to the three seated members Jeremy Goldstein, Jane Mathews and Kristy Carter. Interviews will be held on October 28, 2014.

RESOLUTION NO. 14-243 - RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Homeless Initiative Advisory Committee.

The terms of Charles Rosenblum, Sabrah n'haRaven and Jay Lively expire on November 1, 2014.

The following individuals applied for a vacancy: Allison Bond, Carrie Pettler, Kristi Case and Warren Furmann.

The Boards & Commissions Committee recommended reappointing Mr. Rosenblum, Ms. n'haRaven and Mr. Lively.

Councilman Smith moved to reappoint Charles Rosenblum, Sabrah n'haRaven and Jay Lively as members to the Homeless Initiative Advisory Committee to each serve a three-year term, terms to expire November 1, 2017, or until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Michalove felt that terminating the lease between Pack Place and the City of Asheville was a "colossal illegal boondoggle." He provided Council with a list of at least 20 things he felt was wrong with the action.

Brother Christopher Chiaronmonte felt that Council should reestablish prayer at City Council meetings.

Mr. Jonathan Robert felt there was severe mismanagement of the Asheville Police Department under Police Chief William Anderson.

Mr. Timothy Sadler thanked Council for their courage to fly the gay pride flag. He then suggested creating an Asheville Artists Residency Program.

Mr. Tim Harrison questioned if the City's policy on domestic partner benefits for City employees is now outdated and no longer needed.

Ms. Judy Strong was opposed to City Council flying the gay pride flag. She was also upset that City Council proceed with direct leases at Pack Place.

Closed Session

At 6:37 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:04 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:04 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – October 28, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

ADDITION TO AGENDA

Mayor Manheimer announced that a presentation will be made by City Manager Gary Jackson regarding the Strategic Operating Plan for the Asheville Police Department, under Presentations.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER, 2014, AS "ADOPTION AWARENESS MONTH"

Mayor Manheimer read the proclamation proclaiming November, 2014, as "Adoption Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Tammy Shook, Foster Care Program Administrator for Buncombe County Health and Human Services, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 14, 2014

B. ORDINANCE NO. 4359 - ORDINANCE ENACTING AND/OR CHANGING THE SPEED LIMITS AS FOLLOWS: 20 MPH SPEED LIMIT ON OAKWOOD STREET FROM HAYWOOD ROAD TO END OF CITY MAINTENANCE; AND 25 MPH SPEED LIMIT ON CATAWBA STREET FROM BROADWAY STREET TO CUMBERLAND AVENUE, CISCO ROAD FROM OLD HAW CREEK ROAD TO END OF CITY MAINTENANCE, RED OAK ROAD FROM LAKESHORE DRIVE TO ELLENWOOD DRIVE, AND WAYNESVILLE AVENUE FROM CRAVEN STREET TO WESTWOOD PLACE

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of streets in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed

limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit on Oakwood Street from Haywood Road to End of City Maintenance, and a 25 mph speed limit on Catawba Street from Broadway Street to Cumberland Avenue, Cisco Road from Old Haw Creek Road to End of City Maintenance, Red Oak Road from Lakeshore Drive to Ellenwood Drive, and Waynesville Avenue from Craven Street to Westwood Place would be reasonable and safe.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $450.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $450.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 20 mph speed limit on Oakwood Street from Haywood Road to End of City Maintenance, and a 25 mph speed limit on Catawba Street from Broadway Street to Cumberland Avenue, Cisco Road from Old Haw Creek Road to End of City Maintenance, Red Oak Road from Lakeshore Drive to Ellenwood Drive, and Waynesville Avenue from Craven Street to Westwood Place.

In response to Councilman Smith, Transportation Director Ken Putnam said that the Haywood Road Corridor Study is underway now and is anticipated to be complete in the spring of next year.

ORDINANCE BOOK NO. 29 - PAGE 263

C. RESOLUTION NO. 14-244 - RESOLUTION TO SET A PUBLIC HEARING ON DECEMBER 9, 2014, TO CONSIDER PERMANENTLY CLOSING A PORTION OF WESTOVER ALLEY

Summary: The consideration of a resolution of intent to permanently close a portion of Westover Alley and setting a public hearing on December 9, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner Matt Depofi has requested the City of Asheville to permanently close a portion of Westover Alley.

The Multimodal Transportation Commission met on September 24, 2014, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties

- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Westover Alley and set the public hearing on December 9, 2014.

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D. RESOLUTION NO. 14-245 - RESOLUTION AMENDING THE 2014 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE NOVEMBER 25, 2014, FORMAL MEETING

RESOLUTION BOOK NO. 36 - PAGE 415

E. RESOLUTION NO. 14-246 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE NORTH CAROLINA GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR HIGHWAY SAFETY GRANT FUNDS

ORDINANCE NO. 4360 - BUDGET AMENDMENT TO RECEIVE HIGHWAY SAFETY GRANT FUNDS

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for highway safety grant funds to purchase equipment for the Traffic Safety Unit; and (2) an associated budget amendment in the amount of $20,000.

The Asheville Police Department currently participates in the North Carolina Governor's Highway Safety Program Highway Safety campaigns. In order to facilitate better participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance communication and effectiveness. The Asheville Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for GHSP Region 10 covering Buncombe, Henderson, Madison, Mitchell, Polk, Rutherford, and Yancey counties.

In addition to purchasing equipment for the Traffic Safety Unit, funding would also cover the costs associated with training for officers and cover travel expenses for the Regional Liaison duties. The expenses created by the purchase of the equipment and the duty related travel are reimbursed by the Governor's Highway Safety Program through the National Highway Traffic Safety Administration. There is no local match of funds required for this grant.

Pros:

- Reimbursement revenue to cover the cost of obtaining the needed equipment including body cameras, CDR Software subscription, computer, tool kits, ARAS 360 Certification, and polo shirts.
- Reimbursement revenue to cover the cost of necessary training and travel related to highway safety duties and operations.

Con:

- Dedicate the staff hours for the officer charged with the liaison duties to accomplish the goals stated in the grant contract.

This budget amendment is fully funded with grant revenue and there is no impact to the General Fund budget.

City staff requests City Council to adopt (1) a resolution authorizing the City Manager to enter into an agreement with the N.C. Governor's Highway Safety Program to provide a Regional Law Enforcement Liaison and fund equipment and training; and (2) the associated budget amendment in the amount of $20,000.

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ORDINANCE BOOK NO. 29 - PAGE 264

F. RESOLUTION NO. 14-247 - RESOLUTION AUTHORIZING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR CITY-OWNED PROPERTY AT 30 ROCK HILL PLACE

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 0.34 acres (approx. 14,800 square feet) of real property located at 30 Rock Hill Place to Sayco Equity Fund.

The City of Asheville owns a parcel of property located at 30 Rock Hill Place. (PIN # 9656-28-0496). This property is improved with a manufactured home on a .34 acre lot. The tax assessed value of the land is $32,300 and the building is valued at $6,800 for a total of $39,100. It was built in 1967 and rehabilitated in 1996 using Community Development Block Grant funds (CDBG). The rehabilitation loan was in the amount of $39,000. The private owner went into foreclosure over its original mortgage in 2013 and the City purchased the property at auction to protect its position as the second lien holder. The purchase price was $30,611.96.

The City of Asheville purchased the property in January of 2014 with the intent to market and sell the property in order to recover as much of our CDBG investment as possible. In February, the Housing and Community Development Committee (HCD) and the City Council approved a sealed bid process. The services of Keller Williams Real Estate were secured to market the property in March of 2014. These services included marketing the property on MLS, acquainting local brokers with the property and performing showings. The public bid opening and subsequent award were scheduled for early April. Unfortunately, no bids were received. City staff continued to market the property and worked with local affordable housing partners in hopes of a negotiated settlement. No offers were received in the target range of $55,000 to $70,000. This property has limited market appeal because of the condition of the structure and the need for extensive repairs necessitates a cash buyer. Although it was originally thought that the property could be subdivided into two buildable lots, we discovered that access to sewer for the second lot would have required an easement over an adjoining property. In September of 2014, a bid was received from Sayco Equity Firm for $33,700.

Funds from the sale of the property will be used to repay the City of Asheville for funds expended in order to purchase the property. Any remaining profits will be used to repay the CDBG loan fund which was the original source of funding for the rehabilitation loan. The CDBG funds accomplished a national objective and were used for an eligible activity, so the City has no further obligation regarding those funds. The Housing and Community Development Committee (HCD) considered this action at their meeting on October 21, 2014, and recommends accepting Sayco Equity Firm's offer to purchase.

Considering the fact that the City of Asheville has already expended funds to market the property and the City is unlikely to recover the CDBG loan funds, the method to establish fair market value is the upset bid process set forth in NCGS 160A-269. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the bid of $33,700. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of

the remainder (i.e. $35,435 or higher). Since the function of the upset bid process is to confirm fair market value, the resolution provides that if no qualifying, competing bid is received, then the City Council agrees to convey the parcel to Sayco Equity Fund for $33,700.

Pros:

- Private sale will convert public land into taxable real property and will relieve the City of Asheville of ongoing maintenance responsibility.
- The City will recover funds spent to purchase property out of foreclosure, to market the property and to support ongoing maintenance.

Con:

- The City of Asheville is unable to recover the CDBG funds originally invested in the amount of $39,000.

The sale will allow the City of Asheville to recover the $30,611.96 that was spent to purchase the property and prepare it for sale. Any remaining profits will be spent to replenish the CDBG loan fund.

City staff recommends City Council adopt a resolution directing the City Clerk to advertise for upset bids for a property located at 30 Rock Hill Place.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. WATER MAIN TRANSMISSION LINE PROJECT UPDATE

Mr. Rick Carrier, Vice-President of Brown and Caldwell, said that two pipelines carry over 70% of Asheville's water. He provided a project overview citing next steps for easement protection, and operating and capital investments.

In summary, Water Resources Director Steve Shoaf said that the pipeline is in excellent condition with 50+ year service life expected; values and vaults are being systematically refurbished; Capital Improvement Plan will be scheduled to improve protection; and policies needed for easement acquisition, maintenance, and encroachments.

When Councilman Bothwell asked about homes that are built over water lines that need repair, Mr. Shoaf said that they are trying to determine if there are existing policies in other jurisdictions to use as a model. He said we are not only concerned about the pipe, but also concerned about the safety of the homeowner.

In response to Councilman Smith, Mr. Shoaf said that the City of Asheville is on the leading edge of the process to assess smaller lines. He said their provider is willing to talk with the City about assessing the smaller lines; however, the City wants to see the results of their

assessment of the larger lines. He did note that they do have a program for replacing smaller lines.

B. DOMESTIC VIOLENCE PLAN

The Honorable Rebecca Knight reviewed the Buncombe County Domestic Violence Comprehensive Plan (Plan). From 2008-2013, there were 679 domestic violence murders in North Carolina. Twenty-four domestic violence murders were in Buncombe County. The Buncombe County Comprehensive Plan has been working in partnership with the Mission Women and Children's Safety Coalition to meet common objectives to reduce homicides, improve reporting and to improve the delivery of services to victims and offenders. The Plan (1) layers multiple programs for better outcomes; (2) each program is an evidence-based best practice; (3) objective is to hold offenders accountable and keep victims safety; and (4) strategies are individualized to meet the needs of our community.

The Plan's "eNOugh" Campaign includes increasing public awareness, focus on deterrences, engage in a High Risk Team, evaluate dangers to victims, track offenders for victim safety, and improve communication.

Law enforcement strategies include (1) offender focused deterrence; (2) domestic violence High Risk Team; (3) lethality assessment Program for first responders; and (4) electronic monitoring.

With intimate partner homicides, they can be predicted, they can be prevented; and there is an opportunity for intervene. She explained the lethality training, and the Domestic Violence High Risk Team. She reviewed the Massachusetts Model High Risk Team Six-Year Study. She then explained the electronic monitoring and domestic violence offender focused deterrence. She gave statistics from the High Point Domestic Violence Focused Deterrence Outcomes. Message to the offender is (1) we do not tolerate domestic violence in our community; (2) we will not tolerate your domestic violence behavior and there will be consequences; (3) we care about you and will refer you to services if you want help (such as substance abuse, employment, mental health); and (4) domestic violence has long term damaging effects on your children and family. She gave statistics for the Maryland LAP from 2006-2010.

On behalf of City Council, Mayor Manheimer thanked Ms. Knight and all those who have worked on this very important issue.

C. DUKE ENERGY PROGRESS - ASHEVILLE PLANT AND FUTURE PLANS FOR THE PLANT

Mr. Jason Walls, District Manager for the Asheville Region of Duke Energy Progress, updated City Council on the regional operations/community investments. They employ over 300 local employees, contribute $3 Million in local taxes, have 1,350 miles of transmission/distribution lines, and have 3 power plants - Asheville Plant, Marshall Plant (hydro), and Walters Plant (hydro). Community investment focus areas are (1) economic and workforce development; (2) education - STEM and Early Childhood Literacy; (3) environmental; and (4) community vitality/cultural enrichment. They have made over $1 Million in local investments in 2014, and there have been 13 community service projects lead by employees.

Regarding the coal ash update, they are in a partnership with the Asheville Regional Airport. The project began in 2008 and will end in 2015. Beneficially reuses 4 million tons of coal ash in a safe state-of-the-art project. This has created 40+ acres of usable land for aeronautical development. Duke Energy has already committed to excavating the coal ash at Asheville and closing the ash basin, which is reflected in Coal Ash Management Act of 2014. The new N.C. Coal Ash Management Act sets August 1, 2019, as the deadline for closing the Asheville coal ash impoundments. They are currently planning on how to meet this aggressive timeline and are

focused on safe and sound solutions that protect groundwater and the environment. They continue to evaluate a number of options related to the operations of the Asheville site (handling fly ash dry, retiring the plant, additional transmission support, etc.). This evaluation is ongoing and in the next few months they will have a better idea of their future plans.

Mr. Walls explained the peak customer demand, the supply resources they have; and the reserves for emergencies. He then provided statistics of the Asheville Power Plant.

Two ways they are investing in the electric system to serve the customers are as follows: (1) improving reliability and capacity for existing transmission and distribution infrastructure (a) ongoing work is rebuilding West Asheville Transmission Lines (west side of the river); (b) the last substation to serve customers in downtown Asheville was built in 1975; (c) electricity demand has more than doubled; and (4) three substations are needed to serve separate load centers (i) work is underway not to identify those sites; and (ii) they will work closely with city leaders to site and build these stations; and (2) increasing the transmission capacity for customers in Western North Carolina (a) exploring new transmission upgrades to tap into the broader system across the Carolinas; (b) benefits (i) improve overall reliability to homes, schools and businesses; (ii) provide access to the most cost effective source of electricity for customers; and (iii) allow the Asheville Plant to operate less, further reducing emissions; and (c) no decision has been made, but careful and deliberate analysis is being done.

Mr. Walls responded to various questions/comments from Council, some being, but are not limited to: with Duke Energy's partnership with the City's Sustainable Advisory Committee on Energy & the Environment, there be opportunities to find ways to reduce the City's overall energy use; do they know what the cost of the transmission option will be; and is Duke Energy looking at new lithium battery plants.

When Councilman Smith asked how can the City and the community be a partner in helping Duke Energy make some decisions around the coal plant, Mr. Walls said that that the City always has the right to participate in regulatory proceedings, and he encouraged the City to continue promoting and encouraging energy efficiency.

Mayor Manheimer thanked Mr. Walls for his willingness for open dialogue, noting the good partnership between the City and Duke Energy.

D. APPROACH TO REVIEW AND IMPLEMENT THE STRATEGIC OPERATING PLAN FOR THE POLICE DEPARTMENT

City Manager Jackson said that we are going through a significant change process coming out of the May, 2014, adoption of the 3-year Strategic Operating Plan (Plan) for the Asheville Police Department (APD). The SOP calls for major change. Since that time, internal teams of APD employees have been gearing up to carry out the Plan. Six teams have been formed around the following areas: recruitment and retention; leadership; organizational structure; equipment and technology; community quality of life; and agency outreach and communication. Their work will go on through the course of this Plan and bring about the Plan changes identified in each of these areas. Significant progress is being made in all six areas. The Plan is a navigation tool and we need to stay on course. To ensure that we stay on course in progress and positive change and organizational development, we need to give it our full support. We are proceeding in this path because we continue to place the highest importance on the APD. We care about each and every employee at the APD and the valuable service they provide for us every day.

He said that the highest level of management support that we can give is in two steps. The first action is to enlist Fire Chief Scott Burnette to serve as the facilitator of the cultural and organizational changes to be facilitated under the Plan. Chief Burnette was recognized at a state and national level for his Department's success in undertaking a similar process in recent years. Moving forward, Chief Burnette will be facilitating an internal multi-disciplinary team including employees throughout the APD. Chief Burnette's facilitation will allow Police Chief Anderson and his police team to stay focused on the day-to-day operations of keeping us safe while the Plan moves forward. The second management action is to enlist a management consulting firm. The firm will have principally three roles (1) perform diagnostics - third party to provide us with an objective review of the six areas and to give us that independent view of what we should consider and what are best practices in the field; (2) to provide additional avenues to receive employee input - we knew the Plan was going to be a dynamic tool so it's important that we keep lines of communication open at all times; and (3) to examine organizational culture.

He said that over the next 7-10 days, we will finalize the scope of work for the management consultant and determine the fee structure. Chief Burnette, Chief Anderson, Human Resources staff, Communications staff, and Finance & Budget staff are already working together. Additionally, the national consultants in this area, with proven track records, are being contacted by his office. He hoped to have the management consultant engaged within 30 days. We anticipate the engagement will take approximately 120 days and will keep Council updated.

All Council members spoke about their great respect for the men and women in the APD and how they don't need to be distracted with internal issues within the department. The bottom line is providing a service to the community and keeping our citizens safe. They encouraged the APD employees and the community to be patient and support this effort going forward. Council will be asking for accountability and progress

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNNAMED ALLEY OFF BROAD STREET

At the request of City staff, Councilman Smith moved to continue this public hearing until January 13, 2015. This motion was seconded by Councilwoman Wisler and carried unanimously.

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING A PORTION OF BRADLEY STREET

Mayor Manheimer announced that this item has been withdrawn from consideration.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-250 - RESOLUTION APPROVING THE NAMING RIGHTS AGREEMENT BETWEEN THE ASHEVILLE ART MUSEUM AND THE NORTH CAROLINA STATE EMPLOYEE'S CREDIT UNION FOUNDATION FOR THE NAMING OF A PORTION OF THE PLAZA LOCATED AT 2 S. PACK SQUARE

Assistant City Attorney Jannice Ashley said that this is the consideration of a request to approve a naming rights agreement between Asheville Art Museum (AAM) and the NC State Employee's Credit Union Foundation (SECU) for the naming of a portion of the Plaza located at 2 S. Pack Square, proceeds to benefit the AAM capital campaign for the major renovation of the museum.

The City and AAM have entered into a lease for a portion of the city owned property located at 2 Pack Square for continued use as an art museum. As part of the lease negotiations, the AAM has long made clear its plans for a major, multi-million dollar renovation of the museum space and its need to raise funds to accomplish this renovation. As part of these fund raising efforts, it was anticipated by both AAM and the City that AAM would be permitted to raise funds through the granting of naming rights. Specifically, section 1(i) of the Lease regarding "Programmable Area" states, that "*advanced written approval by the City shall be required for any signage and naming rights in the AAM Programmable Area*" and further states that, "*any such approved use may not impair public access or use of City rights of ownership*".

A formal request from AAM regarding its naming rights agreement with SECU has been received. In summary, SECU has agreed to donate $1.5 million toward the museum renovation in return for the ability to name the plaza area in front of the main art museum entrance "SECU Plaza". The donation is tied to the museum's ability to achieve a certain level of its capital campaign goals and to begin the renovation. Approval of the signage shall be subject to all usual City review requirements and regulations. The City is not a party to the naming rights agreement and bears no responsibility for ensuring that the terms of the agreement are met. The term of the naming rights runs with the term of the lease.

The aforementioned lease provision did not specify the process for city approval. However, staff has researched past and current procedures and policies for the granting of approval for naming rights and has determined this process for approval of the current request before the Council, is consistent with past and present procedures. For example, in 2004, the City Council granted the Pack Square Conservancy the ability to manage naming rights for the park in order to raise funds for park improvements. Generally, major park features were named for individuals or organizations that had made significant historic or cultural contributions to Western North Carolina. More recently, in March 2014, City Council adopted a policy for the naming of publicly owned properties that stated, among other things, that consideration should be given for naming property for individuals or organizations that had made significant financial or civic contributions to the City of Asheville and more generally, to recognize noteworthy individuals and or organizations that have served the community with honor and distinction. While this policy provided general guidelines for the naming of public property, it specifically stated that it did not limit Council's authority to use its discretion based on the facts and circumstances surrounding a particular issue.

As AAM's letter of request outlines, SECU is an organization which has been an active financial supporter of important community endeavors both in Asheville and throughout North Carolina and as such, is the kind of organization for which the City has tended to favor the granting of naming rights.

Staff recommends that the City Council determine whether to approve the AAM granting of naming rights for a portion of the Plaza at Pack Square to SECU.

Vice-Mayor Hunt said that the SECU has in good faith committed $1.5 Million to improve a City-owned building. The funding comes from contributions the members from the credit union. The SECU is a great partner to many communities in the state. We do have imperfect circumstances in this case, however. The lease agreement with the AAM does contemplate naming rights outside the building and it requires City approval to grant those naming rights. We know that the AAM entered into a contract with SECU for this grant money and promised naming rights. That was not correct. Individual Council members and City staff spoke with the leadership of the AAM and they know this is distressing to the City. This is not an acceptable way to move forward in the future. The process had not been good to date nor has there been any public or stakeholder groups' engagement. But, the final product is not out of character what goes on in naming rights across Pack Square Park. He felt the downside of stopping the process now and re-create a process might end up with a lost opportunity and he was not in favor of that. A delay

would not be good for this community or for this project or good for funding partnerships that we need to rely on to get capital projects done in our community.

Vice-Mayor Hunt moved for the adoption of Resolution No. 14-250, with the following conditions: (1) In addition to being subject to all signage requirements provided by the UDO, all aspects of the naming rights signage including placement, design, aesthetic qualities shall be subject to final review and approval by the City Manager; and (2) the duration of the naming rights will be limited to the duration of the AAM lease and any agreement between the AAM and SECU shall clearly reflect this fact. This motion was seconded by Councilman Davis.

Councilwoman Wisler thanked SECU for the investment and support for the AAM. She didn't feel comfortable in pulling that ability for the AAM to get the naming rights, but was uncomfortable with the fact of the lack of communication and timeliness to bring this issue before City Council. She hoped that in the future the AAM will commit to communication better and on a timelier basis.

Councilman Bothwell was glad that the City Manager will have final review of the design because the design did concern him. In terms of naming, many things have been named without going through Council approval, i.e., Roger McGuire Green vs. City County Plaza.

Vice-Mayor Hunt noted that the lease provides for the AAM to have additional naming right opportunities, so he cautioned them to be diligent and responsible.

Ms. Kim McGuire, representing the AAM Board, said the Board shares Council's concern about the process and they are determined to do well by this for the future. They have been hard at work and in deep discussions about what the Museum and cultural center will be in the future. They have attempted to follow the plans set forth through the lease. They are very committed to respecting that this is a public space and should be honored in the right way. At the same time they have been working very hard to raise funds for this project. They are proud that they are very close to $17 Million toward their ultimate goal, including this investment from the SECU. She expressed appreciation to SECU members who donate $1/month to cultural, health and other high impact projects. Naming opportunities are an essential part of any capital project and they pledge to work openly going forward, noting that all final approval rests with City Council.

Mr. Tracey DeBruhl said that since this is a long term lease, the control can always come back to the City.

The following individuals spoke in opposition of the resolution to approve naming rights nor should it add any names to the area know as South Pack Square for various reasons, some being, but are not limited to: Asheville's history - this area already has a name dedicated in 1903 - Pack Square; no opportunity for dialogue amongst stakeholder groups, such as the Downtown Commission; is there any kind of prohibition for the City in conveying interest in a public street, sidewalk or square to private groups; by granting the naming rights Council will violate the public trust by giving away the City's assets to one non-profit in Buncombe County who can then sell them for their own purposes and control; how can public property be conveyed for private purposes; favoritism is given to one non-profit in Asheville for one organization's capital campaign is a slippery slope; the name SECU does not meet the criteria in the naming of publicly owned properties policy adopted by City Council in March, 2014; Council should have asked the Buncombe County Commissioners for their input; entire process was flawed, secretive and not transparent; and public not given the opportunity to read the signed lease:

Ms. Leslie Anderson
Mr. Adrian Vassallo, member of the Asheville Downtown Association and Asheville Downtown Commission
Mr. Ken Michalove
Mr. Jerry Rice, County resident

Mr. Ted Prosser
Brother Christopher Chiaronmonte

Councilman Bothwell noted that the area still is South Pack Square. He said we rent out public sidewalks all the time for restaurants - that is not unusual.

Councilman Smith agreed this is a flawed process and we will have to figure out what the process should look like. He noted that SECU is trying to improve this public asset.

City Manager Jackson said that he conveyed his frustration to the AAM Manager noting that City Council should have known this was coming forward earlier. A better model might be similar to when the Pack Square Conservancy had a plan to pursue donors. They provided Council with deep criteria and said they would be pursuing donors. They asked for Council's comfort with the potential donors and the locations. He suggested that might be a better process.

Councilman Pelly also agreed that the process is flawed. He felt it was his job as a Council member to look at long-term best interests of the City. Once the AAM is complete and school children will discover the world of art, then he thought his decision to support this action will have been the right one.

The motion made by Vice-Mayor Hunt and seconded by Councilman Davis carried unanimously.

RESOLUTION BOOK NO. 35 - PAGE 420

VI. NEW BUSINESS:

A. RESOLUTION NO. 14-248 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Vice-Mayor Hunt said that the terms of Jeremy Goldstein, Jane Mathews and Kristy Carter, as members on the Planning & Zoning Commission, expired on August 14, 2014.

The following individuals applied for a vacancy (including the three incumbents Jeremy Goldstein, Jane Mathews and Kristy Carter): Mark DeVerges, Colin Dennehy, Dean Pistor, Eric Workman, Laura Berner Hudson, Peter Alberice, Richard Fort and Allen Ollendorff. Dean Pistor withdrew his application; and Eric Workman and Richard Fort did not submit written responses to questions and are not eligible for consideration.

After City Council reviewed all responses to essay questions submitted to all candidates (including incumbents), City Council instructed the City Clerk to arrange interviews for Jeremy Goldstein, Jane Mathews, Kristy Carter, Laura Berner Hudson, Peter Alberice and Allen Ollendorff.

After Council spoke highly of all the candidates, Jeremy Goldstein received 4 votes, Jane Mathews received 3 votes, Kristy Carter received 7 votes, Laura Berner Hudson received 7 votes, Peter Alberice received no votes, and Allen Ollendorff received no votes. Therefore, (1) Jeremy Goldstein and Kristy Carter were reappointed as members of the Planning & Zoning Commission to each serve an additional three-year term respectively, terms to expire August 14, 2017, or until their successors have been appointed; and (2) Laura Berner Hudson was appointed as a member of the Planning & Zoning Commission to serve a three-year term, term to expire August 14, 2017, or until her successor has been appointed.

RESOLUTION BOOK NO. 36 – PAGE 418

B. RESOLUTION NO. 14-249 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Recreation Board.

Mr. Wayne Wheeler has resigned from the Recreation Board, thus leaving an unexpired term until June 30, 2015.

The following individuals applied for the vacancy: Brian Rowland, Forrest P. Merithew and Dean Pistor.

On October 14, 2014, City Council instructed the City Clerk to arrange interviews for Brian Rowland and Forrest Merithew. Mr. Rowland could not be reached for an interview.

Councilman Smith moved to appoint Forrest Merithew as a member to the Recreation Board to serve the unexpired term of Mr. Wheeler, term to expire June 30, 2015, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Brother Christopher Chiaronmonte spoke about no prayer at City Council meetings.

The following individuals commented about the issues at the Asheville Police Department: Mr. Rondell Lance, President of the Fraternal Order of Police Lodge 1 in Asheville; Mr. John Midgette, Executive Director of the North Carolina Police Benevolent Association; Mr. Tracey DeBruhl; Mr. Ed Carroll; Ms. Phillips; and Mr. Jerry Rice.

Mr. Martin Ramsey urged City Council to institute a municipal minimum wage, or to place the issue on the ballot. Councilman Smith asked City Attorney Currin to review the information Mr. Ramsey presented from the N.C. Justice Center and provide Council with her opinion about the feasibility of a referendum.

Ms. Emma Greenbaum, Sierra Club's organizer for the Beyond Coal Campaign, and Mr. R. Keeler urged Council to continue asking questions regarding the Asheville coal plant and to keep the pressure on Duke Energy and other providers to push for clean energy.

Ms. Leslie Anderson commented on the lease of the Asheville Art Museum, noting that the Asheville Art Museum lease is not a comparable situation when the Pack Square Conversancy used when they did their naming rights.

Ms. Barbara Freeman spoke against abortion.

Closed Session

At 7:55 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory

authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:07 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:07 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – November 11, 2014- 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Vice-Mayor Marc W. Hunt

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance. She also asked for the public to recognize and honor Veterans Day.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Community & Economic Development Director Sam Powers, and consensus of Council, Consent Agenda Item P was added to the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 28, 2014

B. RESOLUTION NO. 14-251 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY MARKET ON DECEMBER 6 AND 13, 2014

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Market on December 6 & 13, 2014.

Appalachian Sustainable Agriculture Project has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine on two occasions of the Asheville City Market and allow for consumption at those occasions.

Asheville City Market occasions with the sale of beer and/or unfortified wine will be held on Saturday, December 6 and Saturday, December 13, 2014, from 8:00 a.m. – 1:00 p.m. at the city-owned parking lot located at 161 S. Charlotte Street as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Appalachian Sustainable Agriculture Project.

Con:

- Potential for public safety issues

City staff recommends City Council adopt the resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Asheville City Market dates 12/6/14 and 12/13/14.

RESOLUTION BOOK NO. 36 - PAGE 421

C. ORDINANCE NO. 4361 - BUDGET AMENDMENT FOR JULY 2013 SEVERE STORM CLEANUP

Summary: The consideration of a budget amendment in the amount of $101,107.33 to budget in the Special Revenue Fund for additional anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA–4146-DR-NC.

During the period of July 3-13, 2013, Western North Carolina including Buncombe County and the City of Asheville experienced severe storms leading to flooding, landslides, and mudslides.

On September 25, 2013, the U.S. Department of Homeland Security's Federal Emergency Management Agency (FEMA) announced that federal disaster aid has been made available to the State of North Carolina and ordered federal aid to supplement state and local efforts in the areas affected by severe storms, flooding, landslides, and mudslides during the period of July 3-13, 2013.

On October 11, 2013, staff met with the North Carolina Division of Public Safety (NCDPS) and FEMA, and concluded that the City of Asheville would be eligible for financial assistance under declaration number FEMA-4146-DR-NC.

On March 25, 2014, City Council adopted Budget Ordinance Amendment No. 4292 in the amount of $2,369,143.30 to (1) budget in the Special Revenue Fund $2,303,481.10 in anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety; and (2) move $65,662.20 in budget from the General Fund to the Special Revenue Fund for repair costs not covered through the reimbursements above.

Due to higher than anticipated contract expenses to complete the Bent Tree Rd. and Sunset Dr. wall projects, staff is requesting a budget amendment in the amount of $101,107.33 to budget in the Special Revenue Fund for additional anticipated reimbursements. This is an overrun of the original estimates, but will be fully reimbursable.

1. Bent Tree Rd. Repair (K1423) – Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 75-ft-long x 20-ft-high x 5-ft-wide. Repair is underway and construction is on schedule. $28,116.65 of the total estimated cost of $817,583.91 has been received as reimbursement for expenses to date.
2. Sunset Drive Repair (K1422) - Severe rainfall resulted in storm water flooding and flowing over the road causing severe erosion of the integral ground supporting the road and damage to the pavement. The area of erosion is approximately 110-ft-long x 20-ft-high x 5-ft-wide. Repair is underway and construction is on schedule. $7,500 of the total estimated cost of $1,008,720.15 has been received as reimbursement for expenses to date.

This budget amendment is necessary to properly allocate the disaster aid reimbursements to the correct project expenses, and to replenish City funds that have already been spent in the General Fund.

Pros:

- Recovery of costs associated with declared disaster.
- This will allow the City to pay contractors for work yet to be completed.

Cons:

- Without transfer of funds to the identified accounts, infrastructure will further deteriorate.

- Failure to approve the amendment will prevent completion of the unfunded projects.

As noted above, repair costs for Bent Tree Road and Sunset Drive have exceeded initial estimates, and the budget for the two projects needs to be increased by a total of $101,107.33. The budget amendment will be fully covered with reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety.

City staff recommends City Council adopt the budget amendment in the amount of $101,107.33 to budget in the Special Revenue Fund for anticipated reimbursements from the Federal Emergency Management Agency and North Carolina Department of Public Safety for the declared disaster identified as FEMA–4146-DR-NC.

ORDINANCE BOOK NO. 29 - PAGE 266

D. RESOLUTION NO. 14-252- RESOLUTION ACCEPTING 2014 EMERGENCY SOLUTIONS GRANT FROM THE STATE OF NORTH CAROLINA IN ORDER TO FUND LOCAL AGENCIES

ORDINANCE NO. 4369 - BUDGET AMENDMENT FOR 2014 EMERGENCY SOLUTIONS GRANT FUNDS

Summary: The consideration of (1) a resolution accepting the 2014 Emergency Solutions Grant in order to fund local agencies; and (2) a budget amendment in the amount of $194,492 to establish a budget for the grant in the City's Special Revenue Fund.

In the process approved by Council at the September 9, 2014 Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee. The recommendations were approved by the Housing and Community Development Committee.

We have been informed that our application has been approved, with the following agency awards:

	Emergency Response	Housing Stabilization	HMIS	Total
Organization				
ABCCM		$ 68,500		$ 68,500
Helpmate	$ 22,000			$ 22,000
Homeward Bound		$ 71,992		$ 71,992
Salvation Army	$ 20,000			$ 20,000
City of Asheville			$ 12,000	$ 12,000
TOTAL REQUESTS	$ 42,000	$ 140,492	$ 12,000	$ 194,492

These awards are conditional on providing to the State additional information needed and/or assurances that must be provided. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City).

Additionally, the State has awarded **$50,000** to be used for either Rapid Re-housing or HMIS activities due to the high score of the City of Asheville's original application. The Housing

and Community Development Committee recommends these additional funds be allocated to ABCCM for Rapid Re-housing for families with children to increase their award to **$68,500** total funds.

Pro:
- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid re-housing of persons experiencing homelessness.

Con:
- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

The recommendation is the acceptance of these funds, and subgranting of those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit; and adoption of a budget amendment in the amount of $194,492 to establish a budget for the grant in the City's Special Revenue Fund.

RESOLUTION BOOK NO. 36 - PAGE 424
ORDINANCE BOOK NO. 29 - PAGE 297

E. RESOLUTION NO. 14-253 - RESOLUTION AUTHORIZING ADDITIONAL SUBORDINATION OF LOANS MADE TO MOUNTAIN HOUSING OPPORTUNITIES FOR THE EAGLE MARKET PLACE PROJECT

Summary: The consideration of a request by Mountain Housing Opportunities for the City to additionally subordinate its loans to the Eagle Market Place development.

Mountain Housing Opportunities is requesting the City subordinate further its two loans for the Eagle Market Place development. The request has two elements:

1. To allow the additional subordination of the City's Urban Development Loan (UDL) of $3.8 million during the construction period to the North Carolina Housing Finance Agency "RPP" loan, which would place our loan in fourth position during construction. This will allow the infusion of $800,000 in RPP fund (funds already committed by the North Carolina Housing Finance Agency but not usually available in the construction phase) into the project during construction, reducing borrowing costs. Our agreement with MHO allows for the draw of $1 million of the City's UDL during construction. Upon completion of construction, and the close of permanent financing, our UDL loan will be in second position, as indicated in our Loan Agreement with MHO.

2. To allow the additional subordination of the City's Housing Trust Fund (HTF) loan of $800,000 to fifth position during construction, and to fourth position at the close of permanent financing. This requires both approval of the change in conditions of the HTF Loan Agreement (which indicates that the HTF loan will be in second position) and a waiver from our current HTF policy, which requires that our loan be in no less than third position. Staff thinks that the second position described in the Loan Agreement probably assumed that the HTF and UDL would be combined. Regardless, the fourth position post-construction is to allow the County's $2 million loan to have a superior position. Post construction, the City will be adequately collateralized in any case. Because the County's funds will not be invested as cash into the project until after completion of construction,

the City's HTF funds are functionally in the same place as the City's UDL during construction.

The HCD Committee reviewed this request at its October 21, 2014 meeting and recommended approval.

Pro:

- The loan subordination will allow for the necessary investment of leveraged funds into the project during the construction phase, thereby reducing the need for borrowed funds.

Con:

- In the very unlikely event the project was terminated prior to completion of construction, the City's invested funds would be less secure.

The request would have a fiscal impact only if the project were not to be constructed as planned. In that unlikely case, it would be in the best interests of all parties to ensure completion of a project on the site, and security position would have an impact on recovery of costs via the completed project. Assuming the completion of the project as planned, the City is well-protected, both by the nature of the project and its post-completion value.

City staff recommends approval of a resolution authorizing additional subordination of loans made to Mountain Housing Opportunities for the Eagle Market Place development.

RESOLUTION BOOK NO. 36 - PAGE 425

F. RESOLUTION NO. 14-254 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO BE THE LOCAL GOVERNMENT PARTNER FOR THE ASHEVILLE AREA ARTS COUNCIL'S APPLICATION FOR THE 2015 NATIONAL ENDOWMENT FOR TH ARTS OUR TOWN GRANT

Summary: The consideration of a resolution authorizing the City of Asheville to be local government partner for the Asheville Area Arts Council grant application to the National Endowment for the Arts 2015 *Our Town* grant and consideration of match funding request for this grant.

The National Endowment for the Arts (NEA) offers numerous grants in a variety of art and design categories. For 2015, the NEA is offering the *Our Town* grant for projects that contribute toward livability of communities and help to transform them into lively, beautiful and resilient places with the arts at their core. The NEA defines these efforts as *Creative Placemaking*. *Our Town* prioritizes partnerships with arts organizations and government, private and non-profit organizations to achieve livability goals for communities. Our Town offers support for projects in two areas:

1. Arts engagement, cultural planning and design, projects that represent the distinct character and quality of their communities and

2. Projects that build knowledge about *Creative Placemaking*.

Our Town grants will invest in creative and innovative projects in which communities, together with their arts and design organizations and artists, seek to improve their quality of life, encourage creativity, create community identity, a sense of place and revitalize local economies.

To submit an application, eligible primary partners must be eligible local governments and local arts agencies or other departments, agencies or entities within an eligible local government. Only one application per city/town/county will be accepted. The Asheville Area Arts

Council meets the criteria as an arts agency with proven three (3) year history of arts programming.

Initial application submission begins December 15, 2014, through Grants.gov. Then final application, program narrative and financial information will be due January 15, 2015. Applications will be reviewed in April 2015, award notification is July 2015 and earliest project start is October 1, 2015.

The grant requires a non-federal dollar for dollar match, which may include in-kind, cash and volunteering. Matching funds for this grant are not required at the initial submission of the application but must be confirmed prior to award (July 2015).

The AAAC has worked with the Buncombe Cultural Alliance to seek matching funds in addition to the funds requested from the City of Asheville. In kind support has been requested from the Economic Development Coalition and additional requests will be submitted to Buncombe County ($25,000) and the Community Foundation of Western North Carolina.

City staff has been a working part of the recently formed Buncombe Cultural Alliance (BCA) since 2013. The BCA is a forum, not an organization. The Asheville Area Arts Council (AAAC), with the agreement of BCA partnering organizations, provides the coordination and infrastructure support necessary to maintain the vessel of the BCA. This allows the BCA to lend its full support to the collaborative efforts of arts organizations, artists and arts & cultural partners, and to not create a new, competing nonprofit organization or programming. The AAAC participates as an equivalent member in decisions works to capture and convey the work of the BCA through the annual Creative Sector Summit, and helps to facilitate partnership opportunities and the delivery of strategies that arise as a result of the BCA's work.

The BCA has agreed on an initial project to conduct a cultural asset inventory. It is a cross sector collaborative assessment of Buncombe County's cultural resources including but not limited to creative industry jobs and businesses, cultural amenities, public art, market opportunities, and arts and culture related resources such as nonprofit and educational programs and services, equipment, space, capital, and supply.

A Cultural Resources Asset Inventory captures important information about the scope of the economic activity of creative industry not captured in the area using traditional industry codes.

1. The data captured provides new information about the scale and nature of economic activity related to cultural and creative industry based businesses, such as the export and sale locally of creative product, the number of artisans and creative industry businesses in the area, supply chain information, related professional services industries supported, available and related real estate use, and the like.

2. Information gathered provides feasibility for arts based development and related uses, such as artist workforce housing and studios.

3. The inventory creates a common use, business to business database of arts and culture partners.

4. The process identifies need and resources for the creation and support of new and existing strategy in order to support long range cultural planning, as seen in planning efforts such as Imagine Chattanooga 2020 (http://imaginechattanooga2020.org/).

5. Supports the implementation of existing plans such as the Asheville Downtown Master Plan (http://www.ashevillenc.gov/Departments/EconomicDevelopment/ProjectsInitiatives.aspx).

6. Provides cultural resource data to enhance existing GIS based tools such as the WNC

Vitality Index (http://www.wncvitalityindex.org/) and GroWNC maps, similar to CultureBlocks.com in Philadelphia.

7. Increases the area's eligibility for additional Creative Place making funding from the National Endowment for the Arts, ArtPlace, SmArt Initiative, and similar funds.

The request to the National Endowment for the Arts will be $75,000. Support is being sought from the City as part of the match in the amount of $25,000. Additional support is currently being requested.

Staff Review:

- A successful grant application will provide funds for marketing, outreach, data collection and analysis, release and publication of reports.
- If awarded funds, AAAC and its partners will conduct a public process, coordinating with other national and local processes, to capture the scope of creative industry economic activity in Buncombe County. The AAAC and partners, including the North Carolina State Arts Council will identify data sets congruous with the NC Creative Economy work of 2007 and 2009, as well as the Economic Development Coalitions Arts and Economic Impact study, and the Americans for the Arts survey that produces Arts and Economic Prosperity V. The AAAC will manage the process with partners including public meetings, survey, marketing and outreach, the management of data, and reporting, and the creation of the database.
- This application will be presented to the Public Art & Cultural Commission in November 2014.
- Staff recognizes the need for the AAAC to build capacity in the performance of this grant. The AAAC understands that and understands that the ultimate goal of the NEA Our Town Grant is to support collaborative efforts that bring results for the entire community and addresses community goals.

Request for consideration of this grant partnership was presented to PED at their meeting on October 21, 2014. They approved this item to be place on your agenda for consideration and approval with the following:

- There should be outreach efforts made to other local government to assist in supporting the work and consideration of matching funds not just other arts agencies and non-profits as this project will benefit and have an impact to all of Buncombe County.
- If approved, the city's match will be contingent upon the outcome of this outreach and support from other local governments.

The grant will support City Council's goal to create economic development and community investment opportunities through partnerships, planning and incentives and to continue to support Asheville as a culturally diverse city.

Pros:

- The City of Asheville will not have fiduciary responsibility on this grant.
- The City would partner with the Asheville Area Arts Council and other arts, culture and entertainment agencies in the fulfillment of this grant programming.
- The inventory will provide important economic development data for future planning and funding.
- It will fulfill the inventory of this kind which was recommended in the 2009 Downtown Master Plan.
- It will serve to unify the creative sector around common goals and a great sense of viability.
- A work plan will be provided to the community for arts driven economic development.
- A framework/strategy will be provided for the support of creative industry entrepreneurship.
- It supports the fulfillment of Asheville's brand promise through enhanced cultural activity.
- It strengthens the community's eligibility for additional infrastructure funding.

- It provides a compass for the development of the identified Innovation Areas, especially the River Arts District.
- An opportunity is provided for marketing the importance of arts and culture, for citizen engagement.
- It builds on existing planning efforts and supports strategic implementation.
- It builds a greater level of partnership between City and creative constituency, County, and arts partners.
- Without the inventory, funds will be spent on creative industry activity with a long range vision and clearly identified goals and reduces the loss of valuable creative people and related businesses.
- It will reduce the impact of the loss of artists due to gentrification.

Cons:

- None noted at this time.

The fiscal impact of the City's support to this grant application is grant matching funds in the amount of $25,000. If Council approves this request, staff will include funding for the match in the Proposed FY 2015-16 Budget that is presented to Council next spring. As recommended by PED Committee, City matching funds will be contingent upon financial support from other local governments. Additionally, staff time and resources will be required in the performance of this grant.

Approval by City Council for the community partnership for the Asheville Area Arts Council's 2015 NEA *Our Town* grant application; and consideration of the matching funds requested in the amount of $25,000 which will be budgeted for Fiscal Year 2015-16, subject to (a) other local government match funding; and (b) combination of cash (no amount specified) and in kind.

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G. RESOLUTION NO. 14-255 - RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF SAFARILAND BALLISTIC VESTS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY IN THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the Asheville Police Department to purchase, through standardization, Safariland Second Chance Body Armor through Fiscal Year 2019.

The Asheville Police Department (APD) has been utilizing Second Chance Concealable Body Armor Vests exclusively since 2009. During this time, APD officers have experienced consistent performance while wearing these vests on a daily basis in conducting their policing duties, which have included various force scenarios. The updated version of ballistic vest recommended for standardization is the Safariland Second Chance Summit threat level II and IIIA.

Currently, APD has a long-standing relationship with Lawmen's Safety Supply as a distributor for our equipment needs. North Carolina General Statute 143-129 (e) allows exceptions to formal bidding when standardization or compatibility is the overriding consideration; Lawmen's Safety Supply is identified as the only Safariland authorized distributor eligible to place bids for the State of North Carolina.

Lawmen's has consistently provided excellent customer service, and representatives from both Safariland and Lawmen's have exceeded the Department's expectations with support and assistance.

Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment
- Consistency in equipment when replaced or inventory is increased

Con:

- None

The exception to bid will have no adverse fiscal impact.

City staff recommends City Council adopt a resolution authorizing the Asheville Police Department to purchase, through standardization, Safariland Second Chance Summit Body Armor through Fiscal Year 2019.

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H. RESOLUTION NO. 14-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NHM CONSTRUCTORS, LLC, FOR THE FINALEE AVENUE RETAINING WALL CONSTRUCTION PROJECT

ORDINANCE NO. 4362 - BUDGET AMENDMENT FOR THE FINALEE AVENUE RETAINING WALL CONSTRUCTION PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $658,578.50 plus a contract contingency of 15% ($98,786.78) with NHM Constructors, LLC for the project known as Finalee Ave. Retaining Wall Construction; and (2) a budget amendment in the amount $386,403 from debt proceeds to fully fund costs associated with the project.

From January 1, 2013, to July 8, 2013, the Asheville area received 41.67 inches or rainfall, exceeding the City's normal annual rainfall for the same time period by 4.68 inches. The stretch of Finalee Ave. adjacent to and above the property located at 760 Biltmore Ave. experienced structural damage to the soils adjacent to the road surface.

Several large and complicated landslides required consultation outside the City workforce, and several consultants were chosen for the more extensively damaged areas. To reinforce the road surface, a design including a soldier pile and lagging retaining wall was chosen for this site, and includes some road rebuilding. The project was advertised on September 9, 2014. Bids were opened and the following bids were received:

NHM Constructors, LLC	Asheville, NC	$658,578.50
Graham County Land Company	Robbinsville, NC	$818,115.50

NHM Constructors, LLC was the lowest responsible bidder with a bid of $658,578.50. Adding in a 15% contingency, the total required budget for construction is $757,365. Project design consultants, right of way expenses, utility relocation, and construction observation consultation total an additional $88,738. Finally, City of Asheville labor costs are budgeted at $90,300; bringing the total budget for the project to $936,403. The work produced from this contract would resolve liability issues associated with a deteriorating road structure and rebuild the road's underlying support.

Pro:

- Will remove a potential liability issue from the City's transportation network.

Cons:

- Project management and contract administration will consume staff time.
- Financial obligations of project work.

In June 2014, City Council adopted an initial budget for this project that totaled $550,000.00. Staff now anticipates that the total cost for this project will be $936,403, which includes design costs, internal labor, easement acquisition, utility relocation, and the contract with NHM Constructors, LLC. The budget amendment tonight in the amount of $386,403 will fully fund the contract and other costs associated with the project. The project will be funded with debt proceeds with an anticipated twenty year amortization schedule.

City staff recommends City Council adopt (1) the resolution awarding the contract to NHM Constructors, LLC and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $658,578.50 plus a contingency of 15% ($98,756.78), for a total of $757,335.28, with NHM Constructors, LLC for the project known as Finalee Ave. Retaining Wall Construction; and (2) a budget amendment in the amount of $386,403 from debt proceeds to increase the existing project budget to cover the contract, right of way expenses, utility relocation, construction observation consultation, City of Asheville labor, and the 15% contingency.

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I. **RESOLUTION NO. 14-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH ARMEN CONSTRUCTION LLC, FOR THE SHILOH ROAD SIDEWALK IMPROVEMENTS PROJECT**

ORDINANCE NO. 4263 - BUDGET AMENDMENT FOR THE SHILOH ROAD SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a contract with Armen Construction, LLC, for the amount of $138,000 plus 15% contingency and any change orders within the project budget for the project known as Shiloh Road Sidewalk Improvements, City of Asheville Project #ENG-12-13-003; and (2) a budget amendment, in the amount of $73,550 from savings in other sidewalk projects, to provide adequate funding for the proposed bid and the cost of staff time for this project.

This project will build a much needed sidewalk along Shiloh Road and provide connectivity along from the Community Center to Hendersonville Road. Pedestrians currently walk along the road shoulder or in the street itself. The project is ready to begin. All easements have been donated to the City. The scope of work includes the installation of sidewalk, ADA ramps, driveway aprons, and utility relocations. The bids were opened on October 29, 2014, and the results were as follow:

Armen Construction, LLC, Charlotte, NC	$138,000.00
Patton Construction Group Inc., Asheville, NC	$183,990.00

Pros:

- Improves pedestrian safety.
- Encourages walking, thereby reducing carbon emissions.

Con:

- Project management and contract administration will consume staff time.

The project budget will be $189,775. The budget amount consists of $116,225.00 that was previously budgeted in the City's CIP, and $73,550 that will be allocated from savings in other sidewalk projects.

City staff recommends that City Council adopt a resolution awarding the contract to Armen Construction, LLC; authorizing the City Manager to execute the contract and any change order within the budgeted amount of $189,775; and adopt the associated budget amendment in the amount of $73,550.

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J. RESOLUTION NO. 14-258 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT TO DUKE ENERGY PROGRESS INC. OVER A PORTION OF CITY-OWNED PROPERTY AT JOHNSON BOULEVARD

Summary: The consideration of a resolution authorizing the City Manager to convey an easement to Duke Energy Progress, Inc. over a portion of City-owned property at Johnston Boulevard and Roger Farmer Park.

The City of Asheville owns real property at PIN #9628663324 and it is currently in use as a recreational park called Roger Farmer Memorial Park. It contains 9.24 acres and the entrance to the park is on Johnston Boulevard. This property is improved with three ballfields, a picnic shelter, concession and restrooms.

Duke Energy is rebuilding an obsolete feeder line along Johnston Blvd. in order to improve reliability to this West Asheville community. The lines will be replaced and voltage increased. The current lines will be relocated to the park side of Johnston Blvd. to facilitate maintenance of the infrastructure from the roadway. This is part of a larger project that extends from Patton Avenue to Bear Creek. This project will only affect road frontage on Johnston Blvd. Access to the park could be affected during the installation of the poles, but it should not constitute a significant amount of time. A guard rail could be affected by the project, but restoration is promised as a part of the provisions of the easement document.

The easement area being requested extends 267 feet along the road frontage. The total width of the easement is 15' on either side of the line and the City is being asked to absorb 9' of the total thirty. This is approximately 2,403 square feet of permanent easement that is being requested. As a result of input from the City Transportation Director, we are stipulating that the poles be at least 7 feet from the edge of pavement. In this way, the new infrastructure will not inhibit the City's ability to install a sidewalk or greenway at a later date. The assistant city attorney has reviewed the easement document.

Pros:

- Granting of the easement will allow Duke Energy to upgrade power infrastructure to provide improved service to the West Asheville neighborhood.
- Granting of the easement will not affect the long range use of the park for public recreation.

Cons:

- The only cons are short term in nature and will take place only during installation of the poles, guide wires and anchors.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 2,403 square foot easement over a portion of City-owned property at Johnston Boulevard to Duke Energy Progress, Inc.

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K. RESOLUTION NO. 14-259 - RESOLUTION ACCEPTING A GRANT FROM THE N.C. DEPT. OF PUBLIC SAFETY FOR THE PURCHASE OF EQUIPMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE

ORDINANCE NO. 4364 - BUDGET AMENDMENT FOR THE HAZARDOUS MATERIALS REGIONAL RESPONSE TEAM 6 - ASHEVILLE

Summary: The consideration of the following items relative to a grant for the Hazardous Materials Regional Response Team: (1) a resolution authorizing the City Manager to accept a non-matching grant from the N.C. Department of Public Safety, Division of Emergency Management, for the procurement of equipment to be used by Hazardous materials Regional Response Team 6 – Asheville; and (2) the associated budget amendment, in the amount of $27,400.

The U.S. Department of Homeland Security Grant Program (HSGP) has made funds available through State Homeland Security Grant Number: EMW-2014-SS-00069-S01 to implement the State Homeland Security Strategy. The strategy identifies the NC Hazardous Materials Regional Response Teams (RRT) as an integral component of North Carolina's preparation and response to manmade and natural emergencies and disasters. The purpose of the grant is to purchase specialized equipment to be used on-scene and to prevent, protect against, respond to, mitigate, and recover from potential acts of terrorism and other hazardous or catastrophic events.

There are seven Regional Response Teams (RRT) strategically located throughout the state. Asheville Fire Department hosts one of the seven state funded teams - RRT 6. The team responds to hazardous materials incidents in the twenty westernmost counties of North Carolina.

Each of the seven RRTs will receive an equal amount of non-matching funding and each will procure comparable equipment. The equipment consists of a handheld thermal imaging camera, a propane gas burn-off kit and LED scene lighting for the RRT-6 vehicle.

The grant is non-matching and all equipment provided through this grant will become the property of the Asheville City Government.

This grant has been reviewed by the Public Safety Committee and has been recommended for consideration by Council.

Pros:

- The Department of Public Safety, Division of Emergency Management, will provide $27,400 in non-matching funds for the purpose of upgrading Asheville and Western North Carolina's terrorism response capabilities.
- The equipment is state of the art and will better address the risk of terrorist's attacks and hazardous materials incidents.
- All statewide regional response teams will be comparably equipped and interoperability will be realized should an event require the resources of additional teams.
- This equipment is immediately available to Asheville residents and businesses. This level of equipment would most likely not be able to be obtained through the city's general budget process.
- Firefighter and citizen safety will be enhanced.

Con:

- The City of Asheville will be responsible for maintenance and upkeep of the equipment.

There is no fiscal impact associated with the receipt of this grant, as it is non-matching. However, the City of Asheville takes ownership of the purchased equipment, necessitating routine maintenance and upkeep costs to be incurred by the City, which will be absorbed by our annual operating budget.

City staff recommends that City Council take the following action: (1) authorize the City Manager to accept the non-matching grant from the NC Department of Public Safety, Division of Emergency Management, to enhance AFD's capabilities to protect Asheville and Western North Carolina; and (2) adopt the associated budget amendment.

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L. RESOLUTION NO. 14-260 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR YEAR 2 OF THE MULTI-JURISDICTIONAL DWI TASK FORCE

ORDINANCE NO. 4365 - BUDGET AMENDMENT TO ESTABLISH YEAR 2 OF THE MULTI-JURISDICTIONAL DWI TASK FORCE

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund Year Two of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of $411,331 to establish a budget for the second year of the grant.

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher.

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. A request for continuation of Year Two of a four year grant in the amount of $411,331 in FY 2015 that would cover the of cost, to pay for six officers on DWI enforcement and training. The City of Asheville and Buncombe County will match this grant at 15%. For the City, the FY 2014-15 15% match will total $40,999. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance.

Pros:

- NCGHSP grant funds for training and 85% of the costs of salary and benefits to officers participating in the DWI Task Force.

- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond the first year.
- In Year Two, the City of Asheville will be required to cover 15% of the grant of personnel costs. The grant will continue to decrease each year with the City of Asheville responsible for 100% of personnel costs at the end of the four-year grant period.

As noted above, the general fund impact in FY 2014-15 is $40,999. This amount is already included in the Police Department's adopted budget. At the end of the grant, the general fund impact will be approximately $267,325 per year to permanently add one sergeant and three officers to the APD roster. The chart below outlines the estimated general fund impact in future budget years.

FY 2016	$80,197
FY 2017	$133,662
FY 2018	$267,325

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of $411,311 to establish a budget for Year Two of the grant.

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M. RESOLUTION NO. 14-261 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH HENDERSON COUNTY TO LEASE A BUS.

ORDINANCE NO. 4366 - BUDGET AMENDMENT TO SET THE BUDGET TO PURCHASE A REPLACEMENT COMPRESSED NATURAL GAS BUS FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease a Compressed Natural Gas (CNG) bus; and (2) budget amendment in the amount of $143,600.40 to set the budget to purchase a replacement CNG bus for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is $143,600.40. Federal funds will provide $112,828 covered with grant NC-90-X439; this grant requires a match of $28,206 provided by Henderson County, plus $2,566.40 for the title, tag and graphics. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A contract is in place and staff will order the bus as soon as the budget is amended.

Pros:

- The bus will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 80% of the total estimated project cost.
- Henderson County provides 20% of the total estimated project cost plus tag, title's costs and graphics.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $143,600.40, with 80% or $112,828 coming from Federal funds, 20% or $28,206 and tag and title in the amount of $2,566.40 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve (1) a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one CNG Bus; and (2) adopt the associated budget amendment.

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N. REPORT ON ONE-YEAR UPDATE ON UNIFIED DEVELOPMENT ORDINANCE AGRICULTURAL AMENDMENT

Summary: This is a one-year review of the Agriculture Amendment that was presented and approved by City Council on September 24, 2013 (Ordinance 4233). The impetus for the amendment came from local citizens interested in food policy issues such as food security, sustainability and the expansion of agricultural production. Efforts were made to review code items that may have been hindering the creation or expansion of farming activities throughout the city.

The code changes are outlined below:

- 'Agriculture' as a land use was added to the table of uses in the UDO as either a permitted use in non-residential districts or a *use by right subject to special requirements* (USSR) in residential districts.
- Structure sizes for agricultural uses in non-residential districts are only limited by general structure limitations for the zoning district in which they are located.
- Standards for residential districts as a USSR were amended to:
    - Allow a farm stand to operate on a daily basis on the farm property to sell items produced on site.
    - Allow animals as a part of an agricultural activity by permit
    - Create a standard for stand-alone structures on a community garden space

- Provide special provisions for structures used in agricultural production with building sizes that are separate from other accessory standards on the same property

The ordinance was greeted with enthusiasm when it was adopted in September 2013. Staff has reviewed the development records over the past year and initially found that there were no permits issued to build agricultural structures or establish an agricultural use. After attending a food policy council meeting in September and speaking with some members of that group, staff learned that there have been several storage sheds constructed on garden sites. Since the structures are smaller in scale and do not require a building permit, there is no record of the construction.

Other suggestions shared by the group to encourage additional urban farming activity:

- Encourage changes in state law to expand the range of eligible properties to participate in the *present use valuation* method instead on market value to determine property taxes. This method which typically applies to larger farm tracts, usually reduces the property tax burden for property owners engaging in agricultural activities. If the qualifying regulations were changed, smaller tracts could receive some tax relief and subsequently less pressure to sell off excess land for redevelopment. This change would require revamping the regulations at the state level.
- Farmers need access to affordable land and so an idea was offered with a suggested name- 'farm my yard' where property owners on a voluntary basis would allow local farmers to undertake agricultural activities on their excess property. There are no required changes to city regulations to allow this type of exchange to occur. In some situations, a grading permit may be required depending on the size of the area.
- One local farmer mentioned the need for flexibility in housing accommodations on a farm to house farm workers (often volunteers). The zoning for many farm operations is residential and single-family residential zoning limits the number and types of residential units allowed on a single parcel. Also normal building code and housing standards need to be met for the construction of safe housing units which can make the cost of housing more expensive. Some rural farms utilize recreational vehicles and manufactured housing (mobile homes) to provide accommodations for farm workers. There are not many options for permitting recreation vehicles for occupancy (RVs or similar structures) except where temporary accommodations are allowed such as camp grounds. Asheville does permit manufactured housing which is limited by location as an overlay as either an individual manufactured housing site or manufactured housing communities. There has not been much discussion to expand the overlay for manufactured housing.
- Other ideas from the Food Policy group related to permitting distribution sites for local CSAs (*community supported agriculture* farm operations) at neighborhood sites for the convenience of local members. This type of activity is already allowed by existing ordinances.
- There was one request from the past year where a woman wanted to operate a mobile farm vending truck and that was approved and issued under a temporary use provision already in the ordinance.

In developing the City's legislative agenda, it is recommended that any legislative changes be directed to the Governance Committee for their review. For suggested changes to the Unified Development Ordinance, it is recommended that those be forwarded to the City Council Planning & Economic Development Committee for their review.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

O. MOTION AUTHORIZING THE MAYOR TO SIGN A LETTER TO SUPPORT ACTION TO HELP STOP GLOBAL WARMING

p. RESOLUTION NO. 14-264 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WNC ROOFING INC. FOR REPAIR WORK TO THE THOMAS WOLFE AUDITORIUM

ORDINANCE NO. 4370 - BUDGET AMENDMENT FOR THE REPAIR WORK TO THE THOMAS WOLFE AUDITORIUM ROOM

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with WNC Roofing Inc. for repair work on the roof of the Thomas Wolfe Auditorium; and (2) a budget amendment in the amount of $185,000 from US Cellular Center and General Fund available fund balance to appropriate funding for the repair work.

Staff at the U.S. Cellular Center has been repeatedly working with roofing vendors for over one year repairing leaks in the roof of the Thomas Wolfe Auditorium. Over the past year and a half the venue has spent $5,000 on roof repairs. New leaks are found after every hard rain. Currently the roof has at least three active leaks. Recently during a very heavy rainfall storm a leak over the seating section of the Auditorium caused a section of the plaster ceiling to crumble and fall into the seating area. For public safety reasons, staff believes that patches to the roofing material are no longer a viable option.

Staff recommends install a Hydro-Stop Premium Coat System on the room of the Thomas Wolfe Auditorium. This roof system comes with a 15 year labor and material warranty, has a high reflectivity and does not require the removal of the current roof.

This item has been reviewed the by the Civic Center Commission and at their meeting on November 4, 2014, and they recommended approval.

Pros:

- Repair to leaking roof
- 15 year labor and material warranty

Cons:

- $185,000 cost is a non-budgeted expense.

Funding for this unanticipated repair work will be split between the General Fund and the US Cellular Center Fund, using the same percentage basis as the General Fund's subsidy of the US Cellular Center operating budget. Therefore, $125,000 will be appropriated from US Cellular Center available fund balance, and $60,000 will be appropriated from General Fund unassigned fund balance. Fund balance levels in both funds will continue to exceed city policy targets after these appropriations.

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract with WNC Roofing Inc. of 15 Loop Rd Arden NC, 28704, to install a Hydro-Stop Premium Coat System on the room of the Thomas Wolfe Auditorium; and (2) a budget amendment in the amount of $185,000 from US Cellular Center and General Fund available fund balance to appropriate funding for the repair work.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ABC BOARD UPDATE

ABC Board Chairman Jim Ellis thanked Council for allowing him to serve as Chairman of the ABC Board. He then introduced General Manager Mark Combs who said that the ABC Board (1) Responsible Sales (a) new point of sale system; (b) best credit card data protection available; and (c) modern, efficient stores and operations; and (2) Return Resources to our Community (a) local alcohol and drug rehabilitation grants ($166,000); (b) statutory funding to (i) Buncombe County rehabilitation services ($74,289); and (ii) N.C. Dept. of Health Services ($72,046).

Mr. Combs then reviewed the ABC Board's financial information for Fiscal Year 2013-14 vs. Fiscal Year 2012-13. Distributions to City and County in Fiscal Year 2013-14 were $1,457,860 vs. $1,322,523 in Fiscal Year 2012-13. Profit Percentage to sales were 9.44% in Fiscal Year 2013-14 vs. 8.98% in Fiscal Year 2012-13.

ABC Board projects include a new store on Hendersonville Road, customer focus and alcohol education.

On behalf of City Council, Mayor Manheimer thanked Mr. Ellis for his service, and the entire Board for their dedication and hard work.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AN AMENDMENT TO THE 2014-15 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS

RESOLUTION NO. 14-262 - RESOLUTION TO SUBSTANTIALLY AMENDED THE 2014-15 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS

Assistant Director of Community and Economic Development Development Jeff Staudinger said that this is the consideration of a resolution to substantially amended the 2014-15 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME funds to (1) Grant an additional $9,326 to Asheville Buncombe Community Christian Ministries for their Homelessness Prevention and Rapid Rehousing (HARP) program, for a total 2014-2015 award of $20,000; (2) Grant an additional $140,000 to Asheville Area Habitat for Humanity for their Shiloh Taft Avenue single-family home construction program, for a total 2014-2015 award of $150,000; (3) Grant an additional $50,000 to Madison County for the Rural Housing Rehabilitation Program in partnership with the Community Housing Coalition of Madison County, for a total 2014-2015 award of $90,000; (4) Grant an additional $62,837 to Mountain Housing Opportunities as a CHO for their proposed 60-unit East Haven Apartments affordable housing development in Swannanoa, for a total 2014-2015 award of $162,837; and (5) Grant $162,837 to the Housing Assistance Corporation as a CHO for their proposed 66-unit Mud Creek Villages affordable housing development in Hendersonville. This public hearing was advertised on October 31 and November 7, 2014.

He said that $425,000 of HOME funds awarded to the Housing Assistance Corporation in Hendersonville for multi-family rental development needs to be reallocated. The Community Development Division, at the direction of the Asheville Regional Housing Consortium, sought proposals from those HOME subrecipients originally awarded funds for less than their 2014 request, and for developments proposed by Community Housing Development Organizations (Cho's). Five applications were received requesting a totaling $1,049,326.

Applicant	Project	Original Request	Amount Originally Funded	New Request	Total Request
AMAH	Shiloh Taft Avenue Project	$ 150,000	$ 10,000	$ 140,000	$ 150,000
ABCCM	HARP	$ 20,000	$ 10,674	$ 9,326	$ 20,000
Madison County	Rural Rehab	$ 90,000	$ 40,000	$ 50,000	$ 90,000
MHO	East Haven Apartments	$ 328,000	$ 100,000	$ 425,000	$ 525,000
HACK	Mud Creek Village			$ 425,000	$ 425,000

After reviewing applications, hearing presentations by applicants and Board discussion, the Consortium recommends the following allocations:

1. Asheville Area Habitat for Humanity, Shiloh Taft Avenue development. Additional allocation, $140,000 for a total 2014 allocation of $150,000. Habitat will develop 10 new, affordable, Green Built NC and System Vision certified homes to be sold at 0% interest loans to qualified low-income families and individuals ("Partner Families").
2. Asheville Buncombe Community Christian Ministries, Homelessness Prevention and Raid Rehousing. Additional allocation, $9,326, total allocation, $20,000. ABCCM will assist 28 households who are homeless or in imminent danger of becoming homeless obtain or retain permanent housing, through providing tenant-based rental assistance and case management services.
3. Madison County, Rural Housing rehabilitation. Additional allocation, $50,000, total allocation, $90,000. Madison County will contract with the Community Housing Coalition of Madison County to rehab 2-4 homes belonging to low and very low income homeowners to eliminate the threat to life, health or safety and incorporate energy efficiency improvements.
4. Mountain Housing Opportunities, East Haven Apartments. Additional allocation, $62,837, total allocation, $162,837. MHO will develop 60 units of rental housing in Swannanoa affordable to low-income households.
5. Housing Assistance Corporation, Mud Creek Village, Allocation, $162,837. HACK will develop 66 units of rental housing in Hendersonville affordable to low-income households.

In accordance with the City's Citizen Participation Plan, the proposed allocations have been available for public review and comment for 30 days. Contracts for HOME funds are executed only when the project is ready for implementation and all other funding is firmly committed. Disbursement of grant funds occurs after contracts are signed, and on a reimbursement basis.

Pros:

- The development projects, if all go to completion, will create 136 units of new affordable housing for low-income households in the Consortium area; and will provide significant construction employment;
- Additionally, 28 households will be housed who would otherwise be homeless, and at least two households living in substandard conditions will have their homes repaired.

Con:

- None.

All funds being allocated in this process are federal HOME funds received by the City of Asheville for the purpose of affordable housing. No City of Asheville general funds are affected by this process.

Staff concurs with the recommendation of the Asheville Regional Housing Consortium that the Asheville City Council approve the proposed Substantial Amendment to the 2014-2015 Annual Action Plan for CDBG and HOME.

Councilman Smith said that the HOME Consortium agreed unanimously on these amounts.

Mayor Manheimer opened the public hearing at 5:18 p.m.

A gentleman questioned why these funds for affordable housing are going outside the City of Asheville.

Ms. Judy Strong questioned if the organizations have made assurances that the rents will remain low and if there is a different way to allocate the money in the Madison County area.

Mayor Manheimer closed the public hearing at 5:22 p.m.

Councilman Smith said that the funds are HOME Consortium funds. The federal government apportions these to a four-county area. The City of Asheville is the primary entity that disperses the dollars, but the intent is to have that money create affordable housing across the four counties. The City of Asheville has its own Housing Trust Fund and Community Development Block Grant funds.

Mr. Staudinger responded to Ms. Strong's inquires, noting that there are federal requirements for the use of those funds.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-262. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36– PAGE 434

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING 593 AZALEA ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE TO BE USED FOR OFFICE SPACE FOR ASHEVILLE-BUNCOMBE YOUTH SOCCER ASSOCIATION

ORDINANCE NO. 4367 - ORDINANCE TO CONDITIONALLY ZONE 593 AZALEA ROAD FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING TO ALLOW AN EXISTING RESIDENTIAL STRUCTURE TO BE USED FOR OFFICE SPACE FOR ASHEVILLE-BUNCOMBE YOUTH SOCCER ASSOCIATION

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 593 Azalea Road from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning to allow an existing residential structure to be used for office space for Asheville-Buncombe Youth Soccer Association. This public hearing was advertised on October 31 and November 7, 2014.

The subject property consists of a 14.16 acre parcel (zoned RM-16) located at 593 Azalea Road East in East Asheville. The property contains an existing residential structure that is currently vacant. [Parcel Identification Number is 9668.25-1574]. The property slopes steeply up from Azalea Road and is heavily wooded.

The applicant, Asheville Buncombe Youth Soccer Association (ABYSA), proposes to convert an existing single-family dwelling to an office building with accompanying parking at 593 Azalea Road East. [Property is owned by AVL Investment Properties LLC]. The building is one story in height (with a basement) and has a gross floor area of 4,479 square feet. The structure is served with well water and a septic system.

Access to the site is currently via a gravel/dirt drive off of Azalea Road East. It is proposed that this drive be improved to meet City of Asheville standards. The improved access will lead to the office building and to a parking area containing eighteen spaces. Sidewalks are not required on Azalea Road due to rock impediments on the property. This stretch of Azalea Road is part of a comprehensive infrastructure improvement project being undertaken by the City of Asheville. Sidewalks were proposed not to be constructed through this stretch of the improvements due to the presence of rock.

Landscaping is required for the project and includes street trees, buffering, and vehicular use area landscaping. Street trees and needed buffers are provided for through the extensive existing vegetation. Additional detail is needed on the landscaping plan but can easily be shown compliant. Open space information needs to be provided but will clearly be compliant. Both of these will be shown for the Final TRC review if the conditional zoning is approved.

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. [The developer has addressed many of the conditions noted by TRC in the submittal that is before the Asheville City Council]. The application was reviewed by the Asheville Planning and Zoning Commission at a meeting on October 16th and was recommended for approval unanimously (5-0). The matter will return to the Technical Review Committee, if approved by Asheville City Council, for Final TRC review. To date, staff has had no comments from the public on this matter.

The site is bordered by properties zoned RS-2 to the south (Recreation Park), RS-8 and RM-8 to the north and east (containing single-family homes) and RM-16 to the west (containing townhouses). While most of the surrounding properties are residential in nature there are City of Asheville offices and other facilities in the immediate area.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been approved by City staff and appears to meet or be able to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*

The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer is using an existing structure and doing minor site work (drive widening and parking); no disturbance will occur on the majority of the property. Most of the existing vegetation will remain on the site.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
The development is not expected to injure the value of adjoining or abutting properties. The portion of the site that will be used for offices is greatly removed from all surrounding properties and buffered with existing vegetation. The Office District anticipates the development of small scale office uses adjacent to residential uses. It limits hours of operation to between the hours of 7:00 a.m. and 9:00 p.m. The proposed use should not add significant vehicular usage to a busy roadway which is currently being improved to better handle the traffic.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
The use of the existing home as an office is in harmony with the area in which it is located. There are other offices and a wide variety of uses found in the immediate vicinity. The scale of the office will be in keeping with the residential structures in the area.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas (pg. 149).

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The proposed use is located near major roadways and along a road that is undergoing major infrastructure improvements. Basic infrastructure appears adequate and issues identified by the major service providers have been or are being addressed.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

The *Asheville City Development Plan 2025* encourages compatible adaptive reuse in appropriate areas.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The project proposes adaptive reuse of a currently vacant building for a use compatible with the surrounding area.
- The proposal results in the loss of a housing unit in the city; however, this unit has been vacant in the recent past.
- The use of the property for an office will be well buffered from surrounding residential properties and hours of operation are limited.
- While the proposed use of the property is perhaps not the highest and best ultimate use of this underutilized parcel (especially when all the road improvements in the area are completed), staff does not find it to be an inappropriate use for a period of time until a more

significant development is proposed. Such a development will require major infrastructure extensions/improvements. The property owner has provided an affidavit indicating their interests concerning the future of the property.

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development.

Mayor Manheimer opened the public hearing at 5:28 p.m.

Ms. Margie Mann, representing the owner, said that the property will be used as office space. She also noted that they have met with the Viewpoint Homeowners Association and they are pleased with what they are doing with the property.

Mr. Karl Koon, property owner, asked for City Council's support of the conditional zoning.

Ms. Judy Strong asked if City funds will be used for this renovation.

Mayor Manheimer closed the public hearing at 5:31 p.m.

In response to Councilman Bothwell, Ms. Fields said that the conditional zoning is site specific, not the entire 14.16 acre parcel.

In response to Ms. Strong, Ms. Mann said that only ABYSA funds will be used to renovate the home.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the conditional zoning request for the ABYSA office at 593 Azalea Road from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following way: the plans propose the compatible adaptive reuse of a property from vacant residential to office. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 278

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING SIX LOTS ON KLEPPER DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR ROAD CONSTRUCTION, MODIFICATION AND FLEXIBLE DEVELOPMENT REQUEST FOR LOT SIZE

ORDINANCE NO. 4368 - ORDINANCE TO CONDITIONALLY ZONE SIX LOTS ON KLEPPER DRIVE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING FOR ROAD CONSTRUCTION, MODIFICATION AND FLEXIBLE DEVELOPMENT REQUEST FOR LOT SIZE

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to conditionally zone 6 lots on Klepper Drive from RM-8 Residential Multi-Family Medium Density District to RM-8/CZ Residential Multi-Family Medium Density District/Conditional Zoning for road construction, modifications and flexible development request for lot size. This public hearing was advertised on October 31 and November 7, 2014.

He said that the site is located on Charlotte Street at Hazzard Street and consists of 6

existing non-conforming lots with limited access. The PINs include 9649-50-8286, 9649-50-9208, 9649-50-9332, 9649-50-9372, 9649-60-0311, 9649-60-0298. The properties have a complicated history as they were remnant properties that were sold to the current owner by the City of Asheville from excess ROW areas left over from the creation of South Charlotte Street by the NC DOT. Portions of these same parcels were originally created by T.W. Patton by a plat recorded in 1901. The current owner improved the area of these lots by purchasing additional excess ROW directly from the NC DOT and then recombining a portion to each remnant parcel to make them more compliant and more buildable. A recombination plat was approved and recorded in 2011. The surrounding area is zoned RM-8 (residential multi-family medium density) but many of the surrounding uses are single family residences along with a place of worship along Circle Street. This area was originally part of the Eagle Street neighborhood that was closely associated with 'The Block' located in downtown Asheville.

The applicant is proposing to create a new private street to provide access to 6 residential lots. The lots are existing but non-conforming due to lot size and frontage width and will be made smaller by the creation of the improved right of way access. The paved access drive is proposed to be 17 feet wide within a dedicated 20 foot wide right of way space (ROW). Some of the areas of the right of wade are wider than 20 feet but the ROW will be 20 feet at its narrowest point near Hazzard Street. The pavement width (17') is the minimum width to allow on-street parking. The movement of traffic will be one-way from Circle Street and the size and flow of the street has the approval of the TRC members including Fire and Transportation. The proposed lot sizes will be smaller than RM-8 standards defined in 7-8-6 of the UDO. Standard lots are generally 5,000 square feet with 50 feet of frontage on an improved ROW.

The new private street, Klepper Drive will be accessed from Circle Street. The traffic flow will be one-way from Circle Street and will connect at the bottom with Hazzard Street. Circle Street is a quiet street that has access from the intersection with Hazzard Street and Max Street. There is an important neighborhood pedestrian connection and bridge from Circle Street that crosses Charlotte Street connecting to Davidson Street downtown. There are no other sidewalks in the project area except for along Hazzard Street and Max Street and none are required as a part of this subdivision due to the limited number of lots. Even though the street width is small, Klepper Drive will help to improve connectedness throughout the neighborhood.

Landscaping, Open Space and Tree Save standards are not required for this subdivision because only six lots are proposed and with the proposed smaller lot area these features will be more difficult to provide on-site. In spite of this the developer is proposing a street tree for each of the lots.

Modifications:

- **Area:** All 6 lots are already undersized to the lot area standard for RM-8 (standard 5,000 square feet). To create improved access for the lots, some area is being removed for each parcel making them smaller. The proposed lots will range in size from 3,147 to 4,720 square feet. It is expected that even with the smaller area, the lots will be able to accommodate a site-designed house.

- **Access:** The developer is seeking approval and use of a ROW of 20' which will be wider near the top at its connection with Circle Street but will establish a more consistent connection to Hazzard Street. The city standard for new streets is 50' ROW which affords two-way movement, sidewalks and on-street parking. It is not unusual though for residential developments to request modifications to ROW widths which can range from 25 to 40 feet depending on the proposal and neighborhood context. With the limited number of lots, no concerns were raised by technical review committee members.

- **Setbacks:** The developer is seeking flexible development standards for the front and rear setback allowed under Article 11 in the UDO (7-11-7). The UDO specifies that should

flexible standards be granted, then at least a ten foot setback be maintained. Since four of the six lots have frontage on two streets, these are considered to be through-lots so the 10' front setback request applies to both fronts (15 foot setback is the standard in this district). The two remaining lots near Hazzard Street will only need a 10' setback reduction for the **front** of their proposed lot. An approved setback reduction should expand the space on the lots for a house since the building envelop is expanded.

- **Frontage:** The standard lot width is 50 feet in the RM-8 district. Four of the lots; lots numbered 4,6,8, and 10 Klepper Drive have widths proposed to range between 35 and 43 feet. Designing a house to meet the smaller lot widths is possible and accounting for the **side** setbacks of 6 feet (12 feet total) provides a minimum house width of at least 22 feet wide or larger.

The existing zoning is RM-8 (residential multi-family medium density) district and the proposed zoning request is RM-8 CZ (conditional zoning) to accommodate the development of smaller parcels on a smaller right of way.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions.

The proposal is for smaller residential lots in an area that is primarily residential in nature. Although the lots border or are close to South Charlotte Street, their access and orientation is from the residential side. Due to their limited size, use of the lots will be limited to one single-family residence and typical residential accessory structures in a similar way that other non-conforming lots are permitted to be developed.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The applicant is proposing to provide better access for existing lots using a narrower one-way street. The residential uses proposed for the parcels will be a good fit for the topography of the site since each house can be designed to fit each individual lot owing to its unique slope and configuration. No access to the development will occur directly from Charlotte Street.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The proposal for single family subdivision is not expected to injure the value of properties in the area. The proposed lots will be similar to some other historic lots in the vicinity of the development accessed from neighborhood streets.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
The proposed site is a part of the historic Eagle-Market Street district known as 'The Block' and was the residential edge of Eagle Street. An original plat was recorded in 1906 and included Eagle Street and Circle Street. The six parcels were remnants of some of those original parcels and when South Charlotte Street was created and the neighborhood altered, these were excess parcels. The city acquired these parcels from the NC Department of Transportation and later sold them to the current owner. The current owner approached NC DOT about acquiring additional land to make each lot more buildable. The lots are compatible with the scale of the surrounding area and with a number of the original parcels that were part of the 1906 plat. The new residential development will contribute to the neighborhood fabric now known as the *East End* neighborhood.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the existing character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
This project poised near the edge of downtown is has direct access to a pedestrian bridge crossing South Charlotte Street to provide access to downtown. Multiple modes of transportation are available to the area including bus lines that run along College Street and Martin Luther King Jr. Boulevard. All other urban services are available to this parcel as well.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The proposed uses on the site are not expected to create undue traffic congestion or create a traffic hazard. The small number of residential parcels in the subdivision will not create traffic congestion.

The Comprehensive Plan recommends higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure. The proposal is adjacent to the central business district area and is close to jobs, parks, transportation options and shopping. The area is currently vacant and as noted in the Comprehensive Plan, such infill properties can be developed without changing the character of the area. Smaller lot sizes were once more common in Asheville before minimum zoning standards were adopted so in some ways this development reflects historic patterns especially for neighborhoods near downtown.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes improved access for existing vacant residential lots.
- Infill residential parcels close to downtown, transportation options and jobs will be available for new housing development.
- Sidewalks are not proposed (or required) as a part of this subdivision and are limited in the surrounding area.

- An important pedestrian bridge over S. Charlotte Street close to this site links the neighborhood to the downtown area.

The Technical Review Committee met on September 15, 2014, and this project was recommended for approval with conditions. The Planning and Zoning Commission met on October 16, 2014, and recommended unanimous approval.

Staff recommends approval of the proposed RM-8 CZ conditional zoning to allow for six residential lots with improved right of way access as proposed in the site plans, to allow for single-family residences and typical residential accessory structures and, finding that the request is consistent with City-adopted plans and strategic goals.

Mayor Manheimer opened the public hearing at 5:38 p.m., and when no one spoke, she closed the public hearing at 5:38 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler moved to approve the conditional zoning request for the Klepper Drive Development from Residential Multifamily Medium Density (RM-8) to Residential Multifamily Medium Density conditional zone (RM-8 CZ), based on the site plan with the proposed modifications, compliance with TRC requirements and conditions agreed upon by the applicant and outlined in Exhibit B.1, and find that the request is reasonable, and is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) higher density residential infill development at locations that are suitable for such development with sufficient basic infrastructure is supported; (2) The proposal is adjacent to the central business district area and is close to jobs, recreation, transportation options and shopping; (3) The land is currently vacant and will contribute to the fabric of the existing East End neighborhood. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 293

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

At the request of the applicant, Councilman Smith moved to continue this public hearing until December 9, 2014. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Noise Ordinance Appeals Board, no one applied for the vacancy and therefore, City Council instructed the City Clerk to re-advertise.

RESOLUTION NO. 14-263 - RESOLUTION APPOINTING A MEMBER TO THE ABC BOARD

Councilman Davis, member of the Boards & Commissions Committee, said that this is the consideration of appointing members to the ABC Board and also to appoint a Chair.

The terms of Jim Ellis and John Menkes expire on November 13, 2014. Mr. Ellis is currently Chairman and City Council must appoint a new Chair.

The following individuals applied for a vacancy: Lewis Isaac and Charles R. Worley.

The Boards & Commissions Committee recommenced reappointing Mr. Menkes; appointing Lewis Isaac; and appointing John Menkes as Chairman.

All members of Council expressed their appreciation to Mr. Ellis for his service as Chairman.

Councilman Davis moved to reappoint John Menkes to serve a 3-year term, term to expire November 13, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

Councilman Davis moved to appoint Wilfred Lack to serve as Chairman of the ABC Board until his term expires on November 13, 2016, or until City Council appoints a replacement. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Bothwell moved to appoint Lewis Isaac to serve a 3-year term, term to expire November 13, 2017, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 435

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. John Robert felt that City Council should censor Councilman Bothwell for his comments related to issues at the Asheville Police Department.

Mr. Andrew Clark, Sawyer Motor Condominium on Coxe Avenue, Dr. Bryan Edwards, 32 Broadway Condo Association, and Mr. Larry Shames, Aston Condominium on Church Street, asked City Council to reconsider their January 8, 2013, decision to lift the ban on outdoor amplified music in the Central Business District. Mr. Shames also read a letter from the President of 21 Broadway Condo Association requesting Council to restore the ban on external speakers in the Central Business District. Mayor Manheimer said that the Downtown Commission will be reviewing the matter at their meeting on November 14, 2014. After their recommendation, the matter will be heard by the City Council Public Safety Committee. If any amendment is recommended, the matter will need to go before the Planning & Zoning Commission, prior to the public hearing by City Council.

A woman urged City Council to consider a plan to assist families who will be displaced and evicted when Lee Walker Heights is renovated.

Closed Session

At 5:57 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132

of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Resurgence Development Company and the City of Asheville; and State of North Carolina and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4); and (4) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:10 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:10 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – December 9, 2014 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis (excused at 9:30 p.m.); Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 11, 2014

B. RESOLUTION NO. 14-265 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CH SECURITY FOR SECURITY SERVICES IN THE CITY'S PARKING GARAGES

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with CH Security for security services in the City's parking garages.

The City of Asheville, through the Parking Services Division, operates four parking garages; Civic Center, Rankin Avenue, Wall Street and Biltmore Avenue. The Parking Services Division uses a combination of City employees and contract security officers to provide security and customer assistance in the garages. Generally, City employees work during the business day and early evenings while contract security is on duty during late nights, weekends, and holidays.

Contracts for security are in effect for three years and the current contract expired on November 30, 2014. In October 2014 the Parking Services Division requested quotes for service from interested vendors resulting in 21 vendors responding as shown on the vendor bid sheet. CH Security provided the lowest price for the service. They are headquartered in Alpharetta, Georgia, and they have a district office in Burnsville, N.C. They have been our provider since December 2011. On a normal week, a total of 205 hours of security services will be needed. In addition, the Parking Services Division will request additional security support during periods of high demand; for example, Southern Conference Tournament, Moogfest, employee vacations, or large concerts at the US Cellular Center. The total cost of the three-year security contract will be $405,000.00 but will not exceed $135,000.00 per fiscal year.

Pros:

- Provides safe facilities for residents and visitors to park in.
- Using contract security is the most cost effective manner to augment the Parking Services Division's security requirements.
- Achieves the City of Asheville's assurances to its partners at 51 Biltmore that adequate security will be maintained in the Biltmore Avenue Parking Garage.

Con:

- Total cost of $405,000.

The necessary funds are already budgeted in the Parking Services Fund's Operating Budget for FY 2014-15.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a three-year contract with CH Security to provide security services in the City's parking garages at a total cost of $405,000.00; not to exceed $135,000.00 per fiscal year.

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C. RESOLUTION NO. 14-266- RESOLUTION ADOPTING THE 2015 CITY COUNCIL MEETING SCHEDULE, INCLUDING THE CITY COUNCIL ANNUAL RETREAT ON JANUARY 30 & 31 2015, BEGINNING AT 8:30 A.M. IN THE BANQUET HALL OF THE U.S. CELLULAR CENTER

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D. RESOLUTION NO. 14-267 - RESOLUTION AUTHORIZING A PUBLIC HEARING TO BE HELD ON JANUARY 13, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR LINAMAR

Summary: The consideration of a resolution authorizing a public hearing to be held on January 13, 2015, to consider an economic development incentive grant for Linamar.

City of Asheville has been requested by Buncombe EDC for consideration of a performance based incentive grant under the City of Asheville Economic Development policy to Linamar. Linamar is a diversified global manufacturing company of highly engineered products with facilities across North America, Europe, and Asia. The purpose of the City's participation would be to induce Linamar to make additional investments in the City and Buncombe County for expenditures to expand its existing facilities located at 2169 Hendersonville Road in Asheville. The project will require additions to and renovations of existing buildings and purchase of additional machinery and equipment which may increase the tax value as determined by the Buncombe County Tax Department, regardless of funding sources for said property, in the amount of $190,000,000. This commitment replaces and is an increase of $115 million and 150 jobs to Linamar's second expansion announcement in June of 2012, which encompassed a $75 million investment and 250 new employees. The City of Asheville is considering offering a performance-based grant in an amount not to exceed $3,500,000, which will replace a phase II grant of $1 million. No payments have been made on Phase II.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

The economic development incentive grant for Linamar supports the City Council's Strategic Operating Plan as it addresses Council focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies and efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;

- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of the new incremental increase from property tax revenue generated by the project.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. As noted above, the City of Asheville performance-based grant amount will not exceed $3,500,000 in total.

City staff recommends Council approve a resolution authorizing a public hearing to be held on January 13, 2015, on an economic development incentive grant agreement to support Linamar.

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E. RESOLUTION NO. 14-268 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH MOORE & SON, INC. FOR THE BEAUCATCHER TANK WATERLINE IMPROVEMENT AREA PROJECT

ORDINANCE NO. 4371 - BUDGET AMENDMENT FOR THE BEAUCATCHER TANK WATERLINE IMPROVEMENT AREA PROJECT

Summary: The consideration of the following items relative to the Beaucatcher Tank Waterline Improvement Area Project ('Project'): (1) a resolution authorizing the City Manager to enter into a construction agreement with Moore & Son, Inc., for the bid amount of $432,480; (2) a contingency amount of $65,470 for a total project budget in the amount of $497,950; and (3) a budget amendment in the amount of $372,950 from savings in other capital projects that were completed under budget.

This project consists of all materials, labor, incidentals, and equipment necessary for the waterline installation on two separate roads and the abandonment of multipule waterlines across the former Beaucatcher Tank site. The waterline installations will occur on College Street with the installation of approximately 1,100 Linear Feet (LF) of 10-inch Ductile Iron Pipe (DIP) and Beaucatcher Road with the installation of approximately 350 LF of 24-inch DIP with related appurtenances and materials required to complete the work. This project is being completed in order to remove and abandon all public lines off the former Beaucatcher Tank property, which is a condition of an existing property trade agreement between the City of Asheville and Fiesta Resort Properties. The property trade is needed to complete the proposed Beaucatcher Greenway Project. The WRD issued an Advertisement For Bids for the construction project. In response to the Advertisement For Bids, the WRD received four bids. Companies responding were:

1.	Dillard Excavating Company, Inc. – Pelzer, SC	$544,115.00
2.	Huntley Construction Company, Inc. – Asheville, NC	$511,125.75
3.	Moore & Son, Inc. – Mills River, NC	$432,480.00
4.	Patton Construction Group, Inc. – Asheville, NC	$473,300.00

Following a review of bids by City Staff, Moore & Son, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of $432,480. A contingency amount of $65,470 has been added for a total project budget of $497,950.

Pros:

- This project will remove and replace aging infrastructure from existing City of Asheville property and relocate all lines to within the road right-of-way. The existing lines are considered to be main transmission lines and due to age, have a high risk of failure that could cause costly repairs for the WRD. This is intended to reduce frequent outages for the customers with a durable, reliable, sustainable water system for the project area.
- The completion of this project enables the City to meet the conditions for the existing property trade agreement with Fiesta Resort Properties, which is required for the City to complete the proposed Beaucatcher Greenway.
- This project is aligned with the City and WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible, responsive bidder will invest City funds in the local economy.

Cons:

- Failure to award a construction contract would prevent the completion of this waterline system improvement and goal of continued investment in our infrastructure.
- Failure to award would also prevent the City from fulfilling a condition of the existing property trade agreement with Fiesta Resort Properties, which is required for the City to complete the proposed Beaucatcher Greenway.

The Water Resources Department currently has $125,000 budgeted for this Project. The scope of this project has expanded beyond the original scope identified more than six years ago. The remaining funds of $372,950 needed for the contract will be transferred from two capital projects that were completed under budget. In order to transfer the funds, a budget amendment is necessary.

Amount in Project Budget	$125,000
Amount Needed for Construction Contract	$372,950
Total Amount for Project	$497,950

City staff recommends City Council authorize the following relative to the Beaucatcher Tank Waterline Improvement Area Project: (1) a resolution authorizing the City Manager to enter into a construction agreement with Moore & Son, Inc., for the bid amount of $432,480; (2) a contingency amount of $65,470 for a total project budget in the amount of $497,950; and (3) a budget amendment in the amount of $372,950 from savings in other capital projects that were completed under budget.

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F. RESOLUTION NO. 14-269 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA CORNERSTONE CONSTRUCTION FOR THE RENOVATION OF THE STEPHENS-LEE RECREATION CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction to replace the existing recreation center flooring, gym ceiling, interior paint, sports equipment, and provide structural upgrades at Stephens-Lee Recreation Center for an amount not to exceed $340,000.

The City of Asheville has determined the existing flooring, sports equipment, interior paint, and gym ceiling tiles at the Stephens-Lee Recreation Center have exceeded their life expectancy, are in poor condition, and poses safety hazard for users. Additionally in response,

the city has identified the need for a renovation and plans to complete the project in FY 2014-2015 under the parks and recreation deferred maintenance program.

The City issued an Advertisement for Bids for construction of the renovations and received a bid from Carolina Cornerstone Construction located at 357 Depot Street in Asheville, North Carolina who was selected as the lowest, responsible bidder at the amount not to exceed $340,000.

Pros:

- Improves safety by replacing uneven and cracked flooring and ceiling surfaces from years of patching and repairing; replacement of outdated and broken sports equipment.
- Provides safe alternative for recreation.
- Improves performance through ongoing care and maintenance.

Con:

- None

The $340,000 to support the Carolina Cornerstone Construction contract for Stephens-Lee Recreation Center renovation is budgeted in the FY 2014-2015 Parks and Recreation Department operating budget as part of the deferred maintenance budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction to renovate Stephens Lee Recreation Center for an amount not to exceed $340,000.

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G. RESOLUTION NO. 14-270 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH AMERICAN SEATING COMPANY FOR THE REPLACEMENT OF THE MCCORMICK FIELD SEATING

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with American Seating Company for the replacement of seating at McCormick Field for an amount not to exceed $259,453, with the City Manager authorized to approve change orders up to the budget amount.

In March 2012 City Council approved a five-year lease with DeWine Seeds –Silver Dollar Baseball, L.L.C for the use of McCormick Field for the operation of the Asheville Tourists minor league baseball team. As part of that agreement, the City committed to fund certain capital improvements at McCormick Field during the term of the lease, including the replacement of seating in Fiscal Year 2014-15. The City issued an Advertisement for Bids for McCormick Field seat replacement on November 6, 2014, and received the following two bids:

Irwin Seating Co. - Grand Rapids, MI	$312,774
American Seating Co. - Grand Rapids, MI	$259,453

American Seating Company from Grand Rapids, MI, was selected as the lowest, responsible bidder at an amount not to exceed 259,453.

Pros:

- This project will remove and replace aging infrastructure from existing COA property.
- The project will also make this site more aesthetically pleasing.

Con:

- None

Funding for this contract is already budgeted in the adopted Fiscal Year 2014-2015 capital improvement budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with American Seating Company for the replacement of seating at McCormick Field for an amount not to exceed $259,453, with the City Manager authorized to approve change orders up to the budget amount.

At the request of Councilman Davis, Director of Finance and Management Services, said that she would be happy to provide the detailed specs and photos of the seats.

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H. RESOLUTION NO. 14-271 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH WASTE PRO OF NORTH CAROLINA INC. TO PROVIDE BULK CONTAINER REFUSE AND RECYCLING COLLECTION SERVICES AT CITY FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Waste Pro of North Carolina Inc., to provide bulk container refuse and recycling collection services for the U.S. Cellular Center, Transportation, General Services, Public Works, Parks and Recreation and Water Resources Departments.

The City of Asheville U.S. Cellular Center, Transportation, General Services, Public Works, Parks and Recreation and Water Resources Departments generate and/or collect moderate amounts of solid waste on a regular basis through normal operations. These items are deposited frequently into large 4, 8 and 34 cubic yard capacity dumpsters located at the various City Department's facilities.

In total, there are 34 dumpsters throughout the City; 21 located at Parks and Recreation facilities, 2 at parking garages, 3 at General Services facilities, 4 at Water Resources facilities, 2 at the U.S. Cellular Center, 1 at Public Works, and 1 located at the Purchasing warehouse.

The City of Asheville does not own these types of dumpsters or the specialized machinery and equipment to haul the waste to the various transfer stations.

A competitive bid process was conducted, receiving four (4) bids for the rental of equipment and collection of bulk waste generated by the City. The bid summary is below:

Waste Industries, LLC, Raleigh, N.C.	$51,496.00
Waste Management of Carolinas Inc., Arden, N.C.	$40,380.20
Waste Pro of North Carolina Inc., Arden, N.C.	$40,310.20
Republic Services of North Carolina, LLC, Asheville, N.C.	$40,530.75

Waste Pro of North Carolina Inc. was the lowest responsive and responsible bidder with an estimated yearly amount of $40,310.20. By adding a 5% contingency for future year price adjustments, the total expense for three years is $127,078.00

Pros:

- Allows for an efficient work environment by frequently removing waste material from city facilities.
- Provides a safe means of storing and disposing of waste.

Con:

- None identified

The first year of the multi-year contract expense is budgeted in the FY 2014 – 2015 operating budgets of the aforementioned Departments, and the remaining years will also be budgeted for in the respective operating budgets.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into and approve change orders for a three (3) year contract with the option of two (2) one (1) year extensions; with Waste Pro of North Carolina Inc. to provide bulk container refuse/recycling collection services in the amount of $127,078.00.

RESOLUTION BOOK NO. 36 - PAGE 444

I. RESOLUTION NO. 14-272 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH FIELD CONSTRUCTION SERVICES INC. FOR THE INSTALLATION OF AN IRRIGATION SYSTEM ON THE BACK NINE HOLES AT THE ASHEVILLE MUNICIPAL GOLF COURSE

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Field Construction Services, Inc. for the installation of a new irrigation system on the back nine holes at the Asheville Municipal Golf Course for an amount not to exceed $365,000.

City Council approved $450,000 as part of the City's Fiscal Year 2014-2015 capital improvement budget for the irrigation system at the Asheville Municipal Golf Course. The City issued an Advertisement for Bids for the irrigation system and installation, and received a bid from Field Construction Services, Inc., located in Charlotte, North Carolina, who was selected as the lowest, responsible bidder at the amount not to exceed $365,000.

Pros:

- The new irrigation system will replace an old, leaking and antiquated system that is manually operated and in continuous need of repair.
- The new system will save considerable resources in staff time, repair costs and water use.
- The new system will increase water efficiency while improving overall playability of the golf course and enhance customer service.

Con:

- None

The $365,000 to support the Field Construction Services, Inc. contract for the Asheville Municipal Golf Course back nine irrigation system is budgeted in the Fiscal Year 2014-2015 capital improvement budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Field Construction Services, Inc. for the irrigation system and installation on the back nine holes of the Asheville Municipal Golf Course not to exceed $365,000.

Mayor Manheimer said that the City leases the Golf Course to a private entity that runs it for the City and that has enabled the City to re-direct its dollars to make investments in capital improvements needed for the Golf Course.

RESOLUTION BOOK NO. 36 - PAGE 445

J. ORDINANCE NO. 4372 - BUDGET AMENDMENT FOR THE SENIOR OPPORTUNITY CENTER AND HARVEST HOUSE FROM THE SENIOR CENTER GENERAL PURPOSE FUND FOR FISCAL YEAR 2014-15

Summary: The consideration of a budget amendment in the amount of $3,893 for Senior Opportunity Center and $3,893 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Fund.

Funds will be used at the Senior Opportunity Center to enhance the front entrance patio and landscaping around the building. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to 1) add new storage space, and 2) purchase program and facility equipment. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.
Pros:

- Facility improvements will address existing maintenance projects and improve accessibility.
- Equipment purchases will enhance the customer experience and expand programming opportunities in senior centers.

Con:

- None

The allocation will increase the City's General Fund budget by $7,786 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council to approve the budget amendment authorizing the City Manager to establish a budget in the amount of 1) $3,893 for Senior Opportunity Center, and 2) $3,893 for Harvest House for facility improvements and equipment.

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K. RESOLUTION NO. 14-273 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION FROM THE ASHEVILLE DOWNTOWN ASSOCIATION OF THE STAGE CANOPY AT PACK SQUARE PARK

Summary: The consideration of a resolution authorizing the City Manager to accept a donation from the Asheville Downtown Association (ADA) of the stage canopy at Pack Square Park.

In 2013 the City authorized ADA to install a canopy on the stage at Pack Square Park. Since then ADA successfully met all the requirements of the canopy installation and the work is complete. ADA is now making a gift of the stage canopy to the city valued at $125,000.

Upon acceptance of the gift, the City will assume responsibility for all maintenance and operations of the canopy including but not limited to maintenance, repair and replacement. Each 10-year period of operation is anticipated to cost a minimum of $155,000.

Pro:

- Supports the partnership between the City and ADA to enhance Pack Square Park events and programming

Con:

- Increase cost to the City's budget for canopy maintenance, repair and replacement

The addition of the stage canopy in Pack Square Park will increase the City's operating budget by $155,000 for each 10-year period.

City staff recommends City Council to adopt a resolution authorizing the City Manager to accept a donation from the Asheville Downtown Association of the stage canopy at Pack Square Park.

Councilman Davis thanked the Asheville Downtown Association for the donation of the stage canopy.

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L. ORDINANCE NO. 4373 - TECHNICAL BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR PRIOR YEAR CONTRACTS AND PURCHASE ORDERS THAT ROLLED FORWARD TO FISCAL YEAR 2014-15

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the Fiscal Year 2013-14 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to Fiscal Year 2014-15, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the Fiscal Year 2014-15 budget for each of the City's annual operating funds.

Pro:

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

Con:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's Fiscal Year 2013-14 financial statements. There is no impact on unassigned/available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year 2014-15.

ORDINANCE BOOK NO. 29 - PAGE 305

M. RESOLUTION NO. 14-274 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SUPPLEMENTAL UTILITY AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR THE RELOCATION AND ADJUSTMENT OF MUNICIPALLY OWNED WATERLINES WITHIN THE I-

26/NC 280 (AIRPORT ROAD) INTERCHANGE PROJECT AREA

Summary: The consideration of a resolution authorizing the City Manager to execute a Supplemental Utility Agreement with N.C. Dept. of Transportation (NCDOT) for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area.

On July 23, 2013, City Council authorized the City Manager to execute a Municipal Utility Agreement with NCDOT for the I-26 / NC 280 Interchange Project (No. I-5501) in the amount of $164,000. Afterwards the Water Resources Department was informed that the cost of the project increased to $196,900 and on June 10, 2014, City Council authorized the City Manager to execute the first Supplemental Utility Agreement. Since construction has begun on the project it has been determined that an additional 200' of 24" water transmission main will have to be relocated due to it being in conflict with the roadway project. Because the City of Asheville owns and maintains municipal waterlines within the right-of-way of the project area, the Water Resources Department is responsible for 100% of the cost associated with adjustment or relocation of the waterlines.

The current project estimate is $196,900. The Supplemental Utility Agreement increases the project estimate by $106,780. The new adjusted estimate for the relocation and adjustment of the waterlines is $303,680 plus an additional contingency amount of $45,552 for other possible unforeseen additions, for a total project budget estimate amount of $349,232.

Pros:

- Execution of the supplemental agreement allows the City of Asheville Water Resources Department to meet its obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Execution of the supplemental agreement allows the required adjustment or relocation of municipal waterlines to be performed under the NCDOT construction contract, which will provide construction efficiencies producing cost savings and allow construction schedules to be met.

Cons:

- Failure to execute the supplemental agreement hinders the City of Asheville Water Resources Department ability to meet obligations to NCDOT for the adjustment or relocation of municipal waterlines within the NCDOT right-of-way.
- Failure to execute the supplemental agreement prevents the required adjustment or relocation of municipal waterlines from being performed under the NCDOT construction contract. This will create difficulties with construction coordination, create a lack of efficiencies and add to the overall cost of the construction.

The funding needed for this agreement is currently allocated within the NCDOT I-26 Widening Project in the Water Resources Capital Improvement Projects fund. City Council previously approved a budget of $196,900, so this request would increase the budget amount by $152,332. No budget amendment is necessary.

City staff recommends City Council approval of a resolution authorizing the City Manager to execute a Second Supplemental Utility Agreement with NCDOT for the relocation and adjustment of municipally owned waterlines within the I-26 / NC 280 (Airport Road) interchange project area. The adjusted estimate for the relocation and adjustment of the waterlines is $303,680 plus an additional contingency amount of $45,552 for other possible unforeseen additions, for a total project budget estimate amount of $349,232.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

Councilman Smith asked that when the City enters into contracts, that Council be advised on what is being provided in terms of wages. City Manager Jackson will check what reporting is being reported now and what will be needed to satisfy that request.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE EXTERNAL AUDIT OF THE FISCAL YEAR 2015 COMPREHENSIVE ANNUAL FINANCIAL REPORT

Director of Finance and Management Services Barbara Whitehorn said that this is the consideration of a motion to accept the Fiscal Year (FY) 2014 Comprehensive Annual Financial Report (CAFR).

Mr. Eddie Burke, CPA, Audit Partner with Cherry Bekaert LLP, presented Council with the City's CAFR, and then provided a review of the audit. He reviewed the different audit areas of focus.

Cherry Bekaert has provided the City with an unmodified, or "clean," opinion that the financial statements are fairly presented in conformity with generally accepted accounting principles. This opinion is the highest form of opinion that the external auditors can express on the presentation of the City's financial statements.

In response to Councilwoman Wisler, Mr. Burke said that all three recommendations from last year have been addressed/corrected.

Vice-Mayor Hunt moved to accept the Fiscal Year 2014 Comprehensive Annual Finance Report. This motion was seconded by Councilman Bothwell and carried unanimously.

B. QUARTERLY FINANCIAL UPDATE

Director of Finance and Management Services Barbara Whitehorn noted the following key items in the first quarter financial report:

- Major General Fund revenues, such as property and sales taxes, are on track to match budget estimates, but more refined projections will be available in the second quarter report. Please note that many revenues are remitted to the City either on a delay from collection (sales tax) or peak during a particular month or quarter (property tax). In the case of sales tax, the actual collections as of 9/30/2014 represent only one month of sales tax. Since the date of these financials, we have received the August and September receipts, on which we base our assertion that these taxes are on track with budget. Property Tax collections will be recorded primarily in December and January.

- Smaller General Fund revenues, such as Development Services fees and Local ABC shared revenue continue to perform better than original budget estimates; the Development Services fee revenue budget was amended in October (Quarter 2) to account for the ongoing high level of activity.

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- General Fund expenditures were at 20% of budget at the end of the first quarter – which is typical for this point in the fiscal year. Although Police Department overtime and augment pay expenses were running ahead of budget through the first quarter, overall Police salary expenses (including regular and overtime pay) were on budget due to offsetting vacancies. Staff will be adjusting budgets between Police regular and overtime/augment pay during the second quarter to reflect first quarter results and projections for the remainder of the year.

- While staff anticipates that unassigned fund balance in the General Fund will increase in FY 2014-15, staff will have more refined projections later in the year.

- All Enterprise Funds are currently projected to perform at or better than budget.

- Staff has identified no financial or budget issues with capital projects in the first quarter that significantly impact budget estimates or cash flow projections.

She then provided Council with the following financial information which reflects the City's overall financial position for the fiscal year through September, 2014. The following is the executive summary:

Amendments. The General Fund budget presented in this first quarter report reflects the adopted budget of $99,547,954 along with two budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	10,000
9/30/2014 Budget	$99,611,749

*Fund Balance Appropriation

Revenues. Through September 30, 2014, the City has collected $9.3 million in General Fund revenue, which represents approximately 10% of the total General Fund revenue budget. Based on FY 2014 year end revenue collections and FY 2015 first quarter trends, staff is currently projecting that ***FY 2015 General Fund revenue will slightly exceed budget.***

Expenditures. General Fund expenditures through September 30, 2014 totaled $19.9 million or 20% of budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. Staff is projecting that ***FY 2015 expenditures (including contract and purchase order commitments) will finish the year under budget by $767,000 (99% of budget).***

Fund Balance. The City began FY 2015 with unassigned fund balance of $15.0 million. As noted above, an additional $10,000 was appropriated from unassigned fund balance during the first quarter. Based on ***current revenue and expenditure projections for FY 2015, staff estimates that unassigned fund balance at June 30, 2015 will be $16.26 million or 16.5% of estimated expenditures.***

In response to Vice-Mayor Hunt, Ms. Whitehorn said that it's a little early in our first quarter to project our unassigned fund balance, but so far the trend is looking good.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS AND ONE RESIDENTIAL ZONING DISTRICT

ORDINANCE NO. 4374 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING RESIDENTIAL DEVELOPMENT DENSITY STANDARDS IN CERTAIN COMMERCIAL ZONING DISTRICTS AND ONE RESIDENTIAL ZONING DISTRICT

Urban Planner Blake Esselstyn said that this is the consideration of an ordinance amending the Unified Development Ordinance regarding changes to the residential density allowed in certain commercial zoning districts (all but one would be increases). This public hearing was advertised on November 28 and December 5, 2014.

Staff originally brought forward the wording amendment in question, proposing changes to residential density limits in commercial zoning districts, primarily as an effort to better realize the goal of increased residential infill density along commercial corridors. However, with Asheville's affordable housing shortage also in place as one of Council's focus areas, Council and staff recognized that the amendment could also serve as an instrument to encourage the construction of more new affordable units.

In winter and spring of 2014, when the wording amendment was first being drafted, staff developed the proposed maximum densities based on a methodology assuming that residential building volumes would not exceed the theoretical largest building that could be developed as a wholly *commercial* development. The figures were also affected by suppositions about site design: landscape buffers, parking, building height, multiple buildings on a site, etc.

In June of this year, Council was scheduled to hear the wording amendment. The item was continued in order that staff might further discuss the figures with the Housing and Community Development (HCD) Committee, reconsider the numbers associated with those limits and whether they needed to be adjusted to better meet the aforementioned Council goals.

The conversation with HCD ensued at that committee's July meeting. The committee asked staff to reconsider, and do more analysis of, the proportion of units that would be required to be affordable in order to maximize density. Further, staff was asked to consult with the Affordable Housing Advisory Committee, and to examine whether the maximums were sufficiently high as to fully support the goal of encouraging infill density while still ensuring compatibility with surrounding areas.

Staff has devoted considerable time to refining the numbers, and has used interactive spreadsheets, as well as other tools, to investigate how the density numbers are affected when certain assumptions (e.g., number of parking spaces provided per unit) are adjusted. Staff also has given attention to the matter of the percentage of affordable units required to maximize density, and how that maximum density relates to the density allowed for purely market-rate housing.

Staff's analysis also led to the inclusion of two more districts. The Neighborhood Corridor District, another mixed-use district similar to those already included, was determined to have an unsuitably low maximum density. Staff also recognized that, if the changes to commercial districts were to take effect, there would be a marked discrepancy with the highest density *residential* district in the development ordinance: the Urban Residential (URD) district. To offer a maximum in the Office district that was higher than the maximum offered in the Urban Residential district

seemed too inconsistent an approach to addressing the goals of increasing multifamily density in appropriate locations.

Unlike the other affected districts (and unlike most districts in the ordinance), the URD district exists on the ground in very limited circumstances. Since its adoption in 2003, it has only been applied when property owners have requested a rezoning for certain projects (e.g., The Larchmont, Clingman Lofts). There are no existing districts of privately-owned, undeveloped land zoned URD. As such, any developer seeking to develop in the URD district would need to request a rezoning, and compatibility for a development of such density would be assessed at that time.

Staff made the determination that the URD district should be included after it was too late to add that modification to the Planning and Zoning Commission's November agenda. At their November 5th meeting, the Commission voted unanimously to recommend approval for the modifications to the other eleven districts. At their December 3, 2014, meeting, the Planning and Zoning Commission voted unanimously (6-0) to recommend approval of revising the wording amendment text to include the changes to density in the Urban Residential district.

Recognizing that incentives for density and affordable housing will appeal to developers only if the math truly represents an encouraging option, staff has sought conversations with multiple developers to examine the key ratios and factors that would enable the amendment to have the desired impact. The table below is meant to illustrate how the proposed change affects the numbers, not only of maximum density, but also of affordable housing units provided, and additional market units provided. Of the eleven districts where increases are proposed, three representative districts are shown here for the sake of simplicity.

Zoning District	Status quo maximum density (units/ac)	Proposed maximum density (units/ac)		Additional units yielded by bonus	
		Market-rate	With 20% affordable	Market-rate	Affordable
Office Business	12	20	40	12	8
River	16	30	60	18	12
Regional Business	32	35	70	21	14

It's worth noting that the maximal density levels were determined for a "best case" scenario parcel without the irregular shapes, topographic constraints, utility conflicts, flood hazards and other obstacles common to Asheville parcels. Staff recognizes that many parcels will not be able to be developed to these densities, but nonetheless concluded that the option should be available for the parcels that can support such levels.

The next table shows the existing densities for all of the districts proposed for increases, as well as the current proposal. If just 10% of the vacant land area in these districts – to say nothing of the underdeveloped land – were developed at the maximum density, more than 2,300 multifamily units would be built (more than 460 affordable) or if developed all at market rate, more than 1,150.

Proposed for Increased Residential Density

District Name	Current Density (units per acre)	New Proposed Density (units per acre) Market Rate	20% Affordable
Office	8	20	40
Office II	12	20	40
Office Business	12	20	40
CB I	16	20	40
CB II	16	25	50
Institutional	16	30	60
River	16	30	60
Highway Business	32	35	70
Regional Business	32	35	70
Neighborhood Corridor	32	35	70
Urban Residential	32	35	70

Another element of the proposed amendment involves *reducing* the allowed density for one district: Commercial Industrial. The reduction proposed in May (aimed to temporarily curtail residential development of land with industrial potential) had been from 16 units per acre to two units per acre. Staff is now proposing a change to eight units per acre to reduce the degree of nonconformity created for existing residences in the CI zoning, while still achieving the goal of preventing large multifamily projects.

In the Asheville City Development Plan 2025, references to encouragement of mixed-use development, higher residential densities in appropriate locations, and multi-family housing along corridors abound. Such instances are almost too numerous to list—multiple examples exist on page 155 alone.

The City Council 2014-2015 Strategic Plan (Focus Area 2) Goal 1 is to "Expand Asheville's supply of quality, affordable homes for current and future residents." Action Items under that goal speak directly to revisiting the UDO to encourage affordable housing close jobs and transportation; and providing financial assistance and development incentives. Focus Area 1, Goal 2 says the City should act to "Research, develop and propose incentives for in-fill and redevelopment."

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Amendments could encourage infill development in areas where current density limits may have inhibited desirable high-impact projects.
- Amendment is hoped to stimulate construction of mixed-income housing (including affordable) on location-efficient corridors.
- Stricter limits will prevent residential development of land with industrial potential while study of industrial land is conducted.

Staff recommends approval of the modification to the wording amendment text.

In response to Councilman Smith, Mr. Esselstyn said that they have had discussions with developers and they are in general agreement on the numbers.

Councilman Bothwell felt that this is a workable and rational plan to help increase density.

Mayor Manheimer opened the public hearing at 5:43 p.m.

A piano teacher in west Asheville was concerned that on the City's website it lists the median income as $39,000 but most of the people that she works with are making half of that. She asked Council to consider a percentage of affordable housing in any project moving forward.

Mr. Rich Lee, representing the East/West Asheville Neighborhood, felt this is a great first step to consolidate apartments along corridors and protect the core of the neighborhoods.

Mayor Manheimer closed the public hearing at 5:45 p.m.

Councilman Smith felt this is the leading edge of this Comprehensive Housing Affordability Strategy and was encouraged to hear the community wanting Council to take future steps. Ultimately this is about thoughtful growth in the City of Asheville and knowing that the affordable housing need is so great, how are we going to accommodate the density necessary to solve the problem.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the revised wording amendment modifying residential density in selected districts, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) References to the benefits of higher-density residential development in corridors closer to jobs are widespread in the 2025 Plan; (2) Encouraging more density on transit routes is also a stated objective in the Comp. Plan; (3) Affordable housing, a goal of both the Comp. Plan, City Council Strategic Plan, and multiple other adopted plans, would be furthered, and (4) The aim to promote more mixed-use infill development figures prominently in the Comp. Plan, as well as the City Council Strategic Plan. This motion was seconded by Councilman Smith and carried unanimously.

On behalf of City Council, Vice-Mayor Hunt thanked Mr. Esselstyn for his compassion and professionalism as a planner with the City and wished him well in his future endeavors.

ORDINANCE BOOK NO. 29 – PAGE 307

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING OF A PORTION OF WESTOVER ALLEY

RESOLUTION NO. 14-275 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF WESTOVER ALLEY

Public Works Director Greg Shuler said that this is the consideration of a resolution to permanently close a portion of Westover alley. This public hearing was advertised on November 14, 21 and 28, and December 5, 2014.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner Matt Depofi has requested the City of Asheville to permanently close a portion of Westover Alley.

The Multimodal Transportation Commission met on September 24, 2014, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of Westover Alley.

Mayor Manheimer opened the public hearing at 5:56 p.m., and when no one spoke, she closed the public hearing at 5:56 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 14-275. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 448

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Manheimer said that Mr. Lou Bissette, representing the owner, asked for a continuance until January 27, 2015, in order to (1) further look at the City's Land Use Incentive Program and other ways to achieve 10% affordable housing in the project; and (2) meet with the neighbors to discuss any of their concerns. Therefore, Councilman Smith moved to continue this public hearing until January 27, 2015. This motion was seconded by Councilman Davis and carried unanimously.

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING 275 AND 281 HAZEL MILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR WHITE OAK GROVE APARTMENTS ON HAZEL MILL ROAD AND CLAYTON ROAD

ORDINANCE NO. 4375 - ORDINANCE TO CONDITIONALLY ZONE 275 AND 281 HAZEL MILL ROAD FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR WHITE OAK GROVE APARTMENTS ON HAZEL MILL ROAD AND CLAYTON ROAD

At the request of Mayor Manheimer, Councilman Pelly moved to recuse Mayor Manheimer from participating due to a conflict of interest. This motion was seconded by Councilman Bothwell and carried unanimously. At this time, Mayor Manheimer handed over the gavel to Vice-Mayor Hunt to preside over this portion of the meeting.

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone 275 and 281 Hazel Mill Road from RM-8 Residential Multi-Family Medium Density District to RM-16 Residential Multi-Family High Density District/Conditional Zoning for White Oak Grove Apartments on Hazel Mill Road and Clayton Road. This public hearing was advertised on November 28 and December 5, 2014.

City Attorney Currin said that a valid protest petition has been filed, thus requiring a three-fourths vote of the seated City Council to approve the rezoning of the property. Since Mayor Manheimer is recused, the number of votes necessary to rezone the property would be five.

The project site consists of two parcels (currently addressed 275 and 281 Hazel Mill Road) located off of Hazel Mill Road, just north of Patton Avenue, with frontage along Clayton Avenue, Hazel Mill Road and Nancy Street. The project proposes a recombination which would result in an overall project area of 6.501 acres. The property slopes gently from west to northeast.

There are two vacant dwellings and several associated structures existing on the parcels which will be removed for this project.

The applicant is proposing to construct a multi-family development that will consist of ten (10) buildings. The buildings are either two-story or two/three split configurations (maximum height of 40 feet) and contain a mix of one (32) and two (72) bedroom units for a total of 104 residential units. The developer is proposing that 10% (11 units) of the dwelling units be affordable meeting the City's standards. The remaining units will meet the City's criteria for "workforce" housing. A number of amenities are provided on the property for the benefit of the residents including a dog park, community garden, and picnic areas. The buildings will be constructed to meet North Carolina Healthy Built Homes standards.

Access to the site is proposed via two drive entrances off of Clayton Avenue. It is proposed that Clayton Avenue be widened to accommodate some on-street parking (18 spaces) while allowing for two-way traffic on that street. A total of 204 parking spaces are provided. All parking spaces on site will be constructed using pervious pavers. Provisions are made for the parking of 40 bicycles. Sidewalks are provided along both Clayton Avenue and Hazel Mill Road. The sidewalk proposed along Hazel Mill will be constructed largely back from the road (not immediately adjacent) and will be ten feet in width.

Street trees are required along all street frontages. The project also includes compliant street buffer, building impact, tree save, and parking lot landscaping, with the preservation of some existing vegetation along Hazel Mill Road. The applicant is proposing 2.38 acres of open space, well above the 1.20 acres of open space required.

Under the current RM-8 zoning, the combined site would be permitted a total of 57 units.

In 2009, a Level II project consisting of 42 single-family townhouses housed in 21 structures was conditionally approved for the site. No development activity occurred at that time. Subsequently, in 2012, a conditional zoning request was submitted (from RM-8 to RM-16CZ) proposing construction of a 92-unit apartment complex. This request was withdrawn prior to final consideration by the Asheville City Council.

The Technical Review Committee (TRC) reviewed this application at their meeting on September 15, 2014, and approved it with conditions. The developer has addressed many of the conditions noted by TRC in the submittal that is before the City Council.

The proposal was considered at a public hearing before the Asheville Planning and Zoning Commission on October 16, 2014. Five people spoke against the project at the meeting

with one person speaking in support. The main concerns voiced by those opposed were density and transportation issues along Hazel Mill Road. Following the public hearing, the Commission voted 4-1 to recommend approval of the project to the Asheville City Council. They added two additional conditions to those recommended by TRC as follows:

1. That the developer completes a comprehensive traffic study prior to final TRC approval.
2. That the developer provide annual bus passes for two years/per unit and in perpetuity if a transit line returns to Hazel Mill Road.

If approved by Council, the project must return to the Technical Review Committee for final review.

Although not required, the developer held two neighborhood meetings on the proposed development. These meetings were held on Thursday, September 11th (to introduce the proposal to those who own property or reside in the area) and on Monday, October 27th (transportation issues focus).

The subject parcels and adjacent lots are zoned RM-8, with Highway Business, Institutional, Office, Resort, and RS-8 zoned properties in the general vicinity. The properties are immediately surrounded by single family homes and townhomes with a large car dealership, offices, and a church in close proximity. The proposed development, with a density of approximately 16 units per acre, is of greater density than is found on the immediately surrounding residential properties, however, the property is within approximately ¼ mile of transit service and within walking distance of a number of service and retail businesses. The developer plans initially to provide an annual bus pass for each unit.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been approved by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The proposed use and development of the land are reasonably compatible with the natural features and topography of the site. The developer worked with the existing topography on the site in the placement of the buildings. Landscaping and open space surround the development and a number of existing trees are proposed to be saved.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The development is not expected to injure the value of adjoining or abutting properties. The use proposed is similar to adjacent parcels (residential) although at a higher density. Given the proximity to the commercial / mixed-use Patton Avenue corridor, higher-density residential uses can be considered to be appropriate in this location. The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton

Road which should improve conditions along the segments of roadway surrounding the property.

4. *That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
The proposed use as multi-family is in harmony with the area in which it is located. Although surrounded primarily by single family homes, this site is less than a quarter mile from the Patton Avenue commercial corridor, making it an appropriate location for higher-density residential development. Additionally, there are a number of other parcels in the vicinity with multiple residential units, including condo units on adjacent Nancy Street and Townview Drive. None of these other developments include buildings as large as the apartment structures proposed in this development; however, the developer has worked to reduce the height and scale of the buildings from the previous submittal to make the structures more in keeping with surrounding buildings.
The number of units proposed exceeds the underlying (existing) density; however, staff feels that the site layout and proximity to Patton Avenue and transit (as mentioned above) makes this an appropriate location for this proposal.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
The *Asheville City Development Plan 2025* encourages a Smart Growth development pattern by recognizing the need for higher density residential infill projects (pg. 31). With 104 units, this project is not only meeting that goal but also seeks to assist with what the *Plan* calls "the number one economic development problem for this community" (pg. 45): lack of affordable housing. The project includes 10% of the units as affordable.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The developer is proposing a number of street and sidewalk improvements along Hazel Mill and Clayton Road which should improve road conditions adjacent to the project site. Basic infrastructure appears adequate and preliminary review by other service providers has not revealed any problems for future service to the development.

7. That *the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The proposed project has been reviewed by the City Traffic Engineer and it has been determined that the project should not cause undue traffic congestion along the existing street infrastructure.

One of the smart growth principles in the Asheville City Development Plan 2025 highlights the importance of higher density infill development where infrastructure can easily be provided. Given the proximity to the commercial/mixed use Patton Avenue corridor, higher density residential units seem appropriate. The comprehensive plan additionally speaks at length about the issue of affordable housing. This development proposes 10% (11 units) of affordable housing

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing. This project offers 11 new affordable units in a location near many needed services. Council has a goal of expanding the supply of housing and this proposal increases the density that can be placed on the property.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:
- Higher density development furthers the goals and objectives of the comprehensive plan.

- The proposed development provides housing in an area close to many services.
- The project will be designed to qualify for Healthy Built Homes certification.
- The project proposes 10% affordable units.
- The project exceeds the density allowance under the current RM-8 zoning district unless the conditional zoning is approved.
- Concern has been voiced by surrounding neighbors regarding increased traffic.

Staff recommends approval of the proposed conditional zoning, finding it consistent with City-adopted plans and strategic goals for development. The Planning and Zoning Commission additionally recommended approval to the Council (4-1).

Vice-Mayor Hunt opened the public hearing at 6:07 p.m.

Mr. Robert Grasso, developer, felt that this design has responded to a lot of the concerns expressed two years ago by City Council and the neighborhood. Two years ago a Traffic Impact Analysis was perform for 108 units (now 104 units) and at that time it showed that they were not significantly having an impact on the traffic on Hazel Mill Road and Louisiana Avenue. One hundred and four units are now being proposed into smaller buildings that conform with the slope of the land. Two of the buildings will be a floor below Clayton Avenue. Amenities will be provided, such as a dog park, community garden, benches, etc. They have committed to 10% affordable apartments and all their rents will we well within the workforce range. This is a unique location which is close to Patton Avenue and they were originally on the bus line. Since that line has since moved, he has committed to a bus pass per unit to encourage people to use that service. He has tried to be sensitive to the concerns of the neighborhood, with their one big concern the existing traffic issue on Hazel Mill Road. He committed $10,000 toward comprehensive traffic study so the neighborhood can come up with recommendations for traffic calming. A preliminary meeting was held and the outcome from that meeting was that the neighborhood wanted sidewalks. Instead of the $10,000 for the traffic study, he instead committed up to $15,000 towards construction of additional sidewalks off of his property. He did note that $1,000 has been spent on the consultant at the preliminary meeting, and therefore, committed to spending up to $14,000 for sidewalks. Regarding the construction schedule, he said they hope to break ground in the spring and after two years of construction, they hope to be completed in the spring of 2017. He was excited about moving forward and hoped City Council would support his project.

Ms. Fields said that the condition number 5 "The developer shall complete a comprehensive traffic study prior to final TRC approval" will be removed and replaced with the condition that the developer is committed to spending $14,000 on sidewalk construction off his property. Mr. Grasso agreed with replacement condition, along with all the other conditions provided to Council.

Mr. Timothy Sadler spoke about ways he supported the project.

The following individuals spoke in opposition of the project for various reasons, some being, but are not limited to: will the school district be able to accommodate the additional 200 children; since easiest route from this property to Patton Avenue is a private road off Hawkins Lane that cross Harry's Cadillac's property, a request that a condition be that the developer advise his tenants not to use the private road; the 15-20 townhouses and Section 8 housing on Nancy Street have negatively impacted the ability for vehicles to get onto Hazel Mill Road and these apartments will only exacerbate the problem; possible negative impact of my real estate values; abutting property owners do not want to see the apartments across the street from their homes; need for sidewalks on Hazel Mill Road; existing infrastructure and traffic challenges on Hazel Mill Road; need for stop sign at corner of Clayton Avenue and Hawkins Lane; every intersection from Patton Avenue to Clayton Road does not have the required site distance; the rents for a one-bedroom are still out of the range for many in our community; traffic calming on Hazel Mill Road is necessary; Hazel Mill Road is a narrow road; tenants will not work to beautify

the neighborhood like single-family homeowners; one-bedroom apartments will have a high turn-over; neighborhood wants single-family homes, not one-bedroom apartments; and stormwater runoff onto neighboring properties during construction:

Mr. Roy McGuinn, former principal
Mr. Craig Justice, attorney on behalf of Harry's Cadillac
Mr. Rich Steinhoff, property owner on Townview Drive
Mr. Steven Slack, property owner on Hazel Mill Road
Mr. Nat Burke, tenant on Townview Drive
Ms. Valerie Martin, property owner on Townview Drive
Ms. Bridget Nelson, resident on Nancy Street
Mr. Gary Dunbar, resident on Nancy Street
Mr. Nathan Merchant, property owner on Hazel Mill Road
Resident on Townview Drive

In response to Councilwoman Wisler, Transportation Director Ken Putnam said that if the private road across Harry's Cadillac's property is closed (as was a possibility noted by Mr. Justice), the traffic signal on Patton Avenue would not go away. Mr. Putnam then explained how the Transportation Department is constantly doing speed studies and is always open to listening to the neighborhood's concerns. Regarding traffic calming, the City has budgeted funds this year to work on the backlog of projects. If a road has been analyzed for traffic calming measures, there are several factors that are reviewed, including speed humps.

There was a brief discussion about possible strategies to eliminate cut-through traffic, noting that sometimes a strategy will just shift the problems onto another street.

It was confirmed that Hazel Mill Road is a no through truck street.

At 7:07 p.m., Vice-Mayor Hunt closed the public hearing.

Councilman Bothwell felt that we should act separately to have sidewalks on Hazel Mill Road both to Louisiana Avenue and to Patton Avenue.

Vice-Mayor Hunt said that the challenge we face is that we can't predict where the next development will go in and it's difficult to put in the infrastructure without knowing that fact.

Councilman Pelly heard emphasis on the expansion of affordable housing options, and at the same time Council has committed ourselves to greater mobility. If this project is approved, City Council is committed to ameliorate the impact to the surrounding community.

Councilman Pelly moved to approve the conditional zoning request for White Oak Grove Apartments on Hazel Mill and Clayton Roads from Residential Multi-Family Medium Density District (RM-8) to Residential Multi-Family High Density Conditional Zoning (RM-16CZ), subject to (1) the replacement of condition 5 in the list of conditions to be replaced with the condition that the developer is committed to spending $14,000 on sidewalk construction off his property; and (2) the developer notifying the tenants that the private road off Hawkins Lane, which crosses Harry's Cadillac's property, is a private road which is not available to access Patton Avenue, with said notice be printed by using a font and color sufficient to be notice by the tenants and posted at a conspicuous location in the community and be provided to all new tenants with the materials provided to such tenants along with their leases; and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the plans for increased density on this site further City goals promoting higher density residential infill in appropriate areas; (2) the plan for 10% of the units to meet the City's affordability standards respects City goals working to address the needs of the community for increased affordable housing. This motion was seconded by Councilman Smith.

Mr. Grasso agreed to all conditions, including those in the motion that (1) condition 5 being revised that the developer is committed to spending $14,000 on sidewalk construction off his property; and (2) notice to tenants that the private road off Hawkins Lane is a private road and not available to access Patton Avenue.

City Attorney Currin said that she would contact Mr. Justice to obtain the PIN Number of Harry's Cadillac's property and include that in the condition.

Councilman Davis felt that Harry's Cadillac has been a good neighbor for many years and felt that blocking access to Patton Avenue seems to send a wrong message to the people in the community.

The motion made by Councilman Pelly and seconded by Councilman Smith carried unanimously (Mayor Manheimer was recused).

At this point in time, Vice-Mayor Hunt returned the gavel back to Mayor Manheimer to continue residing over the meeting.

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Because Councilman Pelly understood the need for sidewalks, he moved to direct the City Manager to investigate giving funding priority to Hazel Mill Road sidewalk sections discussed tonight during preparation of the Fiscal Year beginning July 1, 2015, and the Fiscal Year 2015-2019 capital improvement plan, with design work to be anticipated in Fiscal Year 2016 and construction thereafter in Fiscal Year 2017 and to report back to Council. Said motion is made with the understanding that advancement of the sidewalk project should be contingent upon satisfactory progress of the development and the granting of the easements necessary for sidewalk construction; and, that completion of the public sidewalk construction be timed to coincide with completion of the final phase of the development. This motion was seconded by Councilman Bothwell and carried unanimously.

Vice-Mayor Hunt noted that doing infrastructure is contingent upon easements from the property owners. He encouraged those that want infrastructure along Hazel Mill Road work together to help the City obtain the necessary easements.

Closed Session

At 7:25 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4); and (3) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:47 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR RIVER MILLS LOFT LOCATED OFF OF THOMPSON STREET FOR A NEW PROJECT OF 254 RESIDENTIAL UNITS WITH A REQUEST FOR A MODIFICATION TO THE SETBACK REQUIREMENTS, A REQUEST FOR

MODIFICATION FOR THE WIDTH OF A PORTION OF SIDEWALK IN THE PROJECT, AND VARIANCES TO THE DESIGN AND OPERATIONAL STANDARDS

City Attorney Currin reviewed with Council the conditional use process, which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 7:55 p.m.

Interim Planning Director Alan Glines submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Glines said that this is the consideration of the issuance of a conditional use permit for River Mills Loft located off of Thompson Street (Location Map - Attachment to City Exhibit 3), for the development of 254 residential units and 4,000 square feet of commercial space on a single parcel zoned Urban Place District in accordance with Section 7-5-5 of the Unified Development Ordinance (UDO), including a request for modifications to building setback standards found in Section 7-8-26 of the UDO.

The project site consists of a single parcel with a combined area of approximately 9.52 acres (according to submitted plans) and frontage on Thompson Street and Stoner Road to the east of Biltmore Village on the Swannanoa River (Aerial - Attachment to City Exhibit 3) (Aerial - City Exhibit 4) (Aerial - City Exhibit 5). The site is zoned Urban Place which was rezoned in 2013 at the request of the owner. Adjacent parcels are zoned Commercial Industrial (CI) to the south, River to the east and west and Urban Place to the west. The Swannanoa River is adjacent on the north side of this parcel and the Norfolk Southern rail line is on the south side.

The project area is currently vacant and was graded and filled several years ago as part of an approved development plan. Surrounding uses include commercial operations, the rail line and storage.

The applicant is proposing a primarily residential project with a limited amount of non-residential space. Plans indicate a total of 254 residential units made up of 248 two-bedroom and 6 three-bedroom units in two large 'L-shaped' 4-story structures described as Building A and Building B. Building A is located at the corner of Thompson Street and Stoner Road and Building B is located on Thompson Street adjacent to the entrance drive (Site Plan - Attachment to City Exhibit 3). Within each large structure will be a small non-residential spaces: one in Building A close to the corner of Stoner Road and the other in building B at the entrance. (Site Plan - City Exhibit 6). While the exact uses of these spaces has not been determined at this point, there is an expectation that they will be used as commercial space especially as the surrounding area receives further redevelopment (Map of Commercial Space - City Exhibit 7). The project also includes a one-story clubhouse structure located interior to the site.

The project site is within the 100-year flood hazard area and is also affected by the more restrictive floodway zone (Site Plan Marked for Floodway - City Exhibit 8). The finished floors of occupied buildings are required to be two feet above the base flood elevation which places the proposed ground floor level approximately 10 feet above the grade of Thompson Street.

The height of the large structures (Building A and B) is 41 feet to the ceiling height of the residential units and 67 feet to the top of the gabled roof. This places the project within the

maximum building height for the district.

The project proposes two access points; the main entrance is from Thompson Street and a second on Stoner Road towards the rear of the property, both are two-way driveways. There are a total of 327 parking spaces proposed, including required accessible spaces and 18 bike parking spaces at the interior of the project. This number is well within the UDO parking range.

New 10 foot wide compliant sidewalks are shown on Thompson Street and Stoner Road. The developer is requesting a modification for a portion of the sidewalk width along Stoner Road past the entrance terrace area because the design team feels the surrounding context does not warrant the need for the wider 10' sidewalk and the amount of impervious pavement in the floodplain could be reduced. This modification request was supported by both the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

In addition to the external sidewalks there are internal walkways throughout the site across the parking lot and into key locations in the building. Because of the grade required to elevate the site above the level of the floodplain, the site is surrounded by retaining walls where the building interacts with the street. This is most prominent for Building A at the corner location. The developer is requesting a wider setback for both buildings to accommodate the location of the floodway and to provide an improved transition from Thompson Street. The pedestrian access into the development is provided along the building frontage along Building A and for Building B, along the front of the building adjacent to the driveway and sidewalk connections. The setback expansion represents the second modification request for this project.

Landscaping is required for this project and includes street trees, parking lot landscaping building impact and dumpster screening. With minor amendments to the plan, the project will comply with all landscape requirements.

Open space is required in an amount equal to five percent of the lot area, which is 20,735 square feet (or 0.47 acre). This is provided in the area around the clubhouse, and in the area along the Swannanoa River.

The site is located in the 100-year flood hazard area and is also affected by the more strictly regulated *floodway*. The setbacks in the Urban Place district are a maximum of 15 feet unless the site is affected by the flood hazard area and other topographic challenges, in which case the setback can be expanded through modification (Landscape Plan - City Exhibit 9). The survey for the project identifies the approximate boundaries of the floodway and the project has been setback from Thompson Street to accommodate this zone. Staff is supportive of this modification. The Stoner Road side has fewer challenges with the flood hazard zone but the need for the sidewalk and the topographic grade difference also requires additional setback area. The retaining wall proposed for Building A is about 10 feet above the surrounding street and according to revised plans with provide a ramp along the west side of the building, a large stairway at the corner, and other treatments such as plantings and terracing to reduce the scale/ mass of the retaining wall. The changes to the wall were proposed on the recommendation and discussion with the River district Design Committee and concerns from the Planning and Zoning Commission during their review. The setback modification request was supported by both the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

Variances to design and operational standards are reviewed by the Planning and Zoning Commission acting as the Board of Adjustments.

The project was granted a variance by the Planning and Zoning Commission for the spacing between public entrances for buildings A and B (Retaining Wall Pictures - City Exhibit 10).

City Council may consider modifications to dimensional requirements as a part of the

conditional use approvals (Two Exterior Building Elevations and Perspective Views - Attachments to City Exhibit 3):

1. Setback - The maximum building setback in this district is 15 feet,
   To better accommodate the required finished elevation and to allow a transition to the street: a setback for Building A is proposed at between 35 and 45 feet from Thompson Street and between 45 and 55 feet from Stoner Road;

   To account for the location of the floodway a setback for Building B is proposed at between 55 and 95 feet from Thompson Street. This is due to the wide floodplain area and the existing curvature of the roadway.

2. Sidewalk width- the developer is requesting that the sidewalk along Stoner Road be approved to a more narrow 6 foot width and not be required to install the Urban Place standard of ten feet.

Both modification requests were recommended for approval by the Planning and Zoning Commission and the Asheville Area Riverfront Redevelopment Commission.

The site was zoned Urban Place in 2013 at the request of the property owner because he felt that Urban Place District provided greater options for commercial uses and because the residential density is higher in Urban Place than in the River District. Urban Place (UP) allows 64 residential units per acre and is intended to foster "higher-density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the city...in the form of mixed-use structures that relate to the street, enhance the streetscape and offer a wide range of complementary land uses and employment opportunities." The district is suitable for areas affected by blight or neglect and for areas where the design and appearance of the built environment is important to the vitality of the area.

The proposal offers a residential density of almost 27 units per acre and includes two small non-commercial spaces located in the prominent corners of Buildings A and B (totaling about 4,000 square feet). The site is in a good location for a multi-family residential use because of the long term plans for the area which include greenway and recreation improvements along the Swannanoa River and because the site is walkable to Biltmore Village and beyond. However, the proposal has some challenges meeting the stated purposes of the Urban Place District of relating to the streetscape and pedestrian orientation due to focus of the proposal on residential uses and the topographic challenges in response to the flood hazard area. The proposed mix of uses is heavily residential and residential uses do not by their nature require such an active publicly accessible ground floor. That said, the building fronts will be designed with windows and private balconies which is something recommended in the ordinance. The flood plain elements work against the goal of direct building connectivity too. However since the initial plans were submitted the design team has continued to work to improve the connection of the building pad and the level of Thompson Street and Stoner Road. There will be a terrace space to reduce the scale and nature of the retaining wall and this will be accomplished with planted sections, change of materials large gateway steps and plantings between sections of the wall. Considering this project over the long term, the surrounding district is expected to become more mixed-use as additional projects come on-line. The Urban Place zoning allows density that is high enough to make the project viable and the influx of new residences will support businesses throughout the area. Over time there may be additional demand for commercial spaces and this development plan should be flexible enough to allow for expansion of non-residential uses provided that changes to parking needs (if any) can be accommodated. Additional commercial space was one discussion point that the Planning and Zoning Commission felt should be a stronger component of the proposal and a better fit for the Urban Place standards.

Staff recommends that the developer provide a level of affordable and workforce housing because this site is a good location for such units being close to employment centers, shopping

and recreation amenities. Mr. Pace Burt, developer, has expressed interest in discussing the topic of affordable/workforce housing with the City's Land Use Incentive Grant Program. Mr. Burt is aware that the extension of the incentive grant requires an application, analysis of the proposal for points and is at the discretion of City Council. Initial discussions to consider the Land Use Incentive Grant Program include some affordable units and a large percentage of workforce units.

The rezoning of this property from River to Urban Place took place in 2013. Across the railroad tracks along Stoner Road and Fairview Road, there have been a number of rezoning efforts including the recent Biltmore Apartments CZ that will be reviewed for a second time by the Planning and Zoning Commission on November 20, 2014.

Zoning and uses adjacent to this site include CI to the south, UP to the west and River to the west and east. Along the south boundary of the site is a 100 foot railroad easement. This location is well suited for a higher-density residential project, with non-residential uses given the proximity and access to employment, shopping and future and current recreational amenities.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes the following findings, based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case:

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   There are flood safety requirements that affect this site and buildings must be elevated above the 100-year base flood elevation. The proposal is also setback from the floodway which affects the front setback of the property along Thompson Street. With these mitigation measures the proposal is compatible with the natural and topographic features that affect this site.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The proposed development of the land for residential use is not expected to injure the value of adjoining or abutting property; higher-density residential uses have been anticipated in this area with the number of rezonings to Urban Place District. The proposed development with its investment and influx of new residents should help the businesses in the area.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   This area along Thompson Street has been anticipated for higher-density development for a number of years. Given the proximity to employment centers, shopping, existing and future roadway infrastructure and future greenways this is an appropriate location for the proposed uses. While the scale, bulk, coverage and density are all greater than the adjacent uses in the vicinity at this time, the overall planning picture for the area is for higher density mixed-use development.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
   As enumerated below, elements of the project are directly aligned with the City's plans and objectives as a mixed-use, infill project including multi-modal transportation elements in an area that will with time have improved pedestrian facilities. If the project includes affordable and workforce housing then this will also meet additional stated city goals and needs. Although the site must meet flood hazard requirements that require that the buildings be elevated which makes a direct connection to the street more challenging, the proposal will provide terrace spaces, stairways, shorter wall sections and plantings which along with sidewalk connections will provide additional direct connections to Thompson Street.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
   The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately half a mile or so to transit routes that connect through Biltmore Village or the bus stop at Stoner and Fairview Roads. Although the distance is about a half-mile, Biltmore Village is a crossing point for three transit routes.

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*
   The project is not expected to create a hazard or undue congestion based on the proposed plans, and the review and consideration provided by transportation staff.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to bike paths. Infill development along transit corridors is also highlighted but this site is a little over 2,000 feet to three routes that cross in Biltmore Village. The plan also supports projects that design landscapes to absorb stormwater using bio-swales and natural stormwater filters.

Affordable housing options are highlighted throughout the Plan as a strong community need; and no dedicated affordable or workforce rents are proposed specifically for the project at this time but the developer for the project is willing to discuss the need with City Council through the land use incentive grant program application.

The area is included in the planning for the Wilma Dykeman Riverway Master Plan and infill development, recreation amenities and roadway improvements are a part of that proposal. Planning for roadways has occurred in the River Arts District area but has not proceeded to this section of the river at this time. The proposed development though seems to fit in with the intent of the Dykeman plan with the inclusion of the river yard and the wide sidewalk along Thompson Street.

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. If the affordable and workforce units can be agreed upon, then this important strategy will be met. Additionally, Council has a goal of expanding the supply of housing and this proposal provides about 27 units per acre which given this unique location with a number of environmental constraints and other development requirements provides a useful residential density.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable or within the public interest.

Considerations:

- City-adopted plans and policies support mixed-use development, especially providing residential uses in a walkable location with pedestrian amenities
- The location is close to employment areas and shopping amenities and recreation opportunities are provided along the Swannanoa River.
- Affordable units are a goal for higher density residential projects but none are dedicated at this time.
- Due to topographic challenges, the finished floor of the Building A and B is required to be elevated above the surrounding streets but with some design improvements such as terraces and steps, the connection between the buildings and sidewalk could be strengthened.
- The site is not currently served by transit but three routes cross at Biltmore Village.

The proposal was approved with conditions by the Technical Review Committee at their meeting on October 20, 2014. The plans were adjusted and the building layout amended based on comments from the TRC review. The project was reviewed and approved with conditions by the Planning and Zoning Commission at their meeting on November 5, 2014, with a vote of 6-1. The project reviewed by the Asheville Area Riverfront Redevelopment Commission (AARRC) on Thursday November 13, 2014, and recommended for approval with conditions unanimously. Review by the Technical Review Committee is required prior to issuance of a zoning permit. Both AARRC and Planning & Zoning Commission recommended approval along with the request for additional building setbacks to incorporate changes to address the scale of the wall and for the sidewalk reduction along Stoner Road; and also recommended the inclusion of affordable and workforce units with the understanding that a separate approval would be required for that.

The proposal is for a higher-density residential project (with a small commercial component) in a unique infill location along a major river. Staff feels this is a good use for the site and the area would benefit from new investment and the residential units; however, some of the specific elements are challenged to meet all of the goals and design requirements of the Urban Place zoning district. The project is requesting additional setbacks for Building A and Building B due to location of the floodway and site elevations necessitated by flood hazard provisions and staff is supportive of this request subject to the motion and as shown on the site plan. Based on this analysis and strategic plan goals, staff feels that the project meets the seven conditional use permit findings.

In addition and separate from this approval, staff recommends consideration of this project for the land use incentive grant for affordable and workforce units understanding that while not all of the qualifiers or points may be obtained because of the location and other program parameters, the project will help to transform the area in ways that meet other adopted goals and plans.

In response to Mayor Manheimer, Mr. Glines said that Planning staff studied the greenway maps, which greenways are on the other side of Swannanoa River Road. However, this area is part of the Wilma Dykeman Riverway Master Plan (City Exhibit 11). That Plan suggests that on the Swannanoa West side that we could have facilities (maybe not the main greenway) for this area. From a planning study standpoint, staff has not gotten to this part of the River yet. He believed what is proposed could accommodate a future parallel pair.

Vice-Mayor Hunt, member of the Metropolitan Transportation Organization, said that the N.C. Dept. of Transportation (NCDOT) has released a draft Transportation Improvement Plan and the Swannanoa River Road Improvement Project appears to have made the cut for 10 years. As the NCDOT defines the configuration of the roadway, they are obligated to work with the City on the roadway/greenway plan. He felt those improvements to the Road should be considered in this project.

In response to Councilman Smith, Mr. Glines said it is the intention of the developer that the corner with the monument steps and terrace be open to the public.

Mr. Carleton Collins, representing McMillan, Pazdan, Smith Architects, said that although they are early in the design phase they are working to keep things simple but compelling on this important site, thinking about how to address the River, the pedestrian connectivity, and use of materials. They hope to set a good precedence in what might happen in this River corridor.

Mr. Clay Mooney, landscape architect with Design Associates, said that the entire parking area and streetscape meets the requirements set forth in the Unified Development Ordinance. All shown on the site plan is the minimum requirements since this is only a conceptual plan. As we move forward, we will be augmenting with additional plantings as necessary, particularly in the areas of the monumental steps and softening the 10-foot vertical separation between Thompson Street and the finished floor elevation. Using Applicant Exhibit 1 (River Mill Lofts Landscape Plan - Detail Views), he explained how they utilized a ramp to provide Americans with Disabilities Act accessibility up to the main floor level. They will have monumental steps that will be inviting to the general public. They do meet the minimum requirements for open space. He said the wet detention basin is located within the floodway. Using City Exhibit 8, said that in the back of the property to capture some of the runoff from the rear parking area they have a subterranean storage and detention area. They will be meeting all the requirements for stormwater control. The modification request for the expansion of the building setbacks is due to the elevation caused by the floodway elevation. The other modification request was to reduce the sidewalk width on Stoner Road just past the ramp area from 10 feet to 5-6 feet. He felt that 10-feet was excessive for the amount of potential pedestrian traffic from Stoner and it would minimize the amount of paving required, especially near the floodway area. The variance request was for spacing between public entrances for buildings A and B and was also requested due to the 10-foot vertical rise. He then briefly reviewed how the project meets the seven conditional use permit standards. He said that Mr. Pace Burke, developer, is interested in providing affordable/workforce housing and that they have submitted to the City an application for a Land Use Incentive Grant.

Mr. Pace Burke, developer, said that this is the third project he has worked on in the City. He said that the River corridor is the most exciting part of this project and is anxious to clean up that area.

In response to Councilwoman Wisler, Mr. James Voso, Traffic Engineer for the developer, said that the traffic numbers for the proposed Biltmore Apartments on Fairview Road are incorporated into the Traffic Impact Study for this project.

When Councilman Pelly questioned the traffic on Stoner Road, Mr. Voso said that from a capacity standpoint, Stoner Road has the capacity to handle the traffic; however, from a quality of life standpoint, the additional traffic will have an impact. Noting that Level of Service E is at capacity and Level of Service F is over capacity, the projected level of service on Stoner Road/Thompson Street is A, and the projected level of service on Stoner Road/Fairview Road is B.

In response to Councilman Smith, Mr. Voso said that the Traffic Impact Analysis did not study the area on Sundays, since the peak traffic at the apartment complex is in the morning and evening peak hours.

Mr. Pace responded to Councilman Smith when he asked about two intents in the Urban Place District - the wide range of complimentary land uses; and a variety of land use and housing types and prices. He said that the entire corridor is underutilized in type of any commercial component. He has confidence in this area and hoped that they can bring in the residential component and as the area develops, more commercial. There is also the elevation issue and if they were street level and they had more of an accessibility from the sidewalk to the commercial

area that would make a big difference. Regarding the housing types and prices, Mr. Pace said that there will be 2 and 3 bedroom units with no one-bedroom units. He cannot commit to a certain percentage of affordable/workforce units at this time but they are committed to the Land Use Incentive Program. He talked to Assistant Economic Development Director Jeff Staudinger stating that maybe after five years they add another component of units on line, or perhaps bringing in the Village of Haywood, even though it's under construction, under the Land Use Incentive Program.

Councilman Smith said that the developer currently has 7% affordable, 85% workforce and the rest market and the developer has said that he would move ahead with the Land Use Incentive Grant application and if that were approved, that he would follow-through with those numbers. Mr. Pace said that he was willing to commit to that process as part of the conditional use permit process. He reiterated that he spoke with Mr. Staudinger about an idea of committing to 7% and then in 5 years commit to another 7%. He will commit as a condition that they submit an application for the Land Use Incentive Program.

Mr. Glines clarified that in the plan the commercial uses are shown but in a river design review of the project there was discussion that there could be some internal constructability methods that would keep wider bays that at a later date could be converted to a live/work space. If the plan changes a lot, the plan may have to be amended.

Mayor Manheimer said that comments need to be limited to whether the project meets the seven conditional use permit standards (Conditional Use Permit Standards - City Exhibit 12).

The following individuals spoke in opposition of the project for various reasons, some being, but are not limited to: if the Land Use Incentive Program application is approved, the developer would provide 7% affordable/workforce housing, but based on the 2008 Study prepared by the a task force, the goal is 20% dedicated to affordable housing; the tenants will not be happy with the noise from the train to the rear of the property; need for sidewalks in the area; Stoner Road is a cut-through street; Stoner Road is a narrow street and they don't need any more additional traffic on it; developer should have met with the neighbors to discuss the project coming into their neighborhood; and size of the project does not fit in with the community:

Ms. Dana Davis, resident of Oakley and on the board of Asheville Parks & Greenways Foundation
Mr. Mike Carroll, resident on Stoner Road
Mr. Walter Barber, attends church in that area
Ms. Mary Carroll, resident on Stoner Road
Ms. Katie Hicks, resident on Fairview Road
Mr. David Ankeney, resident on Stoner Road

At 9:21 p.m., Mayor Manheimer closed the public hearing.

Councilman Smith said that as we try to work the Urban Place District in that area, developers need to do a good job on complimentary land uses or a really good job on the variety of housing prices or a really good job on the variety of employment opportunities. In this application, he understands why the commercial component is not there, and the intention to bring that variety of housing options. He challenged the developer to bring that affordable 80% of area median income and below to 10%. At this point, he understood that the developer is willing to condition the permit on following the process based on the 7% number and 85% number, and he is comfortable beginning there.

Councilman Smith moved to approve the conditional use permit for River Mill Lofts development on Thompson Street and Stoner Roads, (1) with the setback for Building A approved at between 35 and 45 feet from Thompson Street and between 45 and 55 feet from Stoner Road to reduce the effective scale of the retaining wall, through the use of smaller wall

sections, stepbacks, landscaping, change of materials, vegetation, stairs, and terraces; (2) with the setback for Building B approved at between 55 and 95 feet from Thompson Street; (3) the sidewalk width along Stoner Road approved to be 6 feet wide at the portion of the project south of the ramp; and subject to (1) an additional condition that the developer complete the Land Use Incentive Grant application and follow through with those allowances and that the application shall reflect 7% affordable at 80% of area median income and 85% at workforce between 80-120% of area median income; and (2) the site plan and elevations and the conditions outlined in the technical review committee report because the proposal meets the seven conditional use permit standards. This motion was seconded by Vice-Mayor Hunt.

Mr. Mooney said that the developer voluntarily commits to the additional condition in that they have already made the application for the Land Use Incentive Grant. City Attorney Currin noted that City Council will need to hold a public hearing on that grant, noting that Council has no obligation to allow the grant or not.

Councilman Pelly remained concern of the traffic impact on Stoner Road. With that in mind, he believed Council heard clearly that it would be in the developer's best interest to begin a relationship with the neighborhood. We've seen examples of developers and neighborhoods working together well and you'd be surprised at what can be accomplished.

City Attorney Currin clarified, and Mr. Mooney confirmed, that the Land Use Incentive Grant application has already been submitted - the 7% affordable and 85% workforce.

The motion made by Councilman Smith and seconded by Vice-Mayor Hunt and carried unanimously.

City Attorney Currin said that she would prepare the Findings of Fact and Conclusions of Law for Council approval on January 13, 2015.

F. CONTINUATION OF PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT

At the request of the petitioner, Councilman Bothwell moved to continue this public hearing until January 13, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 14-276 - RESOLUTION ADOPTING THE 2015 LEGISLATIVE AGENDA

Mayor Manheimer said that this is the consideration of the City's Legislative Agenda for the 2015 Session of the North Carolina General Assembly.

The Governance Committee of the Asheville City Council has worked to identify areas of legislative concern with impact on Asheville. Seven focus areas have been identified: municipal authority, municipal revenue, mandates, city services, economic vitality, community standards, and environmental stewardship. Under each focus, policy supporting statements are proposed.

Once adopted by Council, this legislative agenda will be communicated to Asheville's State delegation and will provide direction for the City's legislative program during the 2015 regular session of the North Carolina General Assembly.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 14-276. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 450

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jonathan Robert spoke about the selection process for the new Chief of Police.

Mr. Dylan Cahalan, a student at Warren-Wilson college and a volunteer with Food and Water Watch, asked for City Council consideration of a resolution on the Preservation of Antibiotics for Human Health to help keep antibiotics working. According to the Centers for Disease Control, two million people contract antibiotic-resistant infections, and at least 23,000 of these infections are fatal. The misuse of antibiotics on factory farms to treat animals that are not sick has contributed to the rise of antibiotic-resistant bacteria, unnecessarily threatened by public health. He urged Council to adopt the resolution in support of federal legislation to stop the misuse of our life-saving medicines for animals that are not sick.

Mr. Timothy Sadler spoke about the criteria needed for a new Chief of Police.

Vice-Mayor Hunt announced that Asheville is home for the Pro Cycling Team The Blue Train, sponsored by United Health Care.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:44 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – January 13, 2015 - 5:00 p.m.
US Cellular Center - Banquet Hall

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilwoman Wisler, Consent Agenda Item "B" was removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 9, 2014

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH BALSAM GARDENS, LLC, ON A PORTION OF CITY-OWNED REAL PROPERTY OFF OF HARDESTY LANE AT AZALEA PARK

This item was removed from the Consent Agenda for discussion and/or an individual vote.

C. RESOLUTION NO. 15-2 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MICHELIN NORTH AMERICA, INC. FOR THE LEASE OF TIRES TO THE ASHEVILLE TRANSIT SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Michelin North America, Inc. for the lease of tires to the Asheville Transit System.

The City of Asheville released a RFP for transit bus tire lease on September 25, 2014. The City received two bids on November 7, 2014, Michelin North America, Inc., and Bridgestone Americas Tire Operations, LLC. The only responsive bid was from Michelin North America, Inc. (Greenville, South Carolina) which fulfilled the bid requirements. After a thorough review, City staff is recommending signing a contract for three years with Michelin North America, Inc. retroactive January 1st 2015.

The City of Asheville Transit System has been leasing tires for the buses since 2000. The cost for leasing the tires is about $4,700 per month and is based on actual mileage per tire (6 tires per bus). The rate per mile in a three year period is as follows:

Michelin Tires Cost					
Tire size	Miles/year/ bus	# buses in fleet	# of tires/bus	Cost per tire	Cost
Year 1					
12r	39,388	2	6	$0.00927	$4,381.47
305r	33,735	5	6	$0.01019	$10,312.79
275r	42,848	16	6	$0.01019	$41,915.32
				Cost/year	$56,609.58
Year 2					
12r	39,388	2	6	$0.00983	$4,646.15
305r	33,735	5	6	$0.01080	$10,930.14
275r	42,848	16	6	$0.01080	$44,424.48
				Cost/year	$60,000.77
Year 3					
12r	39,388	2	6	$0.01042	$4,925.01
305r	33,735	5	6	$0.01145	$11,587.98
275r	42,848	16	6	$0.01145	$47,098.17
				Cost/year	$63,611.16
			Three year cost		**$180,221.51**

The Asheville Transit System uses about 15 tires per month and if the City bought them, it would cost about $400 per tire or $6,000 per month plus the cost of shipping. In addition, the City would have to pay a disposal fee to get rid of the old tires. The total cost of the contract for three years is approximately $180,300.

The subject lease is part of the current operational budget and is recorded as an operational expense.

The Transit Committee supports the subject project.

Pros:

- Leasing the tires generates savings thereby using resources and staff in a more efficient way.
- The company provides technical assistance and equipment.
- The contract is based on tires per mile and the price is "locked" for three years.
- The company takes care of tire disposal.

Con:

- The total three-year cost of the contract is $180,300.

As noted above, the total three-year fiscal impact for the contract is $180,300. The annual budget is included in the Transit Services Fund operational budget. There is a net annual savings of approximately $15,000+ per year, not including shipping costs or tire disposal fees.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Michelin North America, Inc. for the lease of tires to the Asheville Redefines Transit System.

RESOLUTION BOOK NO. 37 - PAGE 2

D. RESOLUTION NO. 15-3 - RESOLUTION OPPOSING HYDRAULIC FRACTURING

Summary: The Sustainable Advisory Committee on Energy & the Environment (SACEE) recommended a resolution concerning opposing hydraulic fracturing of natural gas, or "fracking", for City Council to consider.

SACEE deliberated the resolution at their September and October meetings. Members were tasked with educating themselves on the subject, and listened to a presentation from Clean Water for NC. SACEE voted on the current draft and unanimously approved it to recommend to City Council.

Some notes about this resolution:

- This is a statement of leadership on the issue, rather than any kind of legally binding resolution for the City – it expresses the will of the people of Asheville that they do not support fracking in Asheville, Buncombe County, or WNC
- While Asheville and Buncombe County are not likely to face fracking pressure, this is still a relevant issue to Asheville. There is a possible shale gas resource covering parts of all of the counties to the west of Buncombe. Also, while the wells would not be drilled in Asheville, there are no limits to where the toxic fracking wastewater can be stored.
- Over 20 other NC counties and municipalities have approved similar resolutions

Two residents thanked Council for their support of this resolution.

RESOLUTION BOOK NO. 37 - PAGE 3

E. MOTION TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR RIVER MILLS LOFT LOCATED OFF OF THOMPSON STREET

F. RESOLUTION NO. 15-4 - RESOLUTION SETTING A PUBLIC HEARING ON JANUARY 27, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR TUTCO FARNAM

Summary: The consideration of a resolution authorizing a public hearing to be held on January 27, 2015, to consider an economic development incentive grant for Tutco Farnam.

Tutco Farnam is an existing manufacturing company located in South Asheville. The company produces a variety of air and surface heating units used in industrial applications. The company has been in Asheville for 30 years, starting in 1982. The company leases space and has outgrown the current building. The building owner has agreed to construct a new building addition and in return, the company will sign a new lease for the property.

The company is planning a $2.5 Million expansion in its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. The company will retain 63 current employees and will create 50 new jobs within three years. Employees are provided comprehensive benefits by the company. The City of Asheville is considering offering a performance-based grant totaling $30,380.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Cons:

- Grant is formulated based on use of 45% of value of property tax revenue for a 7 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 55% of the new incremental property tax revenues from the project. After 7 years, the City will henceforth receive 100% capture of new city taxes.

The economic development incentive grant for Tutco Farnam supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on January 27, 2015, on an economic development incentive grant agreement to support the expansion of Tutco Farnam.

RESOLUTION BOOK NO. 37 - PAGE 5

G. RESOLUTION NO. 15-5 - RESOLUTION SETTING A PUBLIC HEARING ON JANUARY 27, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR EXPANSION OF HIGHLAND BREWING

Summary: The consideration of a resolution authorizing a public hearing to be held on January 27, 2015, to consider an economic development incentive grant for Highland Brewing.

Highland Brewing, a pioneer in the Asheville craft brewery industry is considering expansion. Highland Brewing began in Asheville 20 years ago. Today it is considered one of the region's premier breweries. Demand for Highland product continues to grow and the company, with second generation leadership is considering expansion in the City. Capital investment in M/E etc. will be at least $3.8 Million, and improvements to existing real property/real estate will be at least $1.2 Million. Additionally the company will create 15 new jobs over a period of 3 years with average annual wage rate of $42,016. These jobs would offer comprehensive benefits to employees.

The City's incentive policy would justify an incentive grant of $60,000 to the company. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, $12,000 a year, after the conditions of the performance agreement are met and the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Cons:

- Grant is formulated based on use of a portion of property tax revenue for a five year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 48% of the new incremental property tax revenues from the project. After five years, the City will henceforth receive 100% capture of new city taxes. The company is also planning new retail and tourism product development that is not a part of this project that will generate sales and hotel tax.

The economic development incentive grant for Highland Brewing supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on January 27, 2015, on an economic development incentive grant agreement to support the expansion of Highland Brewing.

RESOLUTION BOOK NO. 37 - PAGE 6

H. RESOLUTION NO. 15-6 - RESOLUTION SETTING A PUBLIC HEARING ON JANUARY 27, 2015, TO CONSIDER A ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT INVOLVING A LEASE AND OPTION TO PURCHASE OF CITY-OWNED PROPERTY FOR PROJECT LAB

Summary: The consideration of a resolution authorizing a public hearing to be held on January 27, 2015, to consider an economic development incentive for Project Lab.

City of Asheville has been requested by Buncombe EDC to consider a performance based incentive under the City of Asheville Economic Development policy to a company known herein as Project Lab. The purpose of the City's participation would be to induce Project Lab to make investments in the City and Buncombe County for expenditures to acquire and install machinery and equipment and make improvements to city-owned real estate which may increase the tax value as determined by the Buncombe County Tax Department, regardless of funding sources for said property, in the amount of $8,100,000. Project Lab also proposes to create 65 new jobs with an average annual wage of $35,818. The City of Asheville is considering offering a lease of property to Project Lab for up to five years at $1/year (and Project Lab to pay taxes on improved property) and an option to purchase the improved property, for economic development purposes, at 80% of FMV (land only) or approximately $1,600,000 at or before the end of the five year period. Should Project Lab choose not to exercise the option to purchase, they could

continue to lease the property for an additional period of up to five (5) years at the fair market value rental rate. In addition, Project Lab will be granted an exclusive option to purchase the adjacent (1.67 acre) city owned parcel within the first year of the initial lease term for 80% of FMV (land only) if additional improvements and jobs are committed to or for FMV if no additional economic benefits are committed. Project Lab shall have the right to renew this option for one (1) additional year for a non-refundable fee of ten thousand dollars ($10,000.00). If Project Lab does not exercise its option to purchase the adjacent lot at the end of the second year, the City shall be free to market the property, subject only to a 30 day right of first refusal granted to Project Lab during the remainder of the initial lease term.

The lease and purchase would be subject to a performance agreement with the City, and would be governed through the conditions of the lease, economic development performance agreement and option(s) to purchase. North Carolina state law requires a public hearing be held before an economic incentive can be officially awarded.

Pros:

- Creates technology driven private sector use for Charlotte Street Corridor;
- Supports job creation and capital investment in Asheville;
- Activates an underperforming asset and places city owned property on the tax rolls;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- During the five year lease period, the city will lease the property below FMV, however, the property is currently providing no income to the City.

The project has an overall positive fiscal impact on tax revenues received by the city since the property improvements made by Project Lab will be valued at over $8 million dollars. Additionally, if Project Lab exercises its option to purchase the property, the city will receive approximately $1,600,000 at the end of the lease. No cash payments will be provided by the City. The city will begin accruing M/E tax payments in year one estimated at $6200. After five years, the City will henceforth receive 100% capture of new city taxes for all investment valued at $8,100,000.

The economic development incentive for Project Lab supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on January 27, 2015, on an economic development incentive agreement, lease, and option agreement to support the location of Project Lab.

RESOLUTION BOOK NO. 37 - PAGE 7

I. RESOLUTION NO. 15-7 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF 0.03 ACRES OF REAL PROPERTY LOCATED AT TUSKEEGEE STREET AND MARTIN LUTHER KING JR. DRIVE TO RUSS STALLINGS

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 0.03 acres (approx. 1306.8 square feet) of real property located at Tuskeegee St. and Martin Luther King, Jr. Drive to Russ Stallings.

The City of Asheville owns a remnant parcel of property located at Tuskeegee Street and Martin Luther King Jr. Drive (PIN # 964960632200000). The property was transferred from the Housing Authority to the City of Asheville in 1995 as a disposal parcel after the Urban Renewal program concluded. This lot is unbuildable due to the small size and shape of this parcel, and it would appear that it is a remnant of the right-of-way of Tuskeegee Street. The adjacent homeowner, Russ Stallings, at 128 Pine Street has approached the City with an offer to buy the land for $1,000. There are few comparables in the area for this type of property however; a recent sale on Hazzard Street of similar size and utility was valued at $1500.00.

The Parks Department and Transportation Department have confirmed that this property in not needed for future park infrastructure or multi-modal transportation infrastructure.

The method chosen to establish fair market value is the upset bid process set forth in NCGS 160A-269. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the bid of $1,000. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $1,010 or higher). Since the function of the upset bid process is to confirm fair market value, the attached resolution provides that if no qualifying, competing bid is received, then the City Council agrees to convey the parcel to Russ Stallings for $1,000.

This action complies with the City Council Strategic Operating Plan by supporting Focus Area 1: Economic Growth & Financial Sustainability through the conveyance of real property at fair market value.

Pros:

- Private sale will convert public land into taxable real property and will relieve the City of Asheville of ongoing maintenance responsibility.

Cons:

- None

Because this property is associated with Federal Funds via Urban Renewal, the financial proceeds are to benefit the Community Development Block Grant fund.

City staff recommends City Council adopt a resolution directing the City Clerk to advertise for upset bids for a property located at Tuskeegee St. and Martin Luther King, Jr. Drive.

RESOLUTION BOOK NO. 37 - PAGE 8

J. RESOLUTION NO. 15-8 - RESOLUTION FINDING THAT AN UNOPENED 40-FOOT RIGHT-OF-WAY OFF BAKER DRIVE, KNOWN AS SHAMBY DRIVE, IS NOT PART OF AN ADOPTED STREET PLAN

Summary: The consideration of a resolution finding that an unopened forty (40) feet wide right of way off of Baker Drive, known as Shamby Drive, is not part of an adopted street plan.

Mr. Ronald Czecholinski has filed a Declaration of Withdrawal, withdrawing the offer of public dedication of the unopened five-foot wide strip off Fairmont Road. The purpose of the request is to make the property more useful as the 40-ft strip is between two parcels to the north and one to the south that Mr. Czecholinski now owns. The forty foot right of way is not used as an

ingress or egress nor has it ever been used as such. Additionally, the 40-ft. strip is not part of any City street plan, particularly not any City street plan adopted under 136-66.2. N. C. Gen. Stat. sec. 136-96 permits the filing of a Declaration of Withdrawal of any strip, piece or parcel of land which shall have been at any time been dedicated to public use as a street and which shall not have been actually opened and used by the public within 15 years from and after dedication. The 40-ft. strip was dedicated to the public in 1953.

In order to withdraw an offer of dedication, N.C.G.S. §136-96 requires:(1) that the strip, piece or parcel of land dedicated as a street shall not have been actually opened and used by the public within 15 years from and after the dedication; and (2) the person desiring to withdraw, must be the original dedicator or someone claiming under the original dedicator. Mr. Czecholinski along with his attorney contends both requirements are satisfied, as reflected in the attached letter from Attorney William T. Biggers. The City is being requested to adopt a resolution because the statute states that upon request, the City shall adopt a resolution stating whether the street is or is not part of the street plan adopted under G. S. 136-66.2.

Public Works Department staff has consulted with all appropriate City departments and determined that the unopened forty foot right of way off Baker Drive as set forth is not part of an adopted street plan and is not a City maintained right-of-way.

A withdrawal of dedication is not identified as a subject area in the Strategic Operating Plan.

Pros:

- Adoption of the Resolution eliminates any concerns about the 40-ft strip being part of a City Street Plan and does not compromise ingress/regress to other properties.

Con:

- None.

There is no fiscal impact.

City staff recommends City Council adopt the Resolution finding that the unopened forty foot right of way, off Baker Dr., between parcels PIN#s 9628696038/9628698020 and 9628687788 as shown on the exhibit A is not part of any City Adopted Street Plan.

RESOLUTION BOOK NO. 37 - PAGE 9

K. RESOLUTION NO. 15-9 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT TO THE METROPOLITAN SEWERAGE DISTRICT FOR THE HILLIARD AVENUE AT ASTON PARK GENERAL SEWER REHABILITATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) for the Hilliard Ave. @ Aston Park General Sewer Rehabilitation Project.

The City of Asheville owns and operates the Aston Park Tennis Facility and the Parks Maintenance Facility at 336 and 338 Hilliard Avenue (PIN #9648183942 and PIN #9648187790). Aston Park is improved with tennis courts, the tennis center and associated parking. The Parks Maintenance facility is improved with offices, storage areas, equipment and vehicle parking, a welding shop and woodworking shop to provide a base of operations for maintaining the City's park system. A map of the area is attached.

MSD is working on a rehabilitation project for the sewer line that currently runs along Hilliard Avenue and then crosses through city property next to the Parks Maintenance buildings.

MSD will be replacing an existing vitreous clay pipe that is approximately 8-inches in diameter with ductile iron pipe. Starting at the entrance to the Parks Maintenance facility, the alignment of the sewer line runs perpendicular to Hilliard Avenue, continues along the facility driveway and exits City property in a T-joint at Merritt Street. At this time, MSD is requesting a permanent easement from the City that measures approximately ten feet on either side of the sewer line and a temporary easement approximately 15 additional feet on either side of the line. The easement being requested consists of 0.177 acres of permanent easement and 0.186 acres of temporary easement on the Parks Maintenance site. The easement also involves 0.007 acres of permanent easement and 0.062 acres of temporary easement on the Aston Park parcel. MSD agrees to repair and replace any disturbance that is caused by the replacement of this line, with minimal impact to the Park and most disturbance occurring in the driveway to the Parks Maintenance facility. In consideration of any future redevelopment of the Maintenance facility, the easement was located within the existing driveway in order to provide a maximum contiguous development area at the corner of Clingman and Hilliard.

This MSD rehabilitation project overlaps with the future Clingman Forest Greenway in certain areas and staff from both the City and MSD have met to attempt to coordinate schedules and encourage efficiency. Both parties agree that the sewer replacement project should be constructed before the greenway, if possible. MSD has agreed to move this sewer rehabilitation project to FY 15-16 budget cycle. The granting of this easement will assist MSD in going ahead with their project as soon as possible.

Pros:

- Granting of the easement will allow MSD to upgrade sewer infrastructure to provide improved service to the neighborhood adjacent to Hilliard Avenue.
- Granting of the easement will not affect the long range use of the park for public recreation or the future use at the Parks Maintenance facility.

Cons:

- None noted.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to convey an 8,015.16 square foot permanent easement and a 10,814.22 square feet temporary easement over a portion of City-owned property at 336-338 Hilliard Avenue.

RESOLUTION BOOK NO. 37 - PAGE 11

L. ORDINANCE NO. 4376 - BUDGET AMENDMENT TO PURCHASE TWO ADDITIONAL SHELTERS UNDER THE STIMULUS FUNDING GRANT

Summary: The consideration of a budget amendment in the amount of $5,863 to add funds to a project in the City's Special Revenue Fund to purchase two additional shelters under the stimulus funding grant.

The City of Asheville was awarded $2,590,439 under the economic stimulus funding, as published in the Federal Register Volume 74, No. 42, page 9675 on March 5, 2009.

The city used those funds to purchase five diesel buses, ten shelters, and three CNG buses and one van for Henderson County. All of the projects were finished before the deadline of September 30, 2013.

After finishing the projects, $60,662 of ARRA funds were left unspent. The Federal Transit Administration issued a waiver to all grantees that had still funds left in ARRA and asked

for all the funds to be spent by September 30, 2015. $35,902 of those funds are part of the City's apportionment, the rest are part of Henderson County's apportionment.

The only project that could be accomplished by the deadline was the acquisition of additional shelters. The City issued a bid and was able to order 10 shelters, six for the city and four for the county instead of the five originally planned. There are still funds remaining in the grant in the amount of $5,262 and in order to maximize them local funds from both, the county and the city, need to be transferred to the project.

This project will be completed in approximately in March 2015.

Pros:

- All the funds allocated to the region will be used.
- Funds cover 50% approximately for two additional shelters.
- This project increases transit infrastructure and quality of service.

Con:

- Additional $2,248 funds will need to be transferred to the project from the Transit Services operating fund.

The cost of acquiring 2 new shelters will be approximately $11,125. The federal grant will cover $5,262 already budgeted. The rest of the funds will come from Henderson County ($3,615) and the city's Transit Services operating fund ($2,248). The budget amendment will provide authorization to add local funds to the project and purchase two additional shelters.

City staff recommends that City Council adopts a budget amendment in the amount of $5,863 to add funds to the project in the City's Special Revenue Fund to purchase two additional shelters under the stimulus funding grant.

ORDINANCE BOOK NO. 29 - PAGE 330

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH BALSAM GARDENS, LLC, ON A PORTION OF CITY-OWNED REAL PROPERTY OFF OF HARDESTY LANE AT AZALEA PARK

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Summary: The consideration of a potential agricultural lease with Balsam Gardens, LLC, a locally based certified organic farm, for 11 +/- acres of land for commercial agricultural production at Azalea Park.

Prior to the City's acquisition of the Azalea Park, the land was used as an agricultural farm. The former farmland has been converted to a state-of the-art soccer and park facility,

however there is still potential for unused lands within the park to be utilized in farm production. For the past six years New Sprout Farms, LLC has leased 11+/- acres of Azalea Park for certified organic vegetable, fruit and hay production. This 11 +/- acre plot is located to the rear of Azalea Park, adjacent to the City's beneficial fill site and the leased site for Danny's Dumpster compost operation. At this time, New Sprout has moved to a permanent location in Buncombe County and the city property is available for a new agriculture lease. Balsam Gardens, LLC has expressed interest in leasing the property and has demonstrated the capacity and wherewithal to be a reliable tenant. Balsam Gardens intends to utilize the property for certified organic fruit and vegetable production for the local market.

Balsam Gardens has offered to enter into a three-year lease with option to renew for one additional three year term at a rent of $3,300 per year, with an annual escalation of 3%. The rental rate was generated through input provided by the NC Cooperative Extension Service, and the WNC LandLink program, a service that connects emerging farmers to vacant agriculture lands.

Balsam Gardens sells to wholesale markets, local grocers, area restaurants and in local farmers markets, therefore no retail or U-pick operations would exist on the City Park property. The proposed lease will respect all stream buffers, conservation easements, wetlands and proposed greenway paths that exist at Azalea Park. Balsam Gardens will maintain all necessary liability insurance for the property as well as limit access to authorized personnel and representatives of Balsam Gardens. Only USDA organically certified fertilizers, pesticides and herbicides will be permitted at the property. The proposed agricultural use will have no impact on the recreational use of the Azalea Park or the soccer facility.

Pros:

- Supports Food Action Plan.
- Continues a successful use of city property with a new tenant.

Con:

- There is no negative impact.

The fiscal impact is $3,300 per year beginning in January 2015, with 3% annual escalations thereafter.

The Community and Economic Development staff recommends adoption of this resolution.

Councilman Smith wondered how we can fold this in with the Food Action Plan and create the highest and best agricultural use on this land. Staff has requested a three-year lease; however, he suggested a one-year lease and find ways to open this up to a wider group in the community.

Councilman Smith moved to approve a one-year lease to Balsam Gardens and during that time for staff to look at other opportunities for the land, perhaps with partnerships with Manna Food Bank, ABCCM, etc. This motion was seconded by Councilwoman Wisler.

A representative of Balsam Gardens provided a brief background of his company. They wish to expand their production from 5 acres at their current location to this location of 11 acres and do more wholesaling. They are interested in a 3-year lease because of their capital outlay to purchase additional equipment.

After a brief discussion to postpone this matter until January 27, 2015, in order to allow staff to work with Balsam Gardens to see if they would be interested in a one-year lease, Councilman Smith and Councilwoman Wisler withdrew their motion.

Councilman Bothwell felt that it is unfair to the grower to lease agricultural land one season at a time.

III. PRESENTATIONS & REPORTS:

A. CITY HALL WATER LEAK UPDATE

Mr. James Ayers, Director of General Services, updated City Council on the recent pipe fitting failure which closed City Hall for 1.5 days. He then spoke about steps to recovery and future actions to prevent future occurrences.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNNAMED ALLEY OFF BROAD STREET

RESOLUTION NO. 15-10 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF BROAD STREET

Public Works Director Greg Shuler said that this is the consideration of a resolution to permanently close an unnamed alley off Broad Street. This public hearing was advertised on October 3, 10, 17 and 24, 2014. On October 28, 2014, the matter was continued to this date.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Jim Hitt at 137 Broad Street and at 9999 Broad Street also known as 133 Broad Street, and Tom Leslie representing Charlotte Street Holding LCC at 130 Charlotte Street, have requested the City of Asheville to permanently close an unnamed alley off of Broad Street.

The Multimodal Transportation Commission met on August 27, 2014, and approved the closure of the unnamed alley off of Broad Street.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley off of Broad Street.

Mayor Manheimer opened the public hearing at 5:23 p.m. and when no one spoke, she closed it at 5:23 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-10. This motion was seconded by Councilman Davis and carried unanimously.

B. PUBLIC HEARING TO CONSIDER APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO LINAMAR CORPORATION

RESOLUTION NO. 15-11 - RESOLUTION AUTHORIZING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE EXPANSION OF LINAMAR CORPORATION

Economic Development Director Sam Powers said that this is the consideration of a resolution approving a $3,500,000 economic development incentive grant for Linamar Corporation. This public hearing was advertised on January 2, 2015.

This is the consideration for an economic development incentive grant under the City of Asheville Economic Development Incentive policy. Linamar Corporation is a world-class designer and diversified manufacturer of precision metallic components and systems for the automotive industry, energy and mobile industrial markets. The company is proposing one of the largest investments in new, taxable, capital investment of $190,000,000 for additional production equipment and facility improvements at the local facility in South Asheville, and has requested consideration of a cash grant under the City of Asheville Economic Development Incentive policy. This project also includes the creation of 400 new manufacturing jobs with an average annual wage of $39,000.

This new expansion commitment by Linamar replaces, and is an increase of the company's second expansion announcement in June of 2012, which encompassed a $75,000,000 investment and 250 new employees. The purpose of this investment is to allow Linamar to expand its operations, to serve a major automotive supplier thus growing the automotive components cluster in Asheville, and is projected to result in the creation of a substantial number of jobs that pay at or above the median average wage for Buncombe County. No payments were made to Linamar on Phase II that this project replaces.

Linamar has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for Linamar for this project is an amount not to exceed $3,500,000, to be paid in annual installments in an amount equal to 95% of ad valorem City property tax paid by Linamar in the prior calendar year, for a period of up to seven years, with an additional two years if Linamar has achieved a benchmark of 85% of its investment; subject to compliance with an Economic Development Performance Agreement between the City and Linamar. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment. The amount of the annual payment will take into consideration the estimated annual ad valorem property tax revenue attributable to the capital improvements, and each annual payment is projected to equal 95% of said estimated revenue. Any amounts paid to Linamar pursuant to the Agreement are subject to adjustment or recapture if the terms and conditions of the Agreement as to investment and job creation are not fulfilled.

The City will fund the payments from the general fund. The purpose of the proposed cash grant is to encourage Linamar to proceed with its proposed expansion. Staff believes that the project will further the economic interests of the area served by the City in several ways, including, but not limited to: (a) creating a substantial number of jobs having a wage at or above the median average wage for Buncombe County; (b) enhancing the City's tax base and the City's tax revenues; and (c) encouraging the retention and expansion of a major industrial operation in an existing facility.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in manufacturing in Asheville;

- Supports retention and expansion of existing industry in the City;
- Supports development of an identified economic cluster in the city; and,
- Supports regional and state cooperation in the project.

Cons:

- Grant is formulated based on use of approximately 95% of the value of new incremental tax revenue for a seven to nine year period.

The project has a positive fiscal impact on tax revenues received by the City. Linamar's capital investment is one of the largest single manufacturing investments in the city. The project has significant potential for additional expansion, as well as substantial generation of local and state taxes from job creation. Initially (during the grant period), the City will receive approximately 5% of the new incremental real estate and M/E tax revenues from the project. After the grant period concludes as noted above, the City will henceforth capture 100% of the new taxes.

City staff recommends Council approve the resolution authorizing an economic development incentive grant for Linamar Corporation not to exceed $3,500,000.

Mayor Manheimer opened the public hearing at 5:31 p.m.

The Director of Business Development for Linamar, thanked City Council for their support as they look forward to expanding and bringing new technology into Asheville.

Mayor Manheimer closed the public hearing at 5:34 p.m.

Mayor Manheimer explained how an economic development incentive grant works.

Councilman Pelly said that one of Council's goals is to bring living wage jobs into our community and appreciated Linamar's investment.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Hunt moved for the adoption of Resolution No. 15-11. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 14

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CONDITIONAL ZONING GENERAL REQUIREMENTS TO CLARIFY THAT CONDITIONS IMPOSED MAY BE MORE OR LESS RESTRICTIVE THAN THE GENERAL USE STANDARDS OF THE UNDERLYING DISTRICT

ORDINANCE NO. 4377 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING CONDITIONAL ZONING GENERAL REQUIREMENTS TO CLARIFY THAT CONDITIONS IMPOSED MAY BE MORE OR LESS RESTRICTIVE THAN THE GENERAL USE STANDARDS OF THE UNDERLYING DISTRICT

Urban Planner Alan Glines said that this is the consideration of an ordinance amending the Unified Development Ordinance regarding conditional zoning general requirements to clarify that conditions imposed may be more or less restrictive than the general use standards of the underlying district. This public hearing was advertised on January 2 and 9, 2015.

He said that currently, Section 7-7-8(c)(3) of the UDO provides that:

"All standards and requirements of the corresponding general use zoning district shall be met, except to the extent that the conditions imposed by the conditional zoning are more restrictive (emphasis added) than the general use standards, and/or where the requirements are modified in accordance with subsection 7-7-8(c)(6)."

The North Carolina General Statutes and North Carolina case law allow greater flexibility in terms of conditions imposed and do not limit local governments to conditions which are "more restrictive" than the general use standards. NC General Statute sec. 160A-382(b), Zoning Districts, states that "*conditions and site-specific standards imposed in a conditional district shall be limited to those that address the conformance of the development and use of the site to city ordinances and officially adopted comprehensive or other plan and those that address the impacts reasonably expected to be generated by the development of use of the site.*" The statute does not dictate whether the conditions imposed be more or less restrictive than the general use standards of the underlying district, only that whatever conditions are imposed be in compliance with the city's ordinances and officially adopted plans. In the NC Appeals Court case of *Rakestraw v. Town of Knightdale* (2008), the court upheld the Town's decision to approve a conditional zoning with conditions that had decreased standards from the general district requirements. The Court disagreed with the Plaintiff's position that NCGS sec. 160A-382 did not permit exceptions or decreased standards and noted that the Town's ordinance specifically provided that "*when a Conditional District is required...petitioners may also ask that certain standards identified be decreased.*"

While Planning staff has interpreted the UDO to allow conditions in accordance with the general statutes, we also believe an amendment is needed to make this clear.

Therefore, an amendment stating that conditions imposed may be more or less restrictive than the standards of the underlying district is recommended in order to clarify that the UDO allows the same level of flexibility allowed in this regard under the NCGS 160A-382 and to ensure that the UDO language in section 7-7-8(c)(3) clearly reflects the Planning Staff's interpretation of the intent of this provision.

The proposed amendment complies with the Asheville City Development Plan 2025 in that it allows for increased flexibility in the application of zoning regulations in the case of conditional zoning (formerly known as conditional use zoning) and allows a rezoning request to be tied to a specific development plan (pg. 66) while ensuring the project is compatible with the neighborhood. The plan also encourages adaptive reuse of underutilized and vacant sites and recognizes the need to have some flexibility in the implementation of zoning and and building codes (pg. 69) by maintaining a redevelopment 'toolbox'. The plan also recognizes the need for compatible infill development with opportunities provided on a case-by-case basis (pg. 71) to encourage redevelopment using the conditional zoning tool. In this way this amendment is reasonable and in the public interest because it allows for projects which are more compatible with the surrounding area and which further comprehensive plan goals.

The proposed amendment - complies with the City Council's Strategic Plan in that it allows for flexibility thus encouraging in-fill, mixed-use and redevelopment projects.

The Planning and Zoning Commission reviewed the wording amendment at their meeting on November 5, 2014, and voted to recommend approval unanimously.

Staff recommends approval of this proposed change as it clarifies that the UDO allows the same level of flexibility allowed in this regard under the N.C. Gen. Stat. sec. 160A-382 and ensures that the UDO language in section 7-7-8(c)(3) clearly reflects the Planning Staff's interpretation of the intent of this provision.

Mayor Manheimer opened the public hearing at 5:42 p.m. and when no one spoke, she closed the public hearing at 5:42 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the proposed amendment to Section 7-7-8(c)(3)-3 as outlined in this report and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, because it allows for greater flexibility in granting conditions which in turn, allows for projects that are more compatible with their surrounding area. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 332

D. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING FROM RM-8 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT AND OFFICE DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING WITH CHANGED CONDITIONS TO LANDSCAPE AND SETBACK REQUIREMENTS TO ALLOW THE USE OF AN EXISTING SINGLE-FAMILY RESIDENCE AS A LAW OFFICE AT 10 MADISON AVENUE AND 202 EAST CHESTNUT STREET

ORDINANCE NO. 4378 - ORDINANCE TO CONDITIONALLY ZONE 10 MADISON AVENUE AND 202 EAST CHESTNUT STREET FROM RM-8 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT AND OFFICE DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING WITH CHANGED CONDITIONS TO LANDSCAPE AND SETBACK REQUIREMENTS TO ALLOW THE USE OF AN EXISTING SINGLE-FAMILY RESIDENCE AS A LAW OFFICE

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone 10 Madison Avenue and 202 East Chestnut Street from RM-8 Residential Multi-Family High Density District and Office District to Office District/Conditional Zoning with changed conditions to landscape and setback requirements to allow the use of an existing single-family residence as a law office. This public hearing was advertised on January 2 and 9, 2015.

The project area consists of two parcels that are proposed to be combined (total area 7,170 square feet or 0.164 acres according to plans), located in the National Register Chestnut Hills Historic District. The parcel currently zoned Office is located at the northeast corner of East Chestnut Street and Madison Avenue (202 East Chestnut Street). The parcel to the north is currently zoned RM-8 (10 Madison Avenue). Adjacent zoning includes Office to the west, south and east and RM-8 to the north. East Chestnut Street has primarily non-residential uses in this vicinity but starting with the property at 10 Madison Avenue, the use becomes residential in nature.

On each parcel sits a residential-style structure; however the 2-story building at 202 East Chestnut is already used as an office whereas 10 Madison is currently a residential dwelling. The proposal is to convert the 1-story, 961 square foot house at 10 Madison into office use and to expand an existing parking lot to create a shared parking area between the two buildings. The front porch on the structure will be enclosed and pedestrian access will be reconfigured to the south side (rather than from the front). Additionally, windows on the north side of the structure will be closed in.

Access and parking will remain in the same general location as the present configuration, between the two structures, with a looped driveway off of Madison Avenue to the parking in the rear of the 202 East Chestnut property. This parking lot is proposed to be enlarged to provide five

parking spaces (one HC accessible) and includes alterations to standards in the City's *Standards and Specifications Manual*, which have been approved by the City Traffic Engineer. The alterations are to provide a more narrow drive aisle (14 feet rather than 24 feet) as well as lessen the distance between driveways on the blockface (25 feet rather than 150 feet) and is justified based on the low intensity of use expected.

Per the UDO, between nine and twelve spaces are required for the increased office area and per the applicant, there is an existing shared parking agreement with the office use across Madison Avenue to accommodate three spaces, which will be revised to accommodate four total. The existing gravel driveway into the residential property at 10 Madison would be removed.

There are no sidewalks existing along this side of Madison Avenue, nor are sidewalks proposed (but will be handled through a fee-in-lieu). A bike rack has been included on site plans.

Landscaping is required for this project and includes a property line buffer, street trees and parking lot landscaping. There is existing mature landscaping onsite that will be retained and used for credits. The applicant is requesting a changed condition to the property line buffer due to the proximity of the existing structure to the northern property line adjacent to RM-8.

Open space is not required for this project because the size of the property is less than an acre.

The following conditions are granted by City Council with a recommendation from the Commission:

1. Setback - Side setbacks in the Office zoning district are 10 feet (on the east side – interior lot line) and 7.5 feet for the corner side (west side, along Madison Avenue). The existing structures are within one foot of the east property line and within 6 feet of the west side. Parking also is shown to encroach into the setback as well.
2. Landscaping - A 20 foot Type A property line buffer is required between the proposed Office-CZ parcels and the RM-8 zoning to the north. The existing structure is within 3 feet of the property line, leaving insufficient room for landscaping. The applicant is requesting to eliminate the buffer.

The applicant is proposing to conditionally rezone the site from RM-8 and Office to convert the residential dwelling into an office use, otherwise not permitted in a residential zone. The Planning Department has consistently responded to requests to convert residential uses to non-residential when they are at the edge of a residential neighborhood with a statement that this is generally not supportable due to City goals regarding protection of existing neighborhoods.

The proposal was approved with conditions by the Technical Review Committee at their meeting on October 20, 2014. The Planning & Zoning Commission reviewed this request at their meeting on November 5, 2014. There were two votes taken by the Commission, the first was to deny the application and that vote failed 2-5. The second vote included a condition that the property be used for office and residential use only and not any allowable use in the Office District and this vote passed 6-1.

Comments have been received from neighbors who are concerned about the conversion as a loss of residential fabric and the impact to the 24/7 quality of a neighborhood. Additional concerns mirror those of the Planning & Zoning Commission in that while the current owner is seen as a good neighbor and is generally supported by folks on the block, the rezoning would open office uses to any future owner who may not have as much of a dedication or commitment to the area.

The East Chestnut Street corridor (from Merrimon Avenue to Charlotte Street) contains a mix of uses (office, medical, lodging facilities, religious institutions, retail, limited residential) and

is zoned Office, Community Business I & II. To the north of this corridor is a residential neighborhood zoned RM-8 and RM-16. This proximity is not considered to be incompatible from a zoning perspective, although it would be preferable to see more of a mix of residential and non-residential within the structures themselves to create a more consistent 24-hour presence within the area for the residential neighbors.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet or have the ability to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* (with conditions granted as identified previously in this report) and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   The proposal is to retain the existing structures (which are contributing structures in the Chestnut Hills National Register Historic District) and to expand an existing parking area. Plans have been developed in a way to preserve as much existing mature vegetation as possible.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
   The properties to the east, west and south are similarly zoned for office uses and should not be negatively impacted. The proposed development of the land may impact the value of adjoining property to the north. The historic development pattern of the Chestnut Hill neighborhood has a series of single-story bungalows in close proximity on this block, which is expected in a circa 1920 residential area. However, the UDO places protections in the form of required landscape buffers between dissimilar zoning districts and because of this development pattern, there is insufficient room to adequately buffer between the office use and the residential dwelling to the north.

   Additionally, with respect to the proposed use, the City has recognized a shortage of housing stock especially close to downtown and while this is not an affordable unit, it is operating as a small-sized residential rental unit in a walkable neighborhood close to business and transit – something the City is trying to create and preserve whenever possible. Expansion of the non-residential uses into the residential neighborhoods may be said to pose a negative impact on the existing neighborhood.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
   As stated above, the proposed physical development on the site is primarily the expansion of the existing parking area, which is not considered out of character with the layouts seen all along the East Chestnut Street corridor where historic structures face the street and parking for the uses is located to the rear. There is a long history of adaptive reuse of the structures in this National Register historic district for office use and this has been recognized as a positive tool for historic preservation.

However, staff believes that to support and strengthen Asheville's residential neighborhoods existing housing stock should generally be preserved for residential uses. Also, the incursion of non-residential uses into a neighborhood can erode the character and quality of a typical residential community where there is expected to be a more regular "24/7" presence rather than typical business hours where there is no presence or activity during nights and weekends.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
While the proposed adaptive reuse of the residential structure at 10 Madison Avenue is supported by City polices and plans regarding historic preservation and smart growth; staff feels that the potential impact to the residential neighborhood and loss of an ideally-situated residential unit when housing availability is a priority for the City is concerning.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately three-tenths of a mile from the nearest transit stops (N, N1 & N2).

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*
The project is not expected to create a hazard or undue congestion based on the proposed plans. Modifications to standards for parking isle width and distance between driveways have been approved by the City Traffic Engineer.

Adaptive reuse of historic structures is noted in the *Asheville City Development Plan 2025* as an effective smart growth tool as it does not consume new land. Also, preservation of historic structures is generally identified as a goal in the *Plan* (not that staff is aware of any impending threat to the structure at 10 Madison Avenue if this application is not supported or otherwise).

However, the *2025 Plan* notes the lack of (affordable) housing as the "number one economic development problem for the community" and as stated earlier in this report, this unit is not currently a dedicated affordable unit, however it is a 961-square foot dwelling that is ideally sized and located for an affordable or workforce rental (noting that rents would be at the discretion of the property owner).

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of housing and maintaining a high quality of life for residents. This project results in the loss of an ideally situated residential unit close to downtown and there is concern about the further incursion of non-residential uses into the neighborhood.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does <u>not</u> find this request to be reasonable or within the best public interest.

<u>Considerations</u>:

- Adaptive reuse of historic structures is supported by City plans.
- Mature landscaping on the site will be maintained and preserved.
- The change of use to office use is a loss of an ideally-situated, small-sized residential unit and housing supply is a noted concern for the City.
- Non-residential incursion into an established neighborhood can erode the residential quality.

While the proposal does preserve a contributing resource in a National Register Historic District through adaptive reuse, the change of use is a loss to the supply of housing close to downtown and impacts the residential quality of the neighborhood. Staff does not support the change of use to office and believes the residential structure should remain residential in use.

Should Council support this application, staff recommends inclusion of the condition as suggested by the Planning & Zoning Commission that the property be used for office and residential use only and not any allowable use in the Office District.

Ms. Bernstein said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

In response to Councilwoman Wisler, Ms. Bernstein said that there would be a recombination of property.

When Councilman Bothwell asked if the building was demolished could a larger office building be built on the property, Ms. Bernstein replied that they would have to comply with Office District standards.

In response to Councilman Pelly, Ms. Bernstein said that there would be no change to the law office; however, there would be changes to the house at 10 Madison Avenue. She said they would close in the porch (because of accessibility requirements), add parking to the right side of the house for accessible parking, and on the north side they propose to close in the windows.

Mayor Manheimer opened the public hearing at 5:54 p.m.

Mr. Jim Siemens, property owner, said that he would like to convert 10 Madison Avenue to perhaps a conference room area to enhance and expand his law office and at 202 E. Chestnut Street. He has no plans to demolish the house. He lives in the neighborhood and assured Council that the proposal will not be offensive to the neighborhood. He provided examples of renovations he has done in the past. He said that this is an adaptive re-use of a house and what will be lost in housing stock is only a one-bedroom bungalow. He is a small employer and a good neighbor in the community.

The architect on the project said that it is their intent to maintain the feel of a residential neighborhood. He said they will be enclosing the porch and add a door-like window on the front. They plan to maintain the mature trees. They will add additional vegetation and pervious pavers. He felt they are enhancing the residential area.

Mr. Timothy Sadler spoke in support of the project and felt it was a good example of adaptive reuse.

The following three individuals spoke in opposition of the conditional zoning for various reasons, with the main reason being that 10 Madison Avenue contributes to the neighborhood character of the area and to rezone it would irreparably alter the character and create erosion of the neighborhood. They presented Council with a petition containing 12 signatures asking Council to keep Madison Avenue residential.

Ms. Angela Scotchie, resident on Broad Street
Ms. Kate Fisher, resident on Madison Avenue
A gentleman on Madison Avenue

Mr. Siemens noted that the zoning is in line with the next door parking lot and he didn't think it would erode into the neighborhood.

Mayor Manheimer closed the public hearing at 6:17 p.m.

In response to Councilman Bothwell, Ms. Bernstein said that the development pattern along the Chestnut Street area was residential with larger homes with large backyards.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler moved to deny the conditional zoning request for Siemens Law Offices at 202 East Chestnut Street and 10 Madison Avenue from Office and RM-8 to Office-CZ and find that the request is not reasonable, not within the public interest and is not consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The proposed change of use would be a loss of a residential unit when maintaining and preserving the available housing supply is a goal of City Council; and (2) non-residential incursion into an established neighborhood can erode residential quality. This motion was seconded by Councilman Bothwell and carried unanimously.

E. CONTINUATION OF PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT

Mayor Manheimer announced that the applicant has requested an additional continuance. Mr. Louis Bissette' e-mail on January 6, 2015, states that "The Developer and the City Planning staff are in the process of reviewing certain modifications to the proposed site plan and need additional time to determine the process for approval. The Developer has proposed a reduction in the size of the property to be rezoned and has also reached a written Agreement with Asheville Industries for the Blind to provide an unlimited number of "Blind Friendly" units to Employees of IFB at a discounted rental rate. This additional continuance should give both parties the opportunity to ascertain the most efficient way to proceed with this matter."

Vice-Mayor Hunt moved to continue this public hearing until February 24, 2015. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Civil Service Board Chair position, in which current Chair Marvin Rosen asked to step down from, it was the consensus of Council to postpone action until February 10, 2015.

Regarding the Community Relations Council, the following individuals have applied for vacancies on the Community Relations Council: Kate Sampson, Sandra Houts, Roberto L. Hess, Dana Blake, Kelly Denson and Ben Scales. Councilman Smith moved to reappoint Rachael Tanksley-Russell and Mike Hahn and interview Sandra Houts and Kelly Denson. This motion was seconded by Councilman Davis and carried unanimously.

Regarding the Sustainable Advisory Committee on Energy & the Environment, the following individuals have applied for a vacancy on the Sustainable Advisory Committee on Energy & the Environment: Katie Bray, Philip H. Pritchard, Julie Loveless, Jackson Tierney, John Noor, Jeremiah Mattysse, Erin Singer McCombs, Hanna Furgiuele, Grant Millin, Sam McLamb

and Geoffrey Habron. Councilman Smith moved to reappoint Lael Gray, appoint Katie Bray, and interview Erin Singer McCombs and John Noor. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION NO. 15-1 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Hunt said that the terms of Nelda Holder (Alternate), James Sheeler (Regular), Daniel Summerlin (Alternate) and Janet Whitworth (Regular) as members on the Board of Adjustment expire on January 21, 2015.

The following individuals applied for vacancies on the Board of Adjustment: Pratik H. Bhakta and Christine Longoria.

Vice-Mayor Hunt said that the Boards & Commissions Committee recommended (1) reappointing Nelda Holder (Alternate) and Daniel Summerlin (Alternate); (2) appointing Richard Fort (current Alternate) to a Regular Member); (3) appointing Phillip Hardin (current Alternate) to a Regular member); and (4) appointing Pratik Bhakta and Christine Longoria as Alternate Members.

Vice-Mayor Hunt moved to (1) reappoint Nelda Holder (Alternate) and Daniel Summerlin (Alternate) to each serve an additional three-year term respectively, terms to expire January 21, 2018; (2) appoint Richard Fort (Regular) to serve a three-year term, term to expire January 21, 2018; (3) appoint Phillip Hardin (Regular) to serve a three-year term, term to expire January 21, 2018; and (4) appoint Pratik Bhakta and Christine Longoria (Alternates) to each serve a three-year term respectively, terms to expire January 21, 2018.. All terms are until their successors have been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 1

RESOLUTION NO. 15-12 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE DOWNTOWN COMMISSION

Vice-Mayor Hunt said that the terms of Byron Greiner, Michael McDonough and Jimi Rentz, as members on the Asheville Downtown Commission, expired on December 31, 2014.

The following individuals have applied for a vacancy on the Downtown Commission: Keaton Edwards, Ryan Israel, Brent Campbell, Ruth Summers, John Menkes, Guillermo Rodriguez, Constance Richards and Drea Jackson.

Vice-Mayor Hunt said that the Boards & Commissions Committee recommended reappointing Michael McDonough, Byron Greiner and Jimi Rentz.

Vice-Mayor Hunt to reappoint Michael McDonough, Byron Greiner and Jimi Rentz to each serve an additional three-year term respectfully, terms to expire December 31, 2017, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 15

RESOLUTION NO. 15-13 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Hunt said that the terms of Ryan Blau, Lael Gray and Matthew Raker, as members on the Sustainable Advisory Committee on Energy & the Environment expired on December 31, 2014.

The following individuals have applied for a vacancy on the Sustainable Advisory Committee on Energy & the Environment: Katie Bray, Philip H. Pritchard, Julie Loveless, Jackson Tierney, John Noor, Jeremiah Mattysse, Erin Singer McCombs, Hanna Furgiuele, Grant Millin, Sam McLamb and Geoffrey Habron.

Vice-Mayor Hunt said that the Boards & Commissions Committee recommended reappointing Lael Gray; appointing Katie Bray; and interviewing Erin Singer McCombs and John Noor.

Councilman Smith moved to (1) reappoint Lael Gray to serve an additional three-year term, term to expire December 31, 2017, or until her successor has been appointed; (2) appoint Katie Bray to serve a three-year term, term to expire December 31, 2017, or until her successor has been appointed; and (3) interview Erin Singer McCombs and John Noor. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 16

RESOLUTION NO. 15-14 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Hunt said that the term of Leesa Gibbs, as a member on the Firemen's Relief Fund, expired on January 1, 2015.

No individuals have applied for a vacancy on the Firemen's Relief Fund.

Vice-Mayor Hunt said that the Boards & Commissions Committee recommended appointing Chief Financial Officer Barbara Whitehorn.

Vice-Mayor Hunt moved to appoint Chief Financial Officer Barbara Whitehorn to serve a two-year term, term to expire January 1, 2017, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 17

RESOLUTION NO. 15-15- RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the term of Bill Russell, as a member on the Metropolitan Sewerage District Board, expire on January 19, 2015.

The following individuals have applied for a vacancy: John S. Brigham, Michael L. Holcombe and James Torpey.

The Boards & Commission Committee recommended appointing Councilwoman Gwen Wisler.

Vice-Mayor Hunt moved to appoint Councilwoman Gwen Wisler to serve a three-year term, term to expire January 19, 2018, or until her successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 18

RESOLUTION NO. 15-16- RESOLUTION APPOINTING A MEMBER TO THE NOISE ORDINANCE APPEALS BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that there currently exists a vacancy left by John Hayes on the Noise Ordinance Appeals Board until July 1, 2015.

The following individuals have applied for a vacancy: Victor Fahrer and Robert Glenn.

The Boards & Commission Committee recommended appointing Victor Fahrer.

Councilman Smith moved to appoint Victor Fahrer to serve the unexpired term of Mr. Hayes, term to expire July 1, 2015, and then a full three-year term, term to expire July 1, 2018, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 19

RESOLUTION NO. 15-17 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE TREE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Brandee Boggs, Amy Kemp and Bob Gale, as members on the Tree Commission, expired on December 31, 2014. In addition. Jonathan Gach and Matthew Schlosser have resigned from the Commission, thus leaving two unexpired terms until December 31, 2015.

The following individuals have applied for a vacancy on the Tree Commission: Diane Hillgrove, Marc Williams, Carl Nyberg, Sara Surabian, Justin Price, Leslee Reiter and Stephen E. Hendricks.

The Boards & Commission Committee recommended appointing Justin Price, Marc Williams, Carl Nyberg, Stephen Hendricks and Leslee Reiter.

Vice-Mayor Hunt moved to (1) appoint Justin Price, Marc Williams and Carl Nyberg to each serve a three-year term respectively, terms to expire December 31, 2017, or until their successors have been appointed; and (2) appoint Leslee Reiter to serve the unexpired term of Mr. Gach, term to expire December 31, 2015, or until her successor has been appointed; and (3) appoint Stephen Hendricks to serve the unexpired term of Mr. Schlosser, term to expire December 31, 2015, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 20

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Lawrence Rice, business owner in west Asheville, spoke to Council about the graffiti problem he has encountered and felt there should be more Police Department presence. He felt the City is trying to make property owners responsible over something they have no control over. Director of Public Works Greg Shuler offered to meet with Mr. Rice to discuss his concerns.

Mr. Jeffrey DeCristofaro spoke about the need to pursue alternative energy awareness.

Mr. Rondell Lance, President of the local Fraternal Order of Police, spoke in opposition of City Council trying to disband the Civil Service Board, which is so important to City employees.

Ms. Clare Hanrahan spoke about the need to maintain sidewalks and add benches in the downtown area.

Mr. Timothy Sadler felt the City should appoint all members to the Civil Service Board. He also suggested Council support any "know your rights" trainings.

Closed Session

At 7:00 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, lawsuits involving the following parties: The City of Asheville v. Robert Frost, Butterworth, et al. v. City of Asheville, et al., and Gannett Pacific Corp. d/b/a Asheville Citizen Times Publishing Co. v. City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:51 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:51 p.m.

Magdalen Burleson
CITY CLERK

Edwin C. Manheimer
MAYOR

Tuesday – January 27, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson (excused from meeting at 8:43 p.m.); Director of Planning & Multimodal Transportation Cathy Ball (arrived in meeting at 8:43 p.m.); City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized (1) Sara McHone - NC AWWA Walter J. Courmon Safety Award; (2) Leslie Carreiro - Outstanding Water Operator of the Year; (3) Randy Rhodes - Distribution System Operator of the Year; (4) Greg Shuler, Shannon Tuch, McCray Coates, Abigail Riley, Nathan Pennington, Keisha Lipe, Tim Bayless, Stephanie O'Conner, Chuck Watson, Ray Tracy and Mark Case - National Flood Insurance Program Community Rating System; (5) Ivan Thomas - Highlighted in the Municipal Sewer and Water Magazine.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING JANUARY 27, 2015, AS THE "TEN-YEAR ANNIVERSARY OF WATER RESOURCES DEPARTMENT ISO 14001 REGISTRATION DAY"

Mayor Manheimer read the proclamation proclaiming January 25, 2015, as the "Ten-Year Anniversary of Water Resources Department ISO 14001 Registration Day" in the City of Asheville. She presented the proclamation to Director of Water Resources Steve Shoaf.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 13, 2015

B. RESOLUTION NO. 15-18 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE NEGOTIATIONS AND EXECUTE A PROFESSIONAL SERVICES CONTRACT WITH BROWN AND CALDWELL FOR THE CITY WIDE STORMWATER ASSESSMENT

Summary: The consideration of a resolution authorizing the City Manager to complete negotiations and sign a contract with Brown and Caldwell for the completion of the City Wide stormwater assessment.

In 2013, the City of Asheville received record rainfall. As staff was investigating many areas of concern, citizens were asking staff to perform additional maintenance activities and perform more watershed analysis which would help identify flood mitigation projects.

This past year, council approved an increase in the Stormwater Utility Fee, this was the first increase to the fee since its inception in 2005. The new revenue is designed to be utilized on maintenance activities and also to provide new capital construction projects.

The City of Asheville solicited request for qualifications for professional services for the Stormwater Assessment. From the proposals, the top 4 firms were interviewed in order for the City to obtain the most qualified team. From this interview process, the City selected Brown and Caldwell.

The top 4 firms were:

Brown and Caldwell Charlotte Office, NC
McGill Associates Asheville, NC
WK Dickson, Raleigh Office, NC
Kimley Horn, Charlotte Office, NC

In order to get accurate information, Brown and Caldwell will conduct and assessment of the City's drainage system. This assessment will identify potential issues, provide concepts toward solutions to these issues and prepare a 2 year and 10 year Capital Improvement Plan (CIP). The CIP plan will prioritize projects for future implementation.

The City has a goal to continue to be stewards of the environment. Through this assessment, Brown and Caldwell will also assist in identifying and prioritizing watersheds for further studies. The team will also look for opportunities to implement green infrastructure practices into the projects selected and opportunities for localized flood mitigation projects.

Pros:

- Provides a CIP for both drainage infrastructure and watersheds.
- Identify future issues with City infrastructures and provide a priority list for addressing these issues.
- Utilize the stormwater utility fee for construction related projects

Con:

- The project management and contract administration will consume staff time and City Funds

The City's Stormwater Utility will be responsible for the cost for the professional services contract. The total contract for professional services will be $500,000 with a 10% contingency for a total project up to $550,000. Funding for this contract is included in the adopted FY 2014-15 Stormwater Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to complete negotiations and execute a contract with Brown and Caldwell for the professional services associated with an assessment of the City's stormwater system for a contract amount of $500,000, and to enter into change orders to this contract not to exceed 10% of the original contract $50,000 for a total amount up to $550,000.

RESOLUTION BOOK NO. 37 - PAGE 21

C. RESOLUTION NO. 15-19 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL

TRANSPORTATION FUNDING, AND IF SUCCESSFUL, TO ACCEPT SUCH GRANTS AND EXECUTE NECESSARY AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The MPO has opened a second call for projects to use federal Surface Transportation Program – Directly Attributable (STP-DA) funds and Transportation Alternative Program (TAP) funding sources. The MPO expects to have approximately $3.8 million in STP-DA and TAP funding available for fiscal years 2016 and 2017. All of these funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- Design and construction for connectors between three city greenways, Beaucatcher, Town Branch and Clingman Forest, for $125,000 with 80% funded by the grant.
- Craven Street Bridge design and construction, estimated to cost $3 million, with 80% funded by the grant.
- A study to determine how Federal Transit Administration (FTA) operating assistance funds for urban transit services should be distributed among local governments in Buncombe, Henderson, Haywood and Madison counties. These funds are also referred to as 5307 funds. The study is expected to cost $90,000, with 80% funded by the grant.
- Update of the Transit Master Plan for $120,000, with 80% funded by the grant.

If received, these projects will be added to the city's capital and operating budgets.

Pros:

- Allows the City of Asheville access to up to $3.3 million in capital, planning and infrastructure investment from these grants
- Allows the City of Asheville to make clear connections between three upcoming greenways, making them part of a growing network of transportation pathways
- Allows the City of Asheville to make the next step in implementing the vision of the River District transportation system by improving connectivity of Craven Street for all travel modes
- Allows the urban transit providers in the MPO region to comply with federal regulations requiring a well-considered and equitable way to distribute the FTA 5307 allocation among qualifying providers.
- Allows the City of Asheville to meet FTA requirement to keep the transit master plan up-to-date

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage 80% grant funding for these projects, up to a grant value of $3.3 million and a city match of up to $667,000.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds, and to express the intention to provide the required local match.

RESOLUTION BOOK NO. 37 - PAGE 22

D. RESOLUTION NO. 15-20 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH CLARK PATTERSON LEE FOR THE ARCHITECTURAL AND ENGINEERING SERVICES NECESSARY TO DESIGN AND REMODEL THE 7TH AND 8TH FLOORS OF CITY HALL

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services contract with Clark Patterson Lee for the architectural and engineering services necessary to design and remodel the 7th and 8th floors of City Hall.

The final phase of the City Hall Renovation project is the design and remodeling of the 7th and 8th floors of City Hall, which are currently unoccupied. The proposed professional services contract will provide the architectural and engineering services required to modernize the building systems, design the 7th & 8th floor space to be remodeled, and related services.

During the August 26, 2014, the Finance Committee received a briefing which included (a) an update on the overall City Hall Renovation Project, (b) available funding for the design & remodeling work on the 7th and 8th floors, (c) the proposed procurement of architectural & engineering services for the design phase, and (d) a description of potential uses for the space (multi-purpose meeting space for use by City Council, City staff, and the public; innovative and collaborative team space; records storage; and office space if needed).

In response to a Request for Qualifications, the following ten firms submitted:

Architectural Design Studio (Asheville, NC)	Novus-Bowers, Ellis, and Watson (Asheville, NC)
Clark Nexsen (Asheville, NC)	Clark Patterson Lee (Asheville, NC & Rochester, NY)
Mackey Mitchell Architects (Asheville, NC)	ARCA (Asheville, NC) & Craig Gaulden Davis (Greenville, SC)
Matthews Architecture, P.A. (Asheville, NC)	Creech & Associates (Charlotte, NC & Mt. Pleasant, SC)
Padgett and Freeman Architects (Asheville, NC)	Tise-Kiester Architects, P.A. (Asheville, NC & Chapel Hill, NC)

In reviewing submittals, an inter-departmental team utilized a scoring matrix to assess the qualifications. Clark Patterson Lee scored the highest by a significant margin, so it was selected for an on-site team interview. The interview process confirmed the capabilities of the consultant team. Clark Patterson Lee's multi-disciplinary team is well-qualified, and the firm includes disciplines such as architecture, engineering, historic preservation, interior design, and more. Further, its understanding of the renovation of historic public buildings ranges from the Cherokee County Courthouse (2012) to Asheville City Hall (1998). The Clark Patterson Lee team has exhibited flexibility and an understanding of the City's needs for phasing the work, authorizing services only as needed, and preparing for the technical and communications challenges of the proposed project.

The proposed design work and subsequent renovations would support Goal 4 in Focus Area 1 of the 2014-2015 Strategic Operating Plan because the renovated space is being designed to improve energy efficiency and modernize building systems, thus reducing operations and maintenance (O&M) costs and supporting sustainability efforts. The process undertaken for this phase of the project also supports the action item "ask employees to innovate and seek savings" listed in Goal 3 under Focus Area 1 of the 2013-2014 Strategic Operating Plan because a staff-based cross-functional team has already developed some cost-savings ideas as part of the design considerations for this architecture/engineering phase of the renovation project.

Pros:

- Allows the renovation of interior space and modernization of building systems on the 7th & 8th floors of City Hall to proceed;

- Multi-disciplinary team includes architecture, engineering, interior design, historic preservation, and other professional disciplines; and
- Plan to preserve historic elements while modernizing systems and providing multi-purpose meeting space, office space, and general storage/records retention.

Con:

- None identified.

Project funding was approved by City Council in the Capital Improvement Program (CIP Project B1101), and the proposed expenditures are within the existing budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a professional services contract with Clark Patterson Lee for the architectural & engineering services needed to design & remodel the 7th and 8th floors of City Hall.

RESOLUTION BOOK NO. 37 - PAGE 23

E. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JUNE 28, 2011

Summary: Changes in Commission rules require ABC Boards across the state to adopt a travel policy that mirrors the travel policy of their appointing authority. In order to meet the requirements of Chapter 18B-700, Article 7 (g2), the Asheville ABC Board seeks to continue to use the travel policies of its appointing authority, the City of Asheville. Section g2 states, "The local board shall annually provide the appointing authority's written confirmation of such approval ..." The ABC Board approved the current policies on June 28, 2011. There are no changes to the current policies.

The Asheville ABC Board is requesting formal written confirmation of the approval of the Asheville Board of Alcoholic Control Board Member Travel Policy and the Asheville Board of Alcoholic Control Travel Policy.

F. RESOLUTION NO. 15-21 - RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION

Summary: On January 13, 2015, by Resolution No. 15-17, City Council appointed Mr. Carl Nyberg to fill the expired term of Ms. Amy Kemp. An error was made in calculating the terms and Ms. Kemp was eligible to serve another term. Mr. Nyberg has agreed to give up his term until the next available seat on the Commission. Therefore, Mr. Carl Nyberg is hereby removed as a member of the Tree Commission, until the next vacancy, in order to allow Ms. Amy Kemp to serve another term. In addition, Ms. Amy Kemp, is hereby reappointed as a member of the Asheville Tree Commission, to serve an additional three year term, term to expire December 31, 2017, or until her successor has been appointed.

RESOLUTION BOOK NO. 37 - PAGE 24

G. RESOLUTION NO. 15-22 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH THE Z SMITH REYNOLDS FOUNDATION AND SOCIAL PROFIT STRATEGIES TO FACILITATE THE DEVELOPMENT OF TRAINING MATERIALS AND PROCESS TO ENHANCE PARTNERSHIPS TO BUILD NEIGHBORHOOD CAPACITY

ORDINANCE NO. 4378 - BUDGET AMENDMENT FROM THE Z SMITH REYNOLDS FOUNDATION TO FACILITATE THE DEVELOPMENT OF TRAINING MATERIALS AND PROCESS TO ENHANCE PARTNERSHIPS TO BUILD NEIGHBORHOOD CAPACITY

Summary: The consideration of a resolution authorizing the City Manager to sign agreements with the Z Smith Reynolds Foundation and Social Profit Strategies (formerly Dynamic Governance Institute/Sims and Steele Inc.) to facilitate the development of training materials and process to enhance partnerships to build neighborhood capacity; and the associated budget amendment in the amount of $30,000 from the Z Smith Reynolds Foundation.

The project to be funded by this grant is a collaborative effort of the City's Communication and Public Engagement Division, Social Profit Strategies, and residents of Public Housing Communities in the South French Broad neighborhood and was developed to strengthen effective neighborhood participation in planning decisions.

This grant award is for a second year of funding from Z Smith Reynolds Foundation in the amount of $30,000 for the continuation of the pilot program entitled "Building Neighborhood Capacity and Leadership across Race and Class." The 2014 grant supported the development of a collaboration between the Communication and Public Engagement Division and the Dynamic Governance Institute (now a branch of Social Profit Strategies and called "Circle Forward") to strengthen the city's work with neighborhoods to increase effective citizen participation in government.

The 2014 grant-funded project focused on developing the capacity of the HACA Residents' Council in order to grow their ability to provide leadership for public housing residents' participation in the decisions that impact them. Early in the grant funding cycle, this became a crucial endeavor as HACA leadership and residents struggled to find common ground on how to implement the HUD Rental Assistance Demonstration project adopted by the HACA Board. Support and training provided by the grant Leadership Team were a catalyst for the Residents' Council Executive Committee's successful restructuring and establishment of a transparent process and development of an action plan to train the leadership of every public housing community's Residents' Association. Results of this effort include a 2-year action plan for strengthening the Residents' Council, revitalization of five public housing communities' Residents Associations, and efforts to develop a comprehensive communication network to more effectively connect public housing residents to the information they need to more actively participate in their communities.

In addition to using Circle Forward to facilitate Residents' Council and Association meetings more effectively, members of the Executive Committee participate in ongoing facilitation trainings in order to provide leadership for public housing communities as they reach out to their neighbors outside of public housing. Social Profit Strategies' involvement with the Leadership Team has resulted in the development of training materials that will support the Residents' Council in their efforts to build the capacity of Residents' Associations in all public housing to more effectively participate in shared decision making. The 2015 grant will provide support for expanding the use of the Circle Forward method by public housing communities as they seek to build partnerships with their neighbors and establish their role as capable facilitators of collaboration for the larger community.

Pros:

- Creates a more level playing field for historically disenfranchised residents who may lack the training and experience needed to participate effectively in public processes.
- Supports the development of a structured training opportunity with culturally sensitive materials that can be used for similar efforts in neighborhoods throughout the city.
- Empowers public housing residents by providing opportunities to act as process facilitators and trainers for other neighborhoods.
- Previous grant has resulted in a more effective Residents' Council and the re-establishment of active Residents' Association in five public housing communities.

Cons:

- While the Leadership Team is confident ongoing resources can be secured to sustain the program after this grant year, funding sources have not yet been identified.

Grant revenue of $30,000 will be administered by Social Profit Strategies through a sub-award agreement at no cost to the City. Funding will be used to administer the grant, oversee the development of materials, and coordinate and facilitate meetings and training sessions, including providing support services like babysitting and transportation to enable residents to participate in the free training. In addition, the grant provides opportunities for residents who assume key leadership roles to receive stipends for activities aimed at making the program sustainable over time and available to all Asheville neighborhoods.

Staff recommends that City Council adopt the resolution authorizing the City Manager to sign the grant agreement with the Z Smith Reynolds Foundation and the Sub-Award Agreement with Social Profit Strategies; and the associated budget amendment.

RESOLUTION BOOK NO. 37 - PAGE 25
ORDINANCE BOOK NO. 29 - PAGE 333

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. MULTIMODAL TRANSPORTATION COMMISSION UPDATE

Mr. Jim Grode, Chairman of the Multimodal Transportation Commission, gave a brief update on the Commission which was authorized in May 2013. He explained how the Commission is working with other City departments and commissions on different multimodal projects. He asked the Council to consider extending the Commissions' terms for an additional six months to bring them into the calendar year as other commissions. They embrace their role to serve as liaison between the community and Council and are grateful for Council's recognition of the need for multimodal transportation.

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that they will consider the Commissions request for calendar year terms at their next meeting.

In response to Councilman Smith, Mr. Grode said felt there is a lot of room for improvement on pedestrian safety using our limited resources.

On behalf of City Council, Mayor Manheimer thanked Mr. Grode and the entire Commission for their hard work and dedication on the Commission.

B. 2015 HOUSING MARKET STUDY AND NEEDS ASSESSMENT

Assistant Director of Economic and Community Development Jeff Staudinger said that the City's Community and Economic Development department contracted with Bowen National Research of Pickerington, Ohio to conduct our 2015 Housing Market Study and Needs Assessment. This study is a key element in the development of the 2015-2019 Consolidated Strategic Plan for CDBG and HOME, and is one of the precedent steps in the development of the Comprehensive Affordable Housing Strategy, presented to Council in October, 2014.

The Housing Market Study reports for the Asheville Regional Hosing Consortium four-county area, including Buncombe, Henderson, Madison and Transylvania Counties. Each county's specific market conditions and needs are also reported on separately, with a separate report also for the City of Asheville.

The report focuses on the market conditions and needs for households earning less than 120% of median income. The report concludes that the region is experiencing a significant housing supply gap across all income levels, and in both rental and for-sale housing supply.

He then summarized the key statistical information, leading to the consultant's opinion about housing needs and housing gaps, as well as summarizing the consultant's key finding, which are (1) insufficient rental housing (multi-family) supply; (2) emerging need for senior housing and/or efforts to enable seniors to age in place; (3) insufficient supply of for-sale housing affordable to moderate-income (80% to 120% AMHI) households; (4) utilization of affordable rental housing programs; and (5) need for home repair/maintenance programs.

Councilman Smith asked that the City place the link to the entire report on the front page of the City's website. He recognized that there are housing needs across the board. He was grateful for the leadership City Council has shown in the area of the affordable housing crisis. City Council is making some changes to help; however, there is no single solution. The City has made a change to allow residential density on commercial corridors, and is looking at several other items, e.g., a Request for Proposal for housing development on some City-owned properties, land-banking for future housing, revisions to accessory dwelling units, rules for tiny houses; short term rental housing, plan to renovate Lee Walker Heights, etc. The Housing & Community Development Committee will be reviewing housing targets and would keep the Council apprised of that process.

Councilman Bothwell said that Asheville is not different than the rest of the county. We are under the assumption that housing is expensive in Asheville, but that is not exactly the case. It's scare, but it's not unusually expensive, compared to wages.

Councilman Davis felt that the report shows there are housing needs in almost every income bracket, but recognizing it is more severe in the 80% or below.

Mr. Staudinger responded to Mayor Manheimer when she asked if we are out of line with other similar cities in the south.

Vice-Mayor Hunt noted that another constraint in Asheville is the competition for the land. There is limited land availability to build a large number of units.

Mr. Staudinger responded to Vice-Mayor Hunt regarding the lack of supply in the current market and how that relates to rent rates and land values.

Councilman Smith felt Council needs to incentivize development of populations that require a more intensive living environment, e.g., senior living homes, senior care homes, homes for the disabled, homes for the mentally ill, etc.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 4379 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY OFF FAIRVIEW ROAD FROM URBAN VILLAGE DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR DEVELOPMENT OF A MIXED USE PROJECT CONTAINING APARTMENTS AND RETAIL, WITH MODIFICATIONS TO PARKING STANDARDS FOUND IN SECTION 7-8-26 OF THE UNIFIED DEVELOPMENT ORDINANCE

Mayor Manheimer said that this public hearing was continued from the November 11, 2014, meeting to December 9, 2014, at the applicant's request. At the City Council meeting on December 9, 2014, Mr. Lou Bissette, representing the owner asked for a continuance until January 27, 2015, in order to (1) further look at the City's Land Use Incentive Program and other ways to achieve 10% affordable housing in the project; and (2) meet with the neighbors to discuss any of their concerns.

Urban Planner Jessica Bernstein said that this is the consideration of a Conditional Zoning for two parcels located on Fairview Road from Urban Village (UV) to UP (Urban Place District) – Conditional Zone in accordance with Section 7-7-8 of the UDO, for the construction of a mixed-use development with a condition regarding parking. This project was originally on City Council's December 9, 2014, agenda but a continuance was requested at that meeting to the January 27, 2015 date. This public hearing was advertised on October 31 and November 7, 2014.

Ms. Bernstein said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

She said that the project site consists of two parcels with a combined area of approximately 14.02 acres (according to submitted plans) and frontage on Fairview Road and Stoner Road just outside of Biltmore Village on the edge of the Oakley neighborhood. The site is currently zoned Urban Village (rezoned in 2007 as a part of a larger development project that was never realized). Adjacent parcels are zoned Commercial Industrial (CI) to the west and north, RM-8 and UV to the east and UV to the south.

The project area is currently vacant and has mature trees across the site. Surrounding uses include commercial/industrial operations, retail, the Norfolk Southern rail line and single-family residential. The site has some steep grade changes from adjacent parcels, especially along Stoner Road and the parcel to the west, along Fairview Road.

The applicant is proposing the construction of a mixed-use development with primarily residential units but also live-work and retail space. As indicated in the *Required Reviews* section of this report, the project was revised after an original plan was not supported by staff or the Planning & Zoning Commission. Current plans indicate a total of 309 residential units with 155 1-bedroom, 122 2-bedroom and 32 3-bedroom configurations *(up from 298 units previously)*. There are 5 live-work units identified as well as 9,742 square feet for retail uses *(original plan showed 7,600 square feet for retail)*.

The design incorporates four buildings with surface parking throughout the site. The buildings range from four to six levels and have a maximum height of 73 feet. Buildings 300 and 400 are unchanged from the original plan (four/five splits at 53 feet maximum height) but Buildings 100 and 200 were revised to provide access into retail spaces along Fairview Road and this has resulted in a greater height for those two buildings (73 feet and 63 feet respectively).

The project proposes two vehicular access points, one from Fairview Road and one on Stoner Road towards the rail line, both two-way driveways. Once inside the site, the buildings are surrounded by a series of linear surface parking areas. There are a total of 578 parking spaces shown, including required accessible spaces and bike parking *(previously 533 spaces – number*

of spaces increased to accommodate additional retail spaces and residential units).

New sidewalks are shown on Fairview Road. While the previous submittal indicated that sidewalks along Stoner Road would be handled through a fee-in-lieu; the applicant is now committing to installation of sidewalks on this side as well. Final location and details of sidewalk installation will be worked through in the Final TRC review.

There are internal walkways throughout the site. The previous plan showed very limited pedestrian access from Fairview Road into the retail shops; however the proposal has been revised to provide multiple direct access points along this streetscape.

Landscaping is required for this project and includes a property line buffer against areas of residential zoning, street trees, building impact and parking lot landscaping and dumpster screening.

Open space is required in an amount equal to five percent of the lot area, which is 30,492 square feet (or 0.7 acre). More than this amount is provided in hardscaped plaza areas throughout the site.

The redesign has greatly eliminated the retaining walls originally shown along Fairview Road, with the exception of a stretch approximately 80 feet long at the southwest end of the site. This section has been stepped in a way with incorporated landscaping at each level (10 and 12 foot sections) to reduce the perception of overall height and also includes stairs to provide additional access into the site. The west, north and east boundaries have not changed from the original plan and include (fill) walls up to 40 feet along the western (internal) property line, 16 to 36 feet along the northern boundary (rear of the site) and cut walls up to 26 feet along the east side with walls between 2 to 18 feet along Stoner Road. Interior to the site, there are additional walls around each building ranging in height from 2 to 13 feet.

Council Conditions:

- In the Urban Place zoning district, parking is not permitted to be closer to the street than the face or edge of a structure. Because the buildings are oriented either towards Fairview Road or internally, the frontage along Stoner Road is not activated. Due to landscape buffer requirements along Stoner Road and difficulties resulting from existing topography, activation in this particular location would be challenging and staff believes the layout as proposed is supportable, with parking areas separated from the street by landscaping and the grade change.

The proposal was approved with conditions by the Technical Review Committee at their meeting on September 15, 2014.

On October 16th, the Planning & Zoning Commission reviewed the original proposal and voted unanimously NOT to support the requested conditional zoning (6-0). Commissioners agreed with staff's recommendation on that application that the project's design and mix of uses was not aligned with the intent of the Urban Place zoning district and had serious concerns about the retaining walls as a method of incorporating the use into the site. Additionally, the Commission did NOT approve the requested variance relating to the distance between pedestrian entrances along Fairview Road.

The project was amended to address many of the comments raised by staff and the Commission and the revision was approved by a vote of 4-1 on November 20, 2014. The dissenting vote was due to concerns about integration of the project into the area and a desire for a greater mix of uses. Additionally there was some discussion regarding the district requirement for locating entrances on each primary façade, with one Commissioner wishing to see more entrances on each building; however staff has consistently and historically applied this

requirement only to *street facing* façades which in this case would be Fairview Road and not internal buildings as they face onto a parking field.

Since the Planning & Zoning Commission meeting, staff has met with the two adjacent residential neighbors who have expressed significant concern regarding the increased traffic into the neighborhood, the retaining walls and the lack of integration of the proposal into the area. Other area residents have expressed similar concerns.

The site was zoned Urban Village as a part of a larger master plan that was never finalized. Before that rezoning in 2007, the site was zoned as RM-16 (Residential Multi-family High Density). The proposed district, Urban Place, allows 64 residential units per acre and is intended to foster "higher-density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the city...in the form of mixed-use structures that relate to the street, enhance the streetscape and offer a wide range of complementary land uses and employment opportunities."

The proposal offers a residential density of approximately 21 units per acre and includes five live-work units and almost 10,000 square feet of space available for retail use. The site is in a good location for a multi-family residential use because it is sited along a transit route and walkable to Biltmore Village and beyond. This revised proposal has increased the amount of retail and has been redesigned to allow for the buildings to step along the grade changes on the site, providing direct access to retail spaces from the sidewalk as well as internally along the main drive access. The Fairview Road frontage has been revised to be an active and pedestrian-oriented streetscape, more in line with the intent of the Urban Place zoning district.

Recent actions in the general vicinity have included the approval of the Roots & Wings School conditional zoning at 573 Fairview Road (2014); Biltmore Hill mixed-use conditional zoning at 63 Brook Street (2013) and River Mill Lofts CUP at Thompson Street and Stoner Road from River to Urban Place (2014).

Zoning and uses adjacent to this site include CI and UP to the north (Norfolk Southern railroad, manufacturing uses); RM8 and UV to the east (single-family residential); UV to the south across Fairview Road (CarePartners and retail) and CI to the west (manufacturing). Along the north boundary of the site is a 100 foot railroad easement. This location is well suited for a higher-density residential, mixed-use development given the proximity and access to employment locations, transit and amenities.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

1. *That the proposed use or development of the land will not materially endanger the public health or safety.*
   The proposed project has been reviewed by City staff and appears to meet all public health and safety related requirements. The project must meet the technical standards set forth in the *UDO*, the *Standards and Specifications Manual*, the *North Carolina Building Code* and other applicable laws and standards that protect the public health and safety.

2. *That the proposed use or development of the land is reasonably compatible with significant natural or topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
   There are significant topographic differences around the site and vicinity. Fairview Road drops approximately 70-90 feet from the eastern to western extents of the parcel. The

building on the parcel to the west is approximately 45 feet lower than the elevation at the western property boundary. There is a difference of approximately 90 feet from the railroad line at Stoner Road up into the center of the project site. As is, the parcel sits well above Stoner Road, the adjacent parcel to the west and most of Fairview Road. In order to create a more ideal building surface within the site, the applicant is proposing significant retaining walls around the bulk of the project area's perimeter. This results in walls from 24 to 40 feet in height along the western property line; from 16 to 18 feet along Stoner Road (across from single-story homes); and from 9 to 26 feet along the eastern boundary (the site drops down below the adjacent single family homes but is 30-40 feet above the homes across Stoner Road). The plans have been revised to address the interaction between the project and Fairview Road, greatly reducing the walls along this southern boundary line.

While the revisions address the project's ability to facilitate pedestrian activity along Fairview Road and meet the intent of the Urban Place zoning district, the large retaining walls on the rest of the site remain and prohibit integration of the project with the residential uses to the east.

3. *That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property.*
The proposed use of the land for the mixed-use development is not expected to injure the value of adjoining or abutting property; higher-density uses have been anticipated in this area with the 2007 Urban Village rezoning as well as the RM-16 zoning before that. The revisions along Fairview Road greatly enhance the streetscape and the interaction of the proposal within the area. However, there may still be some question of how the development of the land with large retaining walls at the perimeters could impact the value of the adjacent single-family residential uses.

4. *That the proposed use or development or the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
As stated in finding number three, this area has been anticipated for higher-density development. Given the proximity to employment centers, residential infrastructure and transit, this is an appropriate location for the use. While the scale, bulk, coverage and density are all greater than the adjacent neighborhood, this is an area with a variety of commercial and manufacturing uses currently and the multi-family component offers an acceptable transition in scale and intensity between the single-family uses to the east and the commercial uses to the west. The activation of retail spaces along Fairview Road should enhance the corridor leading to Biltmore Village and should benefit the area.

   Again, there remains concern about the development of the land around and how the large retaining walls around the perimeter of the site complement the scale and character of the neighborhood.

5. *That the proposed use or development of the land will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City.*
As enumerated below, elements of the project are directly aligned with the City's plans and objectives as a mixed-use, infill project including multi-modal transportation elements (sidewalks, bike racks, transit shelter) in a walkable location. The applicant has slightly increased the residential density and has indicated a commitment to provide 10 one-bedroom units as dedicated affordable rentals for a period of five years.

   While the proposal is considered by staff to be a good use for this location and revisions allow the project to enhance Fairview Road in a way that meets with the purpose and intent of the requested zoning district, the topographic challenges on this parcel still result

in a difficulty, relating to the Stoner Road frontage and very large retaining walls on three sides.

6. *That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
The proposal has been determined by the TRC to have adequate water supply, police protection, waste disposal and similar facilities. The site is approximately 800 feet from the nearest transit stop (C) at Fairview and Stoner Roads and approximately two tenths of a mile to the S1 route.

7. *That the proposed use will not cause undue traffic congestion or create a traffic hazard.*
A TIS was required due to the anticipated volume of traffic and has been reviewed by the Traffic Engineer. The project is not expected to create a hazard or undue congestion based on the proposed plans and the recommendations contained by the Traffic Impact Study. Two of the recommendations that will be incorporated into the design are a dedicated left turn-in lane heading eastbound and a dedicated right turn-in lane heading westbound on Fairview Road.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to transit. Infill development along transit corridors is highlighted and encouraged in various plan chapters. Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, the applicant has indicated a commitment to dedicate ten 1-bedroom units as affordable by the City's standards, for a period of five-years.

One aspect where the proposal does not align with the *Plan* is that when considering the retaining walls along the perimeter of the project facing existing residential uses and the lack of activity or integration along Stoner Road; the plan states that "protection, preservation and enhancement of existing neighborhoods must be as much a part of our development pattern as promoting new construction". The walls are proposed to accommodate development on a site with existing topographic challenges.

The revised plan aligns with several of City Council's adopted goals for 2014-2015: from "Economic Growth and Sustainability" is supporting mix-use development and development with multi-modal improvements; and "Affordability and Economic Mobility" stresses expanding Asheville supply of available housing with an emphasis on affordable units close to jobs and transportation. However, there is some concern as to how the large perimeter retaining walls will impact adjacent single-family properties (relating to the goals on "High Quality of Life."

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does find this request to be reasonable and within the best public interest.

Considerations:

- Revisions to the buildings along Fairview Road result in direct pedestrian access to retail spaces and meet the purpose and intent of the Urban Place zoning district by enhancing the streetscape.
- City-adopted plans and policies support mixed-use development, especially providing residential uses in a walkable location proximate to transit.
- The applicant has offered to place a transit shelter on the site.
- Multi-family residential use would provide a good transition between single-family and commercial uses on either side.
- Application includes dedication of ten 1-bedroom units as affordable for a period of five years

- Due to retaining walls and topographic difficulties, the project does not interact with adjacent single-family neighborhood.

The proposal is for a higher-density mixed-use project in an ideal infill location. Staff feels this is a good use for the site and revisions from the original submittal create the opportunity for an active streetscape environment along the primary frontage. The project complies with a number of City goals and objectives, including inclusion of affordable housing. There is still some concern regarding the lack of integration of the development with adjacent neighborhoods and staff encourages the developer to increase the commitment to affordable housing but overall, the project meets the purpose and intent of the requested zoning district and City goals. Staff recommends approval.

When Councilman Bothwell asked why the current zoning of Urban Village District does not apply here. Ms. Bernstein said that when an Urban Village District is approved, it goes with a larger overall Master Plan which has to be built, or come back to Council for an amendment. In 2007 the overall Master Plan was approved which included two of the parcels, but also included a neighbor to the east and lots across Fairview Road. This was a significant amendment to eliminate three additional parcels. Urban Place District is the next step down from Urban Village District.

In response to Councilman Bothwell, Ms. Bernstein said that the Urban Place District allows for a much greater density - 64 units per acre. This application is approximately 22 units per acre.

In response to Vice-Mayor Hunt, Ms. Bernstein said that after hearing comments from the community and based on comments from a prior Council-approval on River Loft Apartments, the following conditions (agreed to by the applicant) which were posted on-line Friday, have been amended as follows: (1) Condition 3 now reads "The applicant will dedicate seven percent (7%) of the units at the City's affordable rent for a period of ten years. The rent limits are according to income standards determined by the City of Asheville Community Development Department; (2) Condition 9 now reads "The project includes new sidewalks with a minimum width of 10 feet along Fairview Road and new sidewalk along Stoner Road for the length of the property; and (3) Condition 13 now reads "The property owner and/or applicant shall pay to the City of Asheville $50,000 on or before the date the first building permit is issued for the purpose of promoting connectivity from the property to Sweeten Creek Road and Biltmore Village and/or for traffic calming measures or pedestrian enhancements on or around Fairview Road and Stoner Road."

When Councilman Pelly asked if the applicant's sidewalks can be connected to Fairview Road, Ms. Bernstein said that there are two other properties between this site and Fairview Road that are not owned by the applicant. She said they tried to open up that conservation with those owners to see if they would be willing to grant a sidewalk easement.

In response to Councilman Pelly about a direct connection to Biltmore Village, Ms. Bernstein said that the applicant is not proposing to make any sidewalk connections outside of their property.

Councilman Bothwell said that from the seven conditional use standards, Condition 2 states that the development shall be compatible with the topography of the site, and he didn't understand how a 40-foot retaining wall makes it compatible with the site. Ms. Bernstein said that it's subjective. She said it's compatible when you look at different sides of the project. For instance, the 40-foot retaining wall on the west side (which is a manufacturing operation) might be considered compatible. Across Stoner Road, there was a lot of conversation with the applicant about that, acknowledging that there are a lot of challenges with the site.

In response to Councilman Smith, Ms. Bernstein said that the applicant has dedicated 7% (22 units) for 10 years. When Councilman Smith asked how we will monitor the other price

points so we don't lose the Urban Place District intention, Ms. Bernstein said that the City has not worked through a secure procedure to monitor workforce units.

In response to Mayor Manheimer, City Traffic Engineer Jeff Moore said that a Traffic Impact Analysis (TIA) was performed. The study shows that there aren't any major things that need to be done in order to handle the traffic that will be produced by this development. There are a couple recommendations, for instance, a signal on Fairview Road and some turn lanes. It does address Stoner Road, the intersections with Stoner Road, and how the traffic will work there.

Councilman Bothwell read a report that suggested the accident rate on Fairview Road is 211% compared to the accident rate on similar roads. He wondered what that meant for the safety of Fairview Road. Mr. Moore responded that he prepared that report. He looked at similar roads that were N.C. Dept. of Transportation-type roads in the rural areas. Fairview Road, which is a City street, is different. He would not say that Fairview Road is a dangerous road, but that it's a busy road and there were crash patterns identified in the report. There seemed to be a crash pattern at the intersection of Glendale and Fairview. One solution out of the report was to move the signal head to the opposite side of the street (when you come around a curve). Another suggestion out of the report was to lower the speed limit.

In response to Councilman Bothwell, Mr. Moore said that this TIA includes the traffic from the recently approved project on Thompson Street.

In response to Vice-Mayor Hunt, Mr. Moore described the level of service on Fairview Road.

Councilman Pelly said that the November, 2013, report referenced by Councilman Bothwell, notes that there were 210 reported crashes over five years between Sweeten Creek and the Oakley Elementary School. He said that other recommendations made in the report included overgrown vegetation on the sidewalks, and the need for center-line and crosswalk stripping and wondered if those have been accomplished. Mr. Moore said that the City has a contract in place to do the stripping, but are waiting on some consistently warm weather. The vegetation has been trimmed back.

Councilman Pelly asked about what we can offer the community as far as improving their quality of life and the pedestrian experience in the future. Mr. Moore said that their goal in transportation is how can we improve that experience for everyone - safety for walkers, bikers and drivers. The lower speed limit and the 10-foot sidewalk will help create a visual friction. Instead of driving by an open field, there will be things happening next to the road and that tends to slow people down. They will look at from the three-pronged approach of engineering, enforcement and education.

In response to Councilman Pelly, Mr. Moore explained why speed humps on Fairview Road are not considered, which is due to the slow response time for emergency vehicles.

Mr. W. Louis Bissette, attorney representing the applicant, said that the applicant is a reputable builder throughout the southeast and they also have the Aventine Apartments at the end of Long Shoals Road. Those apartments are a quality asset for our community. We all recognize that something needs to be done to increase the inventory of housing - and not only one group of income. This project will add 309 units and also 5 live/work units. It also has almost 10,000 square feet of retail space. He said this project meets most of City Council's plans and objectives for a mixed-use, infill project. The project is within walking distance from three of our largest employers in Buncombe County - CarePartners, Mission Hospital, and A-B Tech. The developer is prepared to construct sidewalks on its property down Stoner Road and along Fairview Road. We heard from the community about their need for sidewalks and that is one reason why they are prepared to commit an additional $50,000 for the use of sidewalks, traffic

calming, etc. They have agreed to dedicate 22 units to affordable housing for 10 years. The projected rates for the remaining units (somewhere between 80-85%) are at workforce maximum or below. An agent of the developer has attempted to meet with two adjoining property owners about one year ago. He recent met with the protest petitioner's attorney and asked what their concerns were so they might be able to address them, but they did not do that. This project is infill development, mixed-use development and provides a wide range of affordable housing options. The developer has worked with the City for over one year and these plans have been revised 20 times in an effort to resolve the affordability, connectivity, topographical issues, and other issues that would benefit the Oakley community and the City. The property is now valued at $593,700. His client is prepared to invest approximately $25 Million into this project. Currently the total tax revenue going to both the City and County are $7,000. If this project continues, the annual taxes going to the City and County will be increased to approximately $294,000 per year. He acknowledged there are some topographical problems with the site and that is one of the reasons why we don't have the supply of housing that we need. But, overall, this project meets the types of things the City is trying to promote. He asked for Council's support of the project.

Mr. Will Buie, engineer representing the applicant, said that the site currently is vacant and Council approved a plan for that property back in 2007. That project truly didn't take in the topography of the site. He personally felt that might be the reason why that project did not move forward. He also believed that practically any project that occurs on that property will have to make use of the retaining walls, short of a single-family development. This project tries to meet some of Council's housing goals. There are topographic challenges with elevation changes, thus requiring retaining walls in order to develop a reasonable project. He explained their stormwater controls which will be in place and which will meet the City's stormwater standards. As he reads the TIA, the capacity of the road to move the vehicles through the intersections and along the road is more than acceptable. The levels of service are all in the "b" and "c" range. With the improvements they will make at the intersection they will continue to function in those levels of service. They heard a quality of life message from the community. That is why the developer stepped forward to commit to building sidewalks along Stoner Road and Fairview Road in addition to contributing $50,000 for improvements. They would like to see those improvements stay in the Oakley community. Regarding the sidewalk to be located on the lower end of Stoner Road will be in inside the railroad right-of-way which presents challenges. Because the River Mills Lofts Project also has a sidewalk that would located in the railroad right-of-way, he suggested that through the City they find some way that jointly they can approach the railroad for a single plan on how pedestrians along that path can safely cross the railroad and a plan that the City would support and hopefully that would bear some weight with the railroad.

In response to Councilman Davis, Mr. Buie provided additional information about the retaining walls, noting that they will have a number of reviews by engineers and the City.

Mayor Manheimer opened the public hearing at 7:01 p.m.

The following individuals spoke in opposition of the conditional zoning for Biltmore Apartments mainly due to the increased traffic in the neighborhood, the retaining walls and the lack of integration of the proposal into the area, along with other various reasons, some being, but are not limited to: public safety threats due to increased traffic; increased crime; potential transportation difficulties for emergency responders in the area given multiple train crossings; stormwater and floodplain impacts; aesthetic impacts of the planned multi-story apartment buildings and retaining wall in the midst of a community largely composed of single-family residences; changes to the landscape and overlooking Biltmore Village; increased congestion in Biltmore Village and impacts on tourism; failure to include significant affordable housing; parking concerns for residents on Stoner Road; failure to include significant retail space; interior of project is mostly made up of parking lots; property is almost entirely surrounded by retaining walls; affordable housing should be in perpetuity; project will detract from adjoining property values; retaining walls should be reduced in scale and terraced in shorter sections; buildings are too high and should be no more than a 2/3 story split; sidewalks will not solve the issues with too much

traffic on the roads; there is already existing water runoff; affordable units are not affordable to most of Asheville; project does not benefit the people in the Oakley community; Glendale/Fairview is a very dangerous intersection; no sidewalks going down Glendale; Fairview Road sidewalks are currently in disrepair; a new daycare at Fairview/Glendale will add additional traffic in the area; still waiting on solutions from November 2013 traffic report; project shows no regard for the zoning and master plan in place for the Oakley neighborhood; development does not meet the minimum standard of dedicated retail space to qualify as a mixed-use project under current zoning; developer disregards the historic uses of Stoner Road by residents, businesses and the historic church on that road; developer made no effort to include neighbors or community members in their planning process; existing traffic congestion on Thompson Street; additional traffic from recently approved River Mills Loft Apartments; Stoner Road is narrow with on-street parking; sidewalks from the project should be connected to Biltmore Village or Fairview Road; defer development until long term planning issues are fully resolved; resolve Fairview Road existing 211% injury crash rate and improve to acceptable standards before additional density into Oakley neighborhood; developers should be required to engage the broader surrounding community early in the process; implement a planning classification similar to the River Arts District; hire a City liaison specifically dedicated to citizen development concerns; allegation that the current zoning is not Urban Village thus making all the procedures and notices provided to date fatally flawed; the application does not meet the standards for Urban Place District; the project fails to comply with other Urban Place District standards, including, but not limited to, the entrance design requirements; the TIA is flawed in that it only addresses apartments and does not include the proposed retail uses; the TIA ignored the City Code requirement for an analysis of traffic safety/accident history; and the project does not comply with the Asheville City Development Plan 2025 and with the City Council Strategic Operating Plan Goals for 2014-15:

Mr. Jeff Hicks, resident on Fairview Road (also presented a petition entitled "Petition to Asheville City Council to Deny Fairview Rd. Mixed Use Project As Proposed) containing approximately 18 signatures)
Ms. Mary Carroll, area resident
A resident on Unaka Avenue
Mr. David Lynch, resident on Fairview Road,
Mr. Devin Walsh, Chair, Precinct 9.1, Buncombe County Democratic Party (also Presented a resolution entitled "Resolution of 9.1 Precinct Committee, Buncombe County Democratic Party to Oppose Flournoy-Biltmore Apartment Development in Oakley Neighborhood, Asheville, NC"
Ms. Dana Davis, Oakley resident
Mr. Nelson Ward, property owner on Stoner Road
Mr. Scott Campbell, Oakley resident
Minister Mike Carroll, Fairview Baptist Church
Mr. David Ankeney, resident on Fairview Road
Ms. Patsy Brison, attorney representing Pamela Tripp and David and Emily Ankeney (presented several documents with a cover letter dated January 27, 2015)

Mr. Bissette responded to various allegations outlined by Ms. Brison, noting that they have been proceeding based the City's zoning map and they have not gone back through the zoning history of the property. Since Ms. Brison just presented these allegations, he felt that he should have the opportunity to discuss them with City Attorney Currin, perhaps during a brief recess.

City Attorney Currin couldn't give unequivocal answers to all of the allegations raised by Ms. Brison; however, some of the allegations that are made have to do with an interpretation of the zoning ordinance, which is done by the Planning & Zoning staff. Ms. Bernstein and Interim Planning Director Alan Glines reviewed this particular zoning classification and made a determination under the conditional zoning ordinance that it was still under the previous zoning. She did not know what actions were taken between the time it was originally zoned and now. Planning staff did make that decision and generally that decision would be appealed to the Board

of Adjustment. She didn't think Council can conclude at this meeting that that zoning is not what it says on the map.

Interim Planning Director Alan Glines said that the Urban Village District is a straight rezoning - it doesn't expire after two years. It stays with the property. It's a general use.

City Attorney Currin said that Ms. Brison is referring to a conditional use zoning in the ordinance, which would revert back without getting vested rights. Mr. Glines said that the Urban Village District zoning is what is known as a general use district, so that reversion provision does not apply at all. With respect to other provisions in the Urban Place District, last month Council changed the conditional use zoning ordinance to say that the conditions could be more or less restrictive than the underlying zoning district. By attaching the site plan and adding the conditions there is no requirement that every single requirement of that underlying district be met. With respect to the TIA, she felt Council can consider that they don't think this TIA convinces them, but it is not a legal requirement that it contain any particular requirements. With respect to compliance with the Comprehensive Plan, that is a subjective determination and as long as Council has a statement that it does or does not comply, and describe that statement, that is not subject to judicial review.

Closed Session

At 8:13 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville v. Robert Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 8:38 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

Continuation of Public Hearing

City Attorney Currin said that Mr. Glines has gone back through the ordinances and he feels confident that this is a general use rezoning. The way to challenge it would be an interpretation to the Board of Adjustment, and there is a very short statute of limitations for challenging zoning designations, which has run.

Mr. Bissette said that his client would like to be a good neighbor and has agreed amend Condition 13 to read "The property owner and/or applicant shall pay to the City of Asheville $200,000 on or before the date the first building permit is issued for the purpose of promoting connectivity from the property to Sweeten Creek Road and Biltmore Village and/or for traffic calming measures or pedestrian enhancements on or around Fairview Road and Stoner Road."

Mayor Manheimer closed the public hearing at 8:45 p.m.

Councilman Bothwell said reviewed the definition of the Urban Place District, and felt that it does not fit this plan. Therefore, he could not support the conditional zoning.

Councilman Pelly understood the need for housing in our community and acknowledged the genuine concerns of the retaining walls, additional traffic impact, and need for connectivity of the sidewalks. He urged staff to look for that sidewalk connectivity. Because we have a

commitment by the developer of $200,000 for traffic/pedestrian improvements, he could support the conditional zoning.

Councilman Smith saw both benefits and cons to this development, some benefits being dense infill, need for housing at all price points, enhancement of the tax base, and compliment of the River Mills Loft development, with some cons being tall buildings, high retaining walls, and multifamily backing up to single-family. Ultimately, after hearing the City's housing needs assessment, the City is in a housing crisis. He would support the project with the knowledge that we continue implementing other pieces of the Comprehensive Housing Affordability Strategy.

Vice-Mayor Hunt explained that the number of units that come into the market that satisfy rental demand will have a general subtle effect on rent rates across the community. It's important that we build density in the City. When projects don't occur in the City, development is forced out of town and it fragments the rural landscape and forest and farm land.

Councilman Pelly moved to approve the conditional zoning request for Biltmore Village Apartments on Fairview and Stoner Roads from Urban Village to Urban Place-CZ and find that the request is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the project proposes an active, pedestrian-accessible enhanced streetscape along Fairview Road, following the intent and purpose of the requested Urban Place zoning district; (2) the proposal is for a higher-density, mixed-use development in a location proximate to transit; (3) ten affordable rental units are included with the proposal. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 168-UNIT MULTI-FAMILY DEVELOPMENT ON PROPERTY LOCATED OFF OF TURTLE CREEK DRIVE

GRANTING OF A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A 168-UNIT MULTI-FAMILY DEVELOPMENT ON PROPERTY LOCATED OFF OF TURTLE CREEK DRIVE

Urban Planner Julia Fields said that this is the consideration of a conditional use permit for the construction of a 168-unit multi-family development on property located off of Turtle Creek Drive. This public hearing was advertised on January 16 and 23, 2015.

City Attorney Currin reviewed with Council the conditional use process, which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Ms. Fields submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Fields said that the applicant is requesting approval of a Level III conditional use permit for the development of a 168-unit addition to the Hawthorne South apartment complex. This project is considered a Level III review pursuant to Section 7-5-9(a) of the UDO which outlines review for residential projects with more than 50 units. Level III projects are reviewed as Conditional Use Permits.

Using City Exhibit 4 (Hawthorne Apartments South Conceptual Layout), she explained that the site consists of an 11.9-acre parcel located along a private drive, Turtle Creek Drive, which is accessed from Hendersonville Road in South Asheville. The parcel is zoned Highway Business (HB) and is currently vacant. The parcel is bordered by the Norfolk-Southern Railroad to the east with property also zoned Highway Business; industrial/warehousing uses to the south on property zoned Industrial; retail and office uses to the west on property zoned Highway Business; and, existing Hawthorne South multi-family housing to the west and north on property zoned RM-16 (Residential Multi-Family High Density District). Dingle Creek runs along the southern border of the property as does an existing sewer line. A portion of the property is in a flood protected area.

The developer, Hawthorne-Midway Turtle Creek, LLC., proposes to build additional multi-family apartments on property adjacent to the existing Hawthorne South complex. The new development is comprised of a total of 168 units in seven buildings with clubhouse/pool amenities provided. The project density is approximately 14 units per acre. Plans propose a mix of one-bedroom (48 units), two-bedroom (84 units), and three-bedroom (36 units) dwellings. The buildings are designed as three-story structures with a maximum height (per the UDO) of 28 feet.

Access to the site is through the existing Hawthorne South development (previously Turtle Creek) via Turtle Creek Drive. The property is beside and immediately beyond the existing leasing office/clubhouse facility at Hawthorne South.

Twenty-four foot wide two way private drives provide access throughout the site and lead to the units and parking areas. A total of 314 parking spaces are provided including 14 accessible spaces disbursed throughout the site. Sixteen bicycle parking spaces are provided. Five-foot pedestrian pathways provide access throughout the development.

Landscaping required for the project includes buffering to the north and west, vehicular use area landscaping, building impact landscaping, and tree save area. All landscape calculations shown on the plans are compliant.

Fifteen percent of the total lot area is required to be dedicated as open space - 77,885 square feet. A total of 78,347 square feet of open space is provided.

No changed conditions have been requested.

This proposal was approved with conditions by the Technical Review Committee on December 1, 2014 and requires quasi-judicial review by the Asheville City Council and Final TRC review.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on January 7, 2015. At this meeting the commission voted unanimously (7-0) to recommend approval of the conditional use permit to the Asheville City Council.

The site is currently zoned Highway Business (HB) and the applicant is proposing to meet the standards of that District with this development proposal.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application. The Asheville Planning and Zoning Commission voted unanimously to recommend approval of this conditional use permit to the Asheville City Council on January 7, 2015.

Mr. W. Louis Bissette, representing the owner Mr. Ed Harrington, asked that the applicant's application (Applicant Exhibit 1) and the Traffic Impact Analysis (Applicant Exhibit 2) be entered into the record. He said there is an existing project on Hendersonville Road containing 384 units, and of those existing units, 80% of them meet the affordable housing standards. This project is an addition to that existing project. This new project provides 168 units will not meet the affordable housing standards, but they are all 20% below the workforce housing standards. If you add the two projects together, 55% of the total units (552 units) will meet the affordable housing standards. The other 45% will be well within the workforce housing standards and close to 20% below the workforce housing maximum.

Using Applicant Exhibit 3 (Aerial Photo of Project Area), Mr. Chris Day with Civil Design Concepts, oriented the Council to the site and said that this will be an expansion of the multi-family community. The 168 units will be built in the northwest of the property so they can preserve the existing creek and about 20% of the site will remain undisturbed along the creek in the south portion of the site. The project meets all seven conditional use standards, noting they are not asking for any changed conditions. The size and layout of the site are compatible with the terrain and topography of the site.

In response to Councilman Smith about the price points for the 168 housing units, Mr. Day said the units fall between 88% of the AMI up to 112% of the AMI. Those numbers are $900-1,000 on the one-bedrooms; $1,100-1,200 on the two-bedrooms; and $1,300-1,400 on the three bedrooms.

Councilman Smith felt it would be helpful to have something at the lower end (80%) that we could be able to let people know who are not in the moderate-income bracket that they are important to us too. Mr. Day responded that any project is a balance. He felt that that with the current zoning they could have put in over 300 units on the site, however, they felt it would not be compatible with the site and we would have to max out the site to be able to bring in the density to lower the price points down. They felt what would be in the most harmonious of the area, the topography of the site, and the surrounding community would be the 168 proposed units at the price points proposed.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 9:11 p.m.

Councilman Smith said that $900 a month means affordability to someone making approximately $36,000 a year. Thirty-one percent of our service and hospitality workers are making less than $25,000 a year. The housing needs assessment showed that those making less than $15,000 make up about 20% of our population. Again, he looked forward to the City Council annual retreat and the re-committing that City Council is committed to implementing other pieces of the Comprehensive Housing Affordability Strategy.

Councilwoman Wisler moved to approve the conditional use permit for Hawthorne South located off of Turtle Creek Drive, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the seven conditional use permit standards as demonstrated by the applicant. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilman Smith voting "no".

C. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE EXPANSION OF TUTCO FARNAM

RESOLUTION NO. 15-23 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE EXPANSION OF TUTCO FARNAM

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving a $30,380 economic development incentive grant for Tutco Farnam. This public hearing was advertised on January 16, 2015.

Tutco Farnam is an existing manufacturing company located in South Asheville. The company produces a variety of air and surface heating units used in industrial applications. The company has been in Asheville for 30 years, starting in 1982. The company leases space and has outgrown the current building. The building owner has agreed to construct a new building addition and in return, the company will sign a new lease for the property. This has been accomplished with the dedication of the new expanded facility on October 10, 2014.

The company is planning a $2.5 Million expansion in its South Asheville campus and has requested consideration for a performance based incentive grant under the City of Asheville Economic Development policy. The company will retain 63 current employees and will create 50 new jobs within three years. The hourly wage of new employees will be $11.09 per hour these employees are provided comprehensive benefits by the company.

Tutco Farnam has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for Tutco Farnam for this project is an amount not to exceed $30,380, to be paid in annual installments in an amount equal to 45% of ad valorem City property tax paid by the company in the prior calendar year, for a period of up to seven years; subject to compliance with an Economic Development Performance Agreement between the City and Tutco Farnam. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment.

The City will fund the payments from the general fund. The grant supports the decision by Tutco Farnam to expand in Asheville with the support of the building owner to construct a new building addition and sign a new lease. The jobs created are in a niche market which provides the type of employment that is not common in our region and is a locally owned company.

The economic development incentive grant for Tutco Farnam supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of 45% of value of property tax revenue for a 7 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive approximately 55% of the new incremental property tax revenues from the project. After 7 years, the City will henceforth receive 100% capture of new city taxes.

City staff recommends Council approve a resolution authorizing an economic development incentive grant for Tutco Farnam not to exceed $30,380.

Mayor Manheimer opened the public hearing at 9:16 p.m., and when no one spoke, she closed the public hearing at 9:16 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-23. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 26

D. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE HIGHLAND BREWING EXPANSION PROJECT

RESOLUTION NO. 15-24 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR THE HIGHLAND BREWING EXPANSION PROJECT

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving a $60,000 economic development incentive grant for Highland Brewing. This public hearing was advertised on January 16, 2015.

Highland Brewing, a pioneer in the Asheville craft brewery industry is considering expansion. Highland Brewing began in Asheville 20 years ago. Today it is considered one of the region's premier breweries. Demand for Highland product continues to grow and the company, with second generation leadership is considering expansion in the City. Total grant eligible investment is $5,000,000. Capital investment in M/E etc. will be at least $3.8 Million, and improvements to existing real property/real estate will be at least $1.2 Million. Additionally the company will create 15 new jobs over a period of 3 years with average annual wage rate of $42,016. These jobs would offer comprehensive benefits to employees.

Highland Brewing has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for Highland brewing for this project is an amount not to exceed $60,000. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, $12,000 a year, after the conditions of the performance agreement are met and the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls. The amount of the annual payment will take into consideration the estimated annual ad valorem property tax revenue attributable to the capital improvements. Any amounts paid to Highland Brewing pursuant to the Agreement are subject to adjustment or recapture if the terms and conditions of the Agreement as to investment and job creation are not fulfilled.

The City will fund the payments from the general fund. The purpose of the proposed cash grant is to encourage Highland Brewing to proceed with its proposed expansion. Staff believes that the project will further the economic interests of the area served by the City in several ways, including, but not limited to: (a) creating new jobs having a wage at or above the median average wage for Buncombe County; (b) enhancing the City's tax base and the City's tax revenues; and (c) encouraging the retention and expansion of an industrial operation in an existing facility and in a jobs growth cluster.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in manufacturing in Asheville;

- Supports retention and expansion of existing industry in the City;
- Supports development of an identified economic cluster in the city; and,
- Supports regional and state cooperation in the project.

Cons:

- The project has a positive fiscal impact to the City; however the Grant is formulated based on use of approximately 50% of the value of new incremental tax revenue for a five year period.

The project has a positive fiscal impact on tax revenues received by the City. The company indicates there may be potential for additional expansion. The project creates generation of local and state taxes from job creation. Initially (during the grant period), the City will receive approximately 50% of the new incremental real estate and M/E tax revenues from the project. After the grant period concludes as noted above, the City will henceforth capture 100% of the new taxes.

City staff recommends Council approve the resolution authorizing an economic development incentive grant for Highland Brewing not to exceed $60,000.

Mayor Manheimer opened the public hearing at 9:18 p.m.

Ms. Leah Long-Ashburn, President of Highland Brewing, appreciated City Council's support. They have already begun the expansion and they have now hired up to 49 employees full-time.

Mayor Manheimer closed the public hearing at 9:19 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 15-24. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 27

E. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO WHITE LABS (FORMERLY PROJECT LAB)

RESOLUTION NO. 15-25 - RESOLUTION FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO WHITE LABS (FORMERLY PROJECT LAB)

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution approving an economic development incentive grant for White Labs. This public hearing was advertised on January 16, 2015.

White Labs Inc., a world leader in fermentation sciences for the brewing and winemaking industries, is proposing a new Asheville facility that will provide analytical laboratory services and product related training for industry professionals as well as serve as the base for sales and marketing for the eastern U.S. and global markets. White Labs' fresh yeast and related products, which are a vital link in the worldwide supply chain of the brewing industry, will be manufactured on-site for breweries, wineries and distilleries. The company has been recognized for its pioneering scientific studies on improving strains of yeast at a molecular level. The company is proposing new, taxable, capital investment of $8.1 Million for machinery and equipment and

facility improvements at the project site on S. Charlotte Street in downtown Asheville. The project also includes the creation of 65 new jobs with an average annual wage of $35,818.

The City of Asheville is considering offering a lease of property to White Labs for up to five years at $1/year. White Labs will pay taxes on improved property during the lease period. White Labs will have an option to purchase the improved property, for economic development purposes, at 80% of Fair Market Value (FMV), land only, for approximately $1,600,000 at or before the end of the five year period. Should White Labs choose not to exercise the option to purchase, the city will continue to lease the property to White Labs for an additional period of up to five (5) years at the fair market value rental rate. In addition, White Labs will be granted an exclusive option to purchase the adjacent 1.67 acre city owned parcel within the first year of the initial lease term for 80% of FMV (land only) **if** additional improvements and jobs are committed to by White Labs, or for FMV if no additional economic benefits are committed. White Labs shall have the right to renew this option for one (1) additional year for a non-refundable fee of ten thousand dollars ($10,000.00). If White Labs does not exercise its option to purchase the adjacent lot at the end of the second year, the City shall be free to market the property, subject only to a 30 day right of first refusal granted to White Labs during the remainder of the initial lease term.

The lease and purchase would be subject to a performance agreement with the City, and would be governed through the conditions of the lease, economic development performance agreement and option(s) to purchase.

Pros:

- Creates technology driven private sector use for Charlotte Street Corridor;
- Supports job creation and capital investment in Asheville;
- Activates an underperforming asset and places city owned property on the tax rolls;
- Supports development of an identified economic cluster in the City; and
- Supports regional and state cooperation in the project.

Cons:

- During the five year lease period, the city will lease the property below FMV, however, the property is currently providing no income to the City.

The project has an immediate overall positive fiscal impact on tax revenues received by the City since the property improvements made by White Labs will be valued at over $8.1 million dollars. Additionally, if White Labs exercises its option to purchase the property, the city will receive approximately $1,600,000 at the end of the lease. No cash payments will be provided by the City. The City will begin accruing M/E tax payments in year one estimated at $6200. After five years, the City will henceforth receive 100% capture of new city taxes for all investment valued at $8,100,000.

The economic development incentive grant for this project supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing an economic development performance agreement, lease, and option(s) to purchase between the City and White Labs.

Mayor Manheimer opened the public hearing at 9:24 p.m.

Ms. Lisa White, Vice-President of White Labs, thanked the City, County, Economic Development Coalition, and others, for helping them select Asheville as their new east coast facility. They will hopefully start ground breaking on March 1 and anticipate Phase I to be completed by August or September. They will begin hiring employees in July and August. They look forward to being a part of this community.

Mayor Manheimer closed the public hearing at 9:26 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-25. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 28

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 15-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGRICULTURAL LEASE WITH BALSAM GARDENS, LLC, ON A PORTION OF CITY-OWNED REAL PROPERTY OFF OF HARDESTY LANE AT AZALEA PARK

Mayor Manheimer said that this item was considered on January 13, 2015, and continued until this date in order to allow staff to work with Balsam Gardens to see if they would be interested in a one-year lease.

The consideration of a potential agricultural lease with Balsam Gardens, LLC, a locally based certified organic farm, for 11 +/- acres of land for commercial agricultural production at Azalea Park.

Prior to the City's acquisition of the Azalea Park, the land was used as an agricultural farm. The former farmland has been converted to a state-of the-art soccer and park facility, however there is still potential for unused lands within the park to be utilized in farm production. For the past six years New Sprout Farms, LLC has leased 11+/- acres of Azalea Park for certified organic vegetable, fruit and hay production. This 11 +/- acre plot is located to the rear of Azalea Park, adjacent to the City's beneficial fill site and the leased site for Danny's Dumpster compost operation. At this time, New Sprout has moved to a permanent location in Buncombe County and the city property is available for a new agriculture lease. Balsam Gardens, LLC has expressed interest in leasing the property and has demonstrated the capacity and wherewithal to be a reliable tenant. Balsam Gardens intends to utilize the property for certified organic fruit and vegetable production for the local market.

Balsam Gardens has offered to enter into a three-year lease with option to renew for one additional three year term at a rent of $3,300 per year, with an annual escalation of 3%. The rental rate was generated through input provided by the NC Cooperative Extension Service, and the WNC LandLink program, a service that connects emerging farmers to vacant agriculture lands.

Balsam Gardens sells to wholesale markets, local grocers, area restaurants and in local farmers markets, therefore no retail or U-pick operations would exist on the City Park property. The proposed lease will respect all stream buffers, conservation easements, wetlands and proposed greenway paths that exist at Azalea Park. Balsam Gardens will maintain all necessary liability insurance for the property as well as limit access to authorized personnel and

representatives of Balsam Gardens. Only USDA organically certified fertilizers, pesticides and herbicides will be permitted at the property. The proposed agricultural use will have no impact on the recreational use of the Azalea Park or the soccer facility.

Pros:

- Supports Food Action Plan.
- Continues a successful use of city property with a new tenant.

Con:

- There is no negative impact.

The fiscal impact is $3,300 per year beginning in January 2015, with 3% annual escalations thereafter.

The Community and Economic Development staff recommends adoption of this resolution.

Mayor Manheimer said that members of Council have been furnished with a copy of the resolution and it would not be read.

A representative of Balsam Gardens was pleased to be working with the Food Policy Council.

Councilman Bothwell moved for the adoption of Resolution No. 15-26. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - 29

VI. NEW BUSINESS:

A. BOARDS AND COMMISSIONS

RESOLUTION NO. 15-27 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Hunt said that the terms of Rachael Tanksley-Russell and Mike Hahn, as members on the Asheville-Buncombe Community Relations Council, expired on December 31, 2014. In addition, there currently exists a vacancy until December 31, 2016, left by Fyffe Aschenbrenner.

The following individuals have applied for vacancies on the Community Relations Council: Kate Sampson, Sandra Houts, Roberto L. Hess, Dana Blake, Kelly Denson and Ben Scales.

On January 13, 2014, there was a motion and second to reappoint Rachael Tanksley-Russell and Mike Hahn, and interview Sandra Houts and Kelly Denson. Ms. Denson was unable to attend the interview, however, make individual contact with Council members.

After Council spoke highly of both candidates, Sandra Houts received 2 votes and Kelly Denson received 5 votes. Therefore, Councilman Smith moved to (1) reappoint Rachael Tanksley-Russell and Mike Hahn to each serve an additional three-year term respectfully, terms to expire December 31, 2017, or until their successors have been appointed; and (2) to appoint Kelly Denson to serve the unexpired term of Ms. Aschenbrenner, term to expire December 31, 2016, or until their successor is appointed. This motion was seconded by Councilwoman Wisler and carried on a 5-2 vote with Mayor Manheimer and Councilman Pelly voting "no".

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RESOLUTION NO. 15-28 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Hunt said that the term of Matthew Raker, as a member on the Sustainable Advisory Committee on Energy & the Environment expired on December 31, 2014.

The following individuals have applied for a vacancy on the Sustainable Advisory Committee on Energy & the Environment: Katie Bray, Philip H. Pritchard, Julie Loveless, Jackson Tierney, John Noor, Jeremiah Mattysse, Erin Singer McCombs, Hanna Furgiuele, Grant Millin, Sam McLamb and Geoffrey Habron.

On January 13, City Council reappointed Lael Gray and appointed Katie Bray, and directed the City Clerk to arrange interviews for John Noor and Erin Singer McCombs.

After Council spoke highly of both candidates, John Noor received 6 votes and Erin Singer McCombs received 1 vote. Therefore, Councilwoman Wisler moved to appoint John Noor as a member to the Sustainable Advisory Committee on Energy & the Environment to serve a three-year term, term to expire December 31, 2017, or until his successor is appointed. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

RESOLUTION BOOK NO. 37 - PAGE 31

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jonathan Robert spoke to Council about living wages to all City employees.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:37 p.m.

Magdalen Bunderson
CITY CLERK

MAYOR

Friday – January 30, 2015 - 9:00 a.m.
U.S. Cellular Center - Banquet Hall

Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; Interim City Attorney Martha Walker-McGlohon; and City Clerk Magdalen Burleson

Absent: None

Mayor Manheimer convened the meeting and introduced Ms. Laura Cohn, who would be facilitating the retreat.

Each Council member shared what they felt were some accomplishments and/or moments of pride that stood out for them when looking back at 2014, what their top 2-3 priorities are for 2015, and why those priorities are important to them.

City Manager Jackson, Executive Director of Planning and Multimodal Transportation Cathy Hall and Chief Financial Officer Barbara Whitehorn highlighted the 2014 accomplishments, the Strategic Operating Plan and Two-Year Work Plan, and financial concept in looking ahead.

City Council then invited the public to join them in the following three breakout sessions to discuss the 2015-16 Strategic Operating Plan: Economic Growth & Sustainability; Affordability & Economic Mobility; and High Quality of Life. Following the breakout sessions, facilitators presented a high level review from each breakout group.

City Council then discussed their priorities and goals for 2015-16, as follows:

Councilman Pelly - include pedestrian safety when we look to make Asheville one of the safest cities; make crosswalks safer on some state highways that run through the city; begin addressing the backlog of needed sidewalk linkages across the City; request the City commit to five miles of new sidewalks annually including $500,000 a year towards neighborhood sidewalks; and research bidding out leaf pick-up services rather than doing it in-house.

Councilman Davis - work closely with the Metropolitan Planning Organization on a regional basis for I-26 and to obtain connectivity on greenways, etc.; strongly pursue N.C. Dept. of Transportation funding for the River Arts District; work with Green Opportunities; double the CAYLA Program; update the Kimley-Horn Report on parking to see what the downtown parking needs are; review of the downtown street cleaning contract and continually assess or needs in keeping downtown clean; continue keeping public safety a high priority in the downtown which includes having the Police Department well staffed and visible; some areas in downtown are not adequately lit; need for new Christmas decorations as current ones are faded; request for fireworks at First Night of Asheville; and renovation of the Thomas Wolfe Auditorium.

Vice-Mayor Hunt - review of Council's goals for for infill density and how development relates to affordability and quality of life in neighborhoods; update the 2025 Comprehensive Plan; update the Unified Development Ordinance; dialogue with the community about the Asheville Police Department Strategic Plan; connection with boards/commissions and other advocacy groups; engage in the planning process for the Comprehensive Stormwater Plan; research a Pay as You Throw solid waste program to increase recyclables and move toward composting; continue improvement with partnering with Buncombe County; and continue to work with the Housing Authority for the revitalization of Lee Walker Heights.

Councilman Bothwell - need for mandatory review and mandatory compliance for architectural review of not only downtown and River Arts District projects, but projects throughout the City; review definition of Urban Place District; continue to fix pockets of mis-zoned areas; dissolve conditional zonings; need for Planning & Zoning Commission to do more planning and less review; need to increase parking fees downtown; research Pay as You Throw Program to reduce our waste streams; advocate for free-graffiti walls or some type of program where the walls are painted over after a certain period of time; and ban Styrofoam cups and containers and packing peanuts.

Councilman Smith - consciously plan for the land use and growth; complete the economic development incentive review and research minority business development; support a living wage for all City employees; looking forward to seeing how we act on the Classification and Compensation Study with our limited resources; support Green Opportunities; explore municipal broadband and what it would take to have it for our public housing residents; look for solutions to solve the affordable housing crisis, e.g., alternatives for gentrification, review of our accessory structure rules, institute tiny home regulations, move forward with land-banking, look at artist/live work spaces; increase Affordable Housing Trust Fund by $100,000 a year; work with the Housing Authority on the revitalization of Lee Walker Heights; move forward the River Arts District Transportation Improvement Program (RADTIP); work with the N.C. Dept. of Transportation on the I-26 Project; recommit to the Food Action Plan and work towards a Food Action Plan - Phase 2; update the Unified Development Ordinance and the 2025 Comprehensive Plan; review our stormwater infrastructure; review the Haywood Road Traffic Study; review downtown parking and attempt to work with surface property owners downtown to provide additional parking; be an accessible government with more portals for the people to interact, offer input and provide data to Council; and move towards open data.

Councilwoman Wisler - revisit the Unified Development Ordinance; update the 2025 Comprehensive Plan; tie the Multimodal Transportation Plan in with the land use policies; transparent Police Chief search process with community input; implementation of the Police Department Strategic Plan; review the Civil Service Board process; focus on pedestrian safety; work with the region on transit issues; focus on the goals outlined by the Sustainable Advisory Committee on Energy & the Environment; review of Parks & Recreation and other city-owned facilities (like the US Cellular Center) and come up with a strategic plan on what we want to spend on these facilities and if there is no future plan for growth and investment, what our exit strategy would be; Council to focus better on what they ask City staff to work on; and continue to focus on community engagement by better reach out and communication with them.

Mayor Manheimer - collaboration, community engagement and partnership with stakeholders, citizens, other cities and counties; and revitalization of Lee Walker Heights and other public housing projects.

Using the discussion by Council, along with the information from the breakout sessions, City Council discussed the priorities and goals for 2015, with the purpose of reviewing and updating the Strategic Operating Plan.

It was the consensus of Council to have City staff wordsmith their priorities and goals and provide them to the Governance Committee for review and finalization at a formal meeting for adoption within six weeks.

Director of Communication and Public Engagement Dawa Hitch provided Council an update on communication, which included a new City News Site, the State of the City production; additional resources; website improvements which also include an open government page, and communication campaigns; more opportunity for live streaming and videos; over 10,000 followers on Twitter; and a diverse portfolio.

At 3:15 p.m., Mayor Manheimer adjourned the meeting and announced that City Council will gather for dinner later that evening.

Magdalen Bourleson
City Clerk

Esther Manheimer
Mayor

Tuesday – February 10, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY, 2015, AS "SEEING 'SELMA' MONTH" IN THE CITY OF ASHEVILLE

Councilwoman Wisler read the proclamation proclaiming February, 2015, as "Seeing 'Selma' Month" in the City of Asheville. She presented the proclamation to Ms. Carol Hallstrom, Mr. DeWayne Barton, Mr. Isaac Coleman, Ms. Tiffany DeBellott, Mr. Anthoni Clegg, and Asheville High School student Brittany Boseman, who said this is an important effort to provide opportunities for youth of our community to view the historical film "Selma".

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON JANUARY 27, 2015; AND THE ANNUAL RETREAT HELD ON JANUARY 30, 2015

B. RESOLUTION NO. 15-29 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE N.C. DEPT. OF INSURANCE, OFFICE OF THE STATE FIRE MARSHAL, FOR SMOKE ALARMS WITH THE PURPOSE OF PROVIDING FREE SMOKE ALARMS TO THE CITIZENS OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to accept a grant from the N.C. Dept. of Insurance, Office of the State Fire Marshal for smoke alarms with the purpose of providing free smoke alarms to the citizens of Asheville.

The N.C. Dept. of Insurance (NCDOI), Office of the State Fire Marshal (OSFM) has offered the City of Asheville 2015 Home Safety Grant. This non-matching grant includes smoke alarms, carbon monoxide alarms, hearing impaired smoke alarms, educational materials, and installation supplies valued at $10,180.

Nearly 3 out of 5 home fire deaths occur in homes without a working smoke detector. This grant will increase the number of households in Asheville with smoke and carbon monoxide alarms. As part of the program, the Asheville Fire Department in partnership with WNC Safe Kids will identify and visit neighborhoods, install the free smoke and carbon monoxide alarms, and deliver home safety education to the recipients.

This grant has been reviewed by the Public Safety Committee on January 26, 2015, and has been recommended for consideration by Council.

Pros:

- This grant will increase the number of households in Asheville with working smoke and carbon monoxide alarms resulting in a safer community. This program enhances the partnership between the City of Asheville, WNC Safekids and the NC OSFM.

Cons:

- None

There is no fiscal impact for this nonmatching grant. The smoke alarms, along with the education provided while installing the smoke alarms, will not have an impact on the Asheville Fire Department's operating budget. On duty firefighters will be used to provide the staffing needed for installing the smoke detectors, in conjunction with WNC Safe Kids volunteers.

City staff recommends that City Council support the adoption of a resolution authorizing the City Manager to accept a grant from the N.C. Dept. of Insurance, Office of the State Fire Marshal, for smoke alarms and associated fire safety materials.

RESOLUTION BOOK NO. 37 - PAGE 32

C. RESOLUTION NO. 15-30 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A GRANT AGREEMENT WITH BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR $1.8 MILLION IN TOURISM PRODUCT DEVELOPMENT FUNDS

Summary: The consideration of a resolution authorizing the City Manager to sign a grant agreement with Buncombe County Tourism Development Authority (BCTDA) for $1.8 Million in Tourism Product Development Funds.

The purpose of the Tourism Product Development Fund (TPDF) Grant is to provide funding assistance for construction projects that will create new and additional lodging room nights in Buncombe County. In August 2014, Council approved a TPDF application for $3 million in grant funds to help construct $13 million worth of Riverfront Destination Development projects. The Buncombe County TDA announced an award of $1.8 Million to the City of Asheville in late October 2014.

Because the City did not receive full funding, the scope of the Riverfront Destination Development Project was reduced. She provided a comparison of the original project scope and current TPDF project scope, developed after careful consideration by the Riverfront Office team, which includes Finance staff. The reduction in TPDF project scope does not necessarily mean that the City will not construct the remaining projects; it means that 2014 TPDF funds will not be used to leverage existing or future funds for those projects.

The grant agreement outlines the required construction start and end dates, the construction cost reimbursement schedule, annual reporting requirements, and other legal requirements.

The Asheville Area Riverfront Redevelopment Commission reviewed this item at their August 14, 2014, meeting. The Commission voted unanimously to (1) authorize Chairperson Pattiy Torno to write a letter of support for the City's application; and (2) to advise City Council that the AARRC strongly supports the City's proposed application, and that if a grant is awarded, that the AARRC strongly recommend City Council accept the funds as part of a fiscally sustainable strategy for the implementation of the riverfront portions of the City's 5 year Capital Improvement Plan.

The City Council Planning & Economic Development Committee received an update from the Riverfront Office at their January meeting. The Committee affirmed the placement of this consideration on Council's February 10, 2015, agenda.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city though the creation of Innovation District designation for the greater River Arts District; $1.8 Million of TPDF is a significant funding opportunity that allows the City to leverage and move forward on these investments.

Cons:

- The grant is a reimbursement grant, which means that for cash flow purposes the City will need to allocate its own capital dollars first and structure its financings to cover these cash needs.

Funding from grants and partnerships is a key component of the City's multi-year Capital Improvement Program (CIP). This $1.8 million grant will be used to provide funding for a number of projects in the CIP. Staff is currently updating cost estimates, and cash flow projections for the CIP and will present those updates as part of the upcoming FY 2015-16 budget process.

City staff recommends City Council authorize the City Manager to sign the grant agreement with BCTDA.

RESOLUTION BOOK NO. 37 - PAGE 33

D. RESOLUTION NO. 15-31 - RESOLUTION AUTHORIZING 2014-15 HOUSING TRUST FUND LOANS TO BIOTAT, LLC (OAK HILL COMMONS) AND BEAUCATCHER COMMONS, LLC (255 HAZEL MILL ROAD)

Summary: The consideration of a resolution authorizing 2014-15 Housing Trust Fund loans to Biotat, LLC (Oak Hill Commons) and Beaucatcher Commons, LLC (255 Hazel Mill Road).

Two (2) applications for 2014-15 Housing Trust Fund financing were received. The total amount requested is $320,000. The projected Fiscal Year 2014-15 balance in the Trust Fund available for new projects is $205,187, based on a conservative estimate of funds available. This amount could be increased this fiscal year should property acquired with Housing Trust Funds be sold. The applications were presented to the Housing and Community Development Committee (HCD) on January 19, 2015. After review and discussion, the HCD Committee recommended loan funding for the two applications:

1) Biotat, LLC. for the construction of 24 units of rental housing for the hard-to-house at 29 Oak Hill Drive in West Asheville, with a total loan amount of $200,000. This project has an existing approved 2014 commitment of $58,106, so the additional loan funds requested are $141,894; and
2) Beaucatcher Commons, LLC for the construction of twelve (12) rental units on what is currently one parcel located at 255 Hazel Mill Road, $120,000.

Oak Hill Commons – Biotat, LLC ($200,000)

Biotat, LLC, requests additional Housing Trust Funds for a proposed 24-unit affordable housing development project specifically targeting the hard to house, as part of a total 72 unit rental development. The project is proposed to occupy a portion of a vacant 3.71-acre site in West Asheville located off of New Leicester Highway, near the intersection of Patton Avenue. The property is zoned RM16, which would allow a total of 64 units; the developer will begin the

process for zoning approval for the increased density this month. The project will require Level 3 review. The developer owns the site.

The original approved amount was $58,106. The developer seeks an additional $141,894, for a total Housing Trust Fund loan of $200,000. The project was also conditionally awarded $100,000 of federal HOME funds. The developer proposes to relinquish that commitment of HOME funds if the Housing Trust Fund loan is approved.

The developer is seeking a total of $200,000 in HTF funding, with a 0% interest rate and no principal payment, for a term of 30 years. With a proposed rent structure at the Voucher Payment Standard of $723/month , the project is not eligible for special terms (for households earning less than 60% AMI) under HTF Policy Guidelines, although it is eligible for a 2.5%, 30 year term. Those special terms (with a one-bedroom rent limit of $548/month) are limited to either (1) a 0% interest amortized loan with a 20-year term, or (2) a 2% interest-only loan with deferred principal payments with a 20-year term. To meet the developer's request, a policy waiver would be required. The developer also intends to apply for a Land Use Incentive Grant.

Twenty-four (24) one-bedroom rental units are proposed. The units will be part of a single structure complex that will also include an office, security area, and common areas for communal area, and exam / treatment space. The intended occupants for the rental units are the hard to house, typically described as individuals who are homeless and have failed to successfully adapt to more traditional affordable housing placements. The intent of Oak Hill Commons is to provide a small permanent housing unit and the support services needed for the occupants to successfully maintain their residency. Homeward Bound will manage the tenant selection and services process. Buncombe County has committed $325,000 of capital to the project, as well as making a contribution to operations. Security will be provided from 3 PM to 9 AM, 365 days a year.

The total development cost is projected at $2,390,261. The developer has indicated that all 24 of the units will be reserved for tenants earning at or below 50% AMI. The project proposal meets the Housing Trust Fund's stated priority in that 100% of the units will be one-bedroom units. The proposed development is located within 1/4 mile of a transit line. Four of the units will be ADA accessible, and another 12 units will have partial accessibility as defined by HTF application criteria. All units will achieve Energy Star certification.

The requested per-unit subsidy is $8,333. The HTF loan request represents 8% of the total development cost. The average per-unit development cost (including the cost of common space) is $99,594. The project cost per square foot is $160.00.

Pros:

- Low per-unit HTF subsidy requested
- Development site within ¼ mile of jobs, services, groceries, and transit.
- Energy efficient with some ADA accessible and partially accessible units.
- Development strategy is innovative and has been used successfully in other communities.
- Creation of partnerships to provide assistance through existing service providers is intended to reduce costs that are already being paid by the community (i.e. – emergency services, police, etc.)
- Buncombe County commitment is firm.
- Staff thinks this project is better suited to the Housing Trust Fund than HOME.

Cons:

- The project will need Project-Based Vouchers in order to meet its financial targets;
- Ongoing grant funds will likely be necessary to support costs such as security;

- The developer pledges 10 years of affordability, based upon the expected life of housing vouchers.

255 Hazel Mill Road – Beaucatcher Commons, LLC ($120,000)

Mr. Kirk Booth, principal owner of Beaucatcher Commons, LLC has proposed a 12-unit rental development on a parcel located on Hazel Mill Road. The total project development cost as presented by the developer is $1,055,000. The proposed units will be infill development in an established neighborhood with water and sewer access available. The development parcel is currently zoned RM8. Each of the six newly developed lots will contain a three-bedroom single family rental home with a one-bedroom accessory apartment over a rear garage. The single family homes will be rented at 80% AMI ($961/month) and the accessory units at 60% AMI ($489/month). The owner will provide no utilities except trash pick-up. These rents are the maximum qualifying rents for affordable units and special terms units as proposed.

The applicant has the parcel under contract. The total acreage of the site is .73 acre. The proforma indicates a $100,000 equity investment. Mr. Booth and any other partners of Beaucatcher Commons, LLC will be required to execute personal guarantees covering the HTF debt.

The developer is seeking $120,000, with 50% of the note ($60,000) due as an amortizing loan over 30 years at 3.0% interest. In recognition of the 6 accessory units serving populations at or below 60% AMI, the developer is requesting that the remaining 50% of the note ($60,000) be financed as interest-only at 2.00% annual interest with principal deferred for 20 years. A similar loan structure has been approved for other Housing Trust Fund developments, including the two most recent project of Beaucatcher Commons, LLC.

The project proposal meets the funds' stated priorities in that 50% of the units will be one-bedroom floor plans. The current committed financing is pledged equity of $100,000 and a Buncombe County loan of $25,000 to the project. The developer has provided a letter of intent from a local lender to provide construction financing. No TRC or P&Z review is required (the garage apartments qualify as accessory apartments). The developer anticipates that the units could be completed and occupied by October 2015.

The proposed loan request represents 11% of the total development costs as submitted by the applicant. The average per-unit development cost for the three-BR units is $88,000; for the one BR-units, $45,000, and for the garages underneath, $27,000. The proposed development lots are located within 1/4 mile of a transit line. None of the units will be ADA accessible. The project will not be Energy Star certified but does incorporate many of the efficiency elements. The developer will actively market the project to homeless service providers, as well as the Housing Choice Voucher holders at the Asheville Housing Authority.

The twelve garages show a monthly rental income of $65 per month for each garage. The garage rental is optional for the house or apartment occupants; therefore the garage income is not included as part of the maximum rents for the project.

The developer has offered a $3,500 contribution to the City's sidewalk fund for that area, in return for a .25 percent reduction in the interest rate for the six 80% affordable units.

Pros:

- Infill development supports strategic planning goals.
- The developer has completed other local projects in a timely manner.
- Development site within ¼ mile of jobs, services, groceries, and transit.
- Developer is pledging affordability for 30 years for all units.

Cons:

- Questions of design quality have been raised by neighbors regarding one of the developer's recent projects. The developer appears to have addressed this in this project.

The current projected year-end balance (as of July 31, 2015) in the Housing Trust Fund is $205,187. The total of the loans recommended by the HCD Committee is $320,000. Two properties in foreclosure were purchased by the City using Housing Trust Funds, and both will be sold. Staff conservatively projects sale in FY 2016. The HCD Committee had recommended that $50,000 of unassigned fund balance be made available, if necessary, to allow the developers sufficient cash in this fiscal year for project construction. City staff recommends closely monitoring the Housing Trust Fund cash flow and deferring action on potential funding shortfalls until the necessity for corrective action is confirmed and all financial management options have been fully evaluated.

The Housing and Community Development Committee recommends approval of a resolution authorizing the following loans subject to the developers meeting all program requirements for loan closing: (a) Biotat, LLC, Oak Hill Commons: amend existing loan commitment of $58,106 with an additional $141,894, for a total loan of $200,000 at 0% interest rate and no principal payment, for a term of 30 years; and (b) Beaucatcher Commons, LLC: $60,000 at 2.75% interest, fully amortizing loan for a term of 30 years, with the developer making a cash contribution of $3,500 to the City at the time of closing; $60,000, interest-only at 2.00% annual interest with principal deferred for 20 years.

Mr. Staudinger responded to several questions raised by Council, some being, but are not limited to: why is the loan at 0% interest when the Housing Trust Fund has a policy of no 0% interest rates; what type of on-premise supervision and supportive services will be provided to the hard to house tenants; what provisions do we have in place if the Oak Hill Commons hard to house project doesn't survive in perpetuity; which position will the Housing Trust Fund be if payback is not achieved; and what will happen to the loan commitments should the Housing Trust Fund if there is a potential funding shortfall.

In response to Councilman Davis, Councilman Smith said that this is an exciting opportunity with broad community partners, some of which are Buncombe County, Mission Hospital and Homeward Bound. Should the Oak Hill Commons project run into problems, he felt sure that all partners will come together and solve that problem.

RESOLUTION BOOK NO. 37 - PAGE 34

E. RESOLUTION NO. 15-32 - RESOLUTION AUTHORIZING THE ASHEVILLE FIRE DEPARTMENT TO APPLY FOR A GRANT FROM THE U.S. DEPT. OF HOMELAND SECURITY TO OBTAIN FUNDING FOR REPLACEMENT OF 83 SELF-CONTAINED BREATHING APPARATUS, AND TO ACCEPT GRANT FUNDING IF AWARDED

Summary: The consideration of a resolution authorizing the Asheville Fire Department to apply for a grant in the amount of $655,700.00 from the US Dept. of Homeland Security to obtain funding for replacement of 83 Self Contained Breathing Apparatus (SCBA), and to accept grant funding if awarded.

The Department of Homeland Security has recently issued guidance for the FY 2014 Assistance to Firefighters Grant (AFG) program. This is a grant opportunity for fire departments to purchase needed equipment to enhance firefighter safety, service delivery, and effectively train personnel. The Asheville Fire Department would like to obtain through this program 83 Self Contained Breather Apparatus (SCBA)s with spare cylinders to replace equipment that is currently reaching its end of service life. The grant program requires communities of greater than 20,000 populations to match Federal grant funds equal to 10 percent of the total project cost, or

256.

$65,570. The SCBA is one of a firefighter's most critical tools for personal protection and regular replacement ensures that our personnel have the most up-to-date equipment available. The current SCBAs being used by AFD have been in service for greater than 10 years. Fire service best practices recommend that SCBAs be compliant with the most current National Fire Protection Association (NFPA) standards 1981 and 1982. The most recent issuance of these standards was in 2013. There were several significant changes in these standards, which AFD's current equipment does not meet.

The Fire Department recommends applying for the AFG Program for the following reasons: (1)The grant program was developed to assist in the purchase of critical firefighting equipment and tools to provide greater safety for firefighters; and (2) If awarded the grant will allow CoA to offset $655,700 in capital expenses with grant funding for the purchase of the equipment.

This grant was reviewed by the Public Safety Committee on January 26, 2015, and has been recommended for consideration by Council.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- This grant will enable CoA to offset $655,700 capital expenses with the grant funding for the procurement of this equipment.

Cons:

- 10% matching amount of purchase required $65,570

As noted above, the current SCBA equipment is reaching the end of its service life. Funding to replace the equipment was included in the five-year Capital Improvement Program presented to City Council last spring. The grant funding will allow the City to replace the equipment with help offset the cost of this equipment replacement.

City staff recommends that City Council authorize the fire department to apply for a grant in the amount of $655,700 from the US Department of Homeland Security to obtain funding for 83 SCBAs.

RESOLUTION BOOK NO. 37 - PAGE 35

F. RESOLUTION NO. 15-33 - RESOLUTION AUTHORIZING APPROVAL OF AN AMENDMENT TO THE N.C. DEPT. OF CULTURAL RESOURCES RECORDS RETENTION AND DISPOSITION SCHEDULE ESTABLISHING A MINIMUM RETENTION PERIOD OF 30 DAYS FOR VIDEO AND AUDIO RECORDINGS CAPTURED BY FIXED AND MOBILE RECORDING DEVICES

Summary: The consideration of a resolution approving a Local Amendment to the N.C. Dept. of Cultural Resources Municipal Records Retention and Disposition Schedule establishing a minimum retention period of thirty (30) days for video and audio recordings captured by fixed and mobile recording devices.

Under N.C. Gen. Stat. and N.C. Gen. Stat. § 132-3, municipal governments may only dispose of public records with the consent of the North Carolina Department of Cultural Resources ("NCDCR"). The NCDCR primarily provides consent through the periodic publication of schedules listing hundreds of categories of records, and providing a minimum retention period for each category. If a municipality creates a type of record not listed in the schedule those records must be retained indefinitely absent a local amendment approved by the NCDCR and approved by the municipality's governing body.

The Asheville Police Department ("APD") is currently retaining a number of video records created by mobile non-vehicle cameras, and anticipates creating many more in the future in connection with the deployment of body cameras. Law enforcement video records created using fixed and mobile non-vehicle cameras do not fall under any existing records category in the NCDCR's current municipal schedule, however, the NCDCR has indicated to City staff an intention to include a thirty (30) day retention period for such records in the next schedule when it is updated at an unknown future date, and has agreed to a local amendment for Asheville in the meantime. This will allow APD to move forward with purging records already in its possession, and to set disposition policies in connection with body camera recordings.

At the Public Safety Committee on January 26, 2015, they recommended adoption of the proposed amendment.

Pros:

- Allows the APD to dispose of video records in accordance with state regulations.
- Allows for the setting of disposition policies in connection with body camera recordings.
- Conforms to anticipated statewide retention requirements, thus obviating the need for later policy revisions.

Cons:

- None.

Adoption of the proposed amendment is recommended.

In response to Councilman Smith, City Attorney Currin explained that this is approving a policy for video disposal.

Vice-Mayor Hunt noted that this policy does not preclude retaining some videos for historical significance purposes.

City Manager Jackson said that in terms of process, City staff will report to the City Council Public Safety Committee tentatively in March and share some administrative considerations about what is good records management, what makes sense for the City to retain and for what period of time for practical administrative reasons. There are liability considerations, statute of limitation considerations that may also enter into how long it would be wise to keep such video tapes. That will be something City staff will welcome City Council policy direction on. In addition, Interim Police Chief Steve Belcher and City staff will be looking at what our video taping policies are, what makes sense to be video-taped, who should make that call, who assesses the situation, etc. It would be Interim Police Chief Belcher's preference to someone at least the Captain's level be making some judgments.

RESOLUTION BOOK NO. 37 - PAGE 36

G. MOTION TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR HAWTHORNE SOUTH APARTMENT COMPLEX LOCATED ON TURTLE CREEK DRIVE

H. RESOLUTION NO. 15-34 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH HYPERSIGN/AVIONEX LLC TO PROVIDE DIGITAL MENU BOARD SOLUTIONS AND RELATED EQUIPMENT TO THE U.S. CELLULAR CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Hypersign/Avionex LCC.

Staff completed a bid process for digital menu display board and control software. The following bids were received on December 16, 2014:

- Christie Digital from Cypress CA, BID at $63,325 plus $6,500 annual costs
- MM Solutions from Knoxville TN, BID at $74,261 plus $1,200 annual costs
- Four Winds Interactive from Denver Colorado, BID at $97,264 plus $16,743 annual costs
- Allure Global from Atlanta GA, BID at $99,471 plus $9,720 annual costs
- TSA Choice from Asheville NC, Bid at $50,557 plus $9,613 annual costs
- Hypersign/Avionex LLC from Spartanburg SC, BID at $50,292 plus $5,988 annual costs

Staff has selected the winning bidder (Hypersign/Avionex LLC) for equipment & software licensing pricing. Staff is proposing a General Services contract not to exceed $80,000 over a three year term. Per the venue's sponsorship agreement with Pepsi-Cola the venue is obligated to install digital menu display boards at all possible concession areas. As part of the Pepsi-Cola sponsorship agreement, Pepsi-Cola has already provided the U.S. Cellular Center with $70,000 in cash to utilize towards the procurement and upkeep of the digital display board system. Additionally Pepsi-Cola will be providing the venue with $5,000 in cash annually to be directed towards software license fees for said digital display boards.

Comparable venues throughout the country have seen a lift is sales between 10-20% annually after installation of the displays. Hypersign/Avionex LLC provided a bid that met the requirements of the RFP and was most cost effective.

Pros:

- Top of the line digital menu board system with 100% cloud-based software.
- Automatic Emergency evacuation messaging system compatible.
- Potential sales increase
- Cost covered fully by venue sponsorship agreement.

Con:

- None

In FY15 the U.S. Cellular Center has received $70,000 in cash from Pepsi-Cola towards this project. Pepsi-Cola is contractually obligated to provide an additional $5,000 annually over the next three years fully covering the not to exceed $80,000 proposed general services contract with Hypersign/Avionex LLC. No impact to Civic Center General Fund Subsidy.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into contract with Hypersign/Avionex LLC. of Greenville, SC.

RESOLUTION BOOK NO. 37 - PAGE 37

I. ORDINANCE AMENDING SECTIONS 19-144 AND 19-164 OF THE CODE OF ORDINANCES TO ALLOW REVERSE ANGLE PARKING

Summary: The consideration of an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

City Council approved a complete streets policy on June 26, 2012, via Resolution No. 12-154. A major purpose of a complete streets policy is to enable staff to consider all modes of transportation when designing and/or reviewing transportation-related projects. Staff would like to revise certain existing city ordinances to allow reverse angle parking (a change to prohibit parking in designated bicycle lanes will be coming forward at a later date combined with some changes that the Legal Department is working on).

Reverse angle parking (or back-in parking) is a new parking style that enables drivers to back into a parking space so that the front of the vehicle is facing the street. Benefits of reverse angle parking include improved driver visibility, easier loading and unloading, improved accessibility, and traffic calming. Assuming the amendments are made, staff would review future requests on a case-by-case basis to be sure that the most effective treatment is used.

This item was reviewed by the Council's Public Safety Committee on January 26, 2015, and has received their endorsement. This item was reviewed by the Multimodal Transportation Commission on January 28, 2015, and has received their endorsement.

Pros:

- Enhances the pedestrian and bicycle experience.
- Promotes complete streets principles and guidelines.
- Improves driver visibility.
- Provides easier loading and unloading.

Cons:

- "Learning curve" for drivers.
- Strict enforcement might be needed during the early stages of implementation.

City staff recommends that City Council approve an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

Director of Transportation Ken Putnam responded to Mayor Manheimer's question regarding reverse angle parking, in particular around the Grove Arcade area. Because it was felt that reverse angle parking needs to be defined, it was the consensus of Council to delay action on this item and place it on the February 24, 2015, agenda.

J. ORDINANCE NO. 4380 - TECHNICAL BUDGET AMENDMENT IN THE CITY'S HOUSING TRUST FUND TO APPROPRIATE FROM RESTRICTED FUND BALANCE THE REQUIRED BUDGET AUTHORIZATION FOR PRIOR YEAR COMMITMENTS THAT ROLLED FORWARD TO FISCAL YEAR 2014-15

Summary: The consideration of a technical budget amendment in the City's Housing Trust Fund to appropriate from restricted fund balance the required budget authorization for prior year commitments that rolled forward to Fiscal Year (FY) 2014-15.

As a part of the FY 2013-14 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2014-15, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report (CAFR). At its December 9, 2014, meeting, Council approved a technical budget amendment to appropriate from restricted fund balance the required budget authorization for these prior year commitments that rolled forward to FY 2014-15. Staff, however, inadvertently did not include the Housing Trust Fund as part of the December 9th Council action. This technical budget amendment will rectify this oversight and provide authorization to officially appropriate an FY 2014-15 budget for prior year Housing Trust Fund commitments.

Pros:

- Provides budget authorization for prior year commitments that rolled forward to FY 2014-15.

Cons:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's FY 2013-14 financial statements. There is no impact on unassigned/available fund balance in the City's General Fund or Housing Trust Fund.

City staff recommends City Council approve the technical budget amendment in the City's Housing Trust Fund to appropriate from restricted fund balance the required budget authorization for prior year commitments that rolled forward to FY 2014-15.

ORDINANCE BOOK NO. 29 - PAGE 354

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda with the deletion of Consent Agenda Item "I". This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. FOOD POLICY ACTION PLAN UPDATE

Executive Assistant for Planning & Multimodal Transportation Joey Robison said that the City of Asheville continues to make progress on the action items identified in the City of Asheville Food Action Plan that was adopted in 2013.

On January 22, 2013, Asheville City Council passed a resolution establishing the City of Asheville's Food Action Plan in support of the Asheville Buncombe Food Policy agenda. The Food Policy Action Plan included 14 specific areas to review or take action on to support the shared goals of the City of Asheville and the Asheville Buncombe Food Policy Council.

Since its adoption, City staff has made – and continues to make – significant progress on the action items identified in the plan as shown below. An update was given to the Planning and Economic Development Committee in January 2015.

Council Approved Action Item	Timeline	Update
Utilize the Unified Development Ordinance (UDO) and Animal Ordinance as a tool to support food policy goals by amending the UDO as needed to remove barriers to local food production and distribution. For example, but not limited to, priorities such as community gardens, urban agriculture, and use of mobile markets in residentially zoned districts under certain circumstances such as farmers markets.	Complete	Ordinance No. 4233 (also known as the Agricultural Amendment), adopted on September 24, 2013, amended chapter 7 of the UDO to clarify and modify regulations addressing agriculture and increase flexibility for agricultural uses. Changes included: • Allowing agricultural structures (i.e. small barns/storage buildings, greenhouses) on residentially zoned properties with no home structure • Allowances for farm stands in residentially zoned areas Existing City code allows fowl (§3-3-50) on urban lots with a permit and not less than 100 feet away from neighboring households (50 feet for fowl). Livestock is generally not permitted within the City limits, except

		when permitted for clearing of land and only in temporary instances.
Optimize permitting and regulatory services for farmers markets.	Complete	In Spring 2013 the fees for farmers markets were lowered and the fee approval process was shortened to three days.

Prioritize partnering to find a long term permanent location for the Asheville City Market.	Complete	The City extended the terms of the partnership with ASAP to allow use of the conference rooms in Public Works to serve as an Indoor City Market. The City has renewed the MOU with ASAP for continued use of the outdoor parking lot for the regular City Market for the spring, summer and fall seasons.
Pursue establishing local food purchasing policies for the City of Asheville through clarity on existing state legislation as well as state enabling legislation where needed.	No progress	No progress at this time. Not currently identified on the Council legislative agenda.
Seek partnerships to incorporate regional food and beverage options into the U.S. Cellular Center concessions, as well as city-run events.	Ongoing assessment/ evaluation	Current USCC local offerings: • 5 local breweries which represents 78% of sales • 1 local cider company • Serving The Hop Ice Cream for 100% of ice cream sales • The Hop Ice Creams provides the product for 100% of organic lemonade sales USCC was already contracted with a food service provider when the action plan was adopted. That contract expires June 30th. USCC staff intends to put out an RFP in February for food service designed to provide an opportunity for local options. This may result in a cost increase, so Council may see this issue in the spring with the option for more local products at an increase in underwriting.
Create a public private partnership for implementing a citywide curbside composting program that complements trash and recycling services. A successful partnership would improve regional economic development and provide compost regionally to support healthy ecological soil systems.	Study in process	A compost feasibility study with Buncombe County is currently being conducted, with results expected in the spring of 2015. Next steps and timeline will depend on the results of the feasibility study.

Include use of edible landscaping as a priority for public property such as parks, greenways and/or right of ways. In support of this, foster relationships with strong community partners who wish to access edible landscaping	Ongoing assessment	The City does not have an active landscaping program in City parks. Due to resource constraints, minimal maintenance occurs and minimum requirements are met with low-maintenance native plants. New plantings are mainly achieved through partnerships with community groups. Some of these partners include edibles in their landscape plans.

and/or use underutilized public land for food production.		While species selection for new or replacement plantings is determined in large part by soil type and conditions, edible plant options such as service berry trees and blueberry bushes have been both considered and planted more often since the Food Action Plan was adopted.
Encourage partnerships for food production that supports organic and permaculture principles by identifying arable underutilized city-owned land for lease or sale. Pursue methods to make information about such land available to the public.	Complete/ Ongoing	Because City-owned land is programmed for existing and/or future municipal uses, and because agriculture requires specific conditions (such as a water source and amended soil), there are limited sites that are attractive for food production in the City's portfolio. The City's current lease portfolio supports the following leases of City-owned property to benefit food production and promote food access: • Ongoing MOU for City real property at DSD/Public Works parking lot for City Market farmer's market • Second year agreement in place for indoor City space at DSD/Public Works for City Market Indoor Winter market • Ongoing lease of City real property at Hardesty Lane for 10 Acres organic Vegetable production, currently with Balsam Gardens. • Ongoing lease of City real property at Hardesty Lane for Danny's Dumpster Industrial Compost City staff met with Buncombe County Cooperative Extension in 2014 to explore partnership opportunities. The Cooperative Extension's interest is in education, small farm business services, and potentially hosting a demonstration garden on City property near the Nature Center. They do not have the capacity / mission to act as a land manager (i.e. managing city community gardens, or city farm leases.)
Update the city recommended plant list for developers to include edible plants and remove exotic and invasive species.	In process	SACEE and the Tree Commission updated this list of recommendations provided to developers if they inquire to meet UDO landscaping design requirements. Staff is currently working with the Tree Commission on another update to make the list more user-friendly.

Include safe and convenient pedestrian, bicycle, and transit connections between residential neighborhoods and community gardens, food banks, grocery stores and farmers markets as a priority when evaluating transportation projects.	Ongoing	
Include achieving food policy goals as a priority when allocating Community Development Block Grants.	Annual application process	Proposals are welcome and will be considered.
Support Asheville Buncombe	In process	City staff is working with the Asheville Buncombe Food

Food Policy Council efforts to set baselines and metrics for achieving food policy goals. Play an active role in providing access to existing city data when needed.		Policy Council to include existing City data on Buncombe County's Community Health Improvement Process (CHIP) online indicators dashboard in the area of Healthy Food Goals.
Encourage food distribution by engaging underserved communities who live in food deserts. Support community efforts by co-designing incentives that establish neighborhood based markets that provide healthy food.	Ongoing	City staff has been doing outreach to the many urban food and gardening efforts in the area to review opportunities for partnerships. Staff is currently in discussion with the West End Clingman Area Neighborhood Association about the development of a pilot community garden on the City-owned transit facility property on West Haywood.
Incorporate food policy goals into education programs for city staff and the general public.	Ongoing	Educational summer programming at City community centers was provided to 120 youth in summer 2013.

Pros:

- Significant progress has been made in multiple departments on those action items that require no additional resources.
- The City is in the process of identifying what the City's role should be in supporting the Food Policy Council.

Con:

- While the City has park property, we have not identified partners to provide materials and maintain the edibles in parks.

Many of the recommendations in the plan are based upon making resources that we currently have available, such as information about the number of community market we have permitted. One exception is adding edibles or community gardens on City property.

Ms. Robison responded to the following two questions raised at the City Council Planning & Economic Development Committee - why we have been seeing increased Fire Marshal inspections at farmers markets in the community; and what is the status of the recommended species list for commercial property.

Staff recommends that City Council provide feedback on progress and direction.

Ms. Laura Cheatham, representing the Food Policy Council, briefly spoke about the partnership process and the data gathering going on.

Regarding edibles in our parks and rights-of-way, Councilman Smith asked how receptive has the Buncombe County Fruit and Nut Club been to partnering with our Parks Department, noting they are actively partnering with Buncombe County Government. Ms. Robison responded that we have worked with the Buncombe County Fruit and Nut Club over the years and the Parks & Recreation Department has recently met with the group.

Councilman Smith said that since we continue to seek out policy improvements, it might be better to describe the initial action item on the plan as "Ongoing" rather than "Completed."

B. LEGISLATIVE UPDATE PROCESS

City Attorney Currin updated City Council on the process for legislative monitoring and updates to Council.

She said that the regular session 2015-2016 biennium of the North Carolina General Assembly convened on January 14, 2015, to elect officers and adopt rules, and adjourned until January 28, 2015. Since that time, over 54 bills have been filed in the House of Representatives and over 40 have been filed in the Senate. Staff is monitoring and reviewing legislation as it is introduced for impact to the City of Asheville.

In order to keep the City Council informed on legislative issues, regular updates will be made in the following ways:

1. A tracking matrix will be provided to Council throughout the session and will focus on the advocacy principles and policy positions adopted in the Council's Legislative Agenda. The matrix will be updated and posted for the public on the City Council's website, http://www.ashevillenc.gov/CityCouncil.aspx.

2. Staff will provide the City Council a "week-in-review" email newsletter highlighting events and legislation significant to Asheville and Council's Legislative Agenda.

3. Staff will provide a Legislative Update presentation during meetings of the Asheville City Council as needed or by request.

Mayor Manheimer briefly explained her concern with the eminent domain issue. She will be travelling to Raleigh to meet with some of our legislature to get a better feel of what we might expect to see during this session.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING OF PROPERTY LOCATED ON BROAD STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CBI/CZ COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO CONSTRUCT A 2-STORY BUILDING WITH OFFICE SPACE ON THE FIRST FLOOR AND 3 RESIDENTIAL UNITS ON THE SECOND FLOOR, WITH A MODIFICATION REQUEST TO THE LANDSCAPE REQUIREMENTS.

ORDINANCE NO. 4381 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON BROAD STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CBI/CZ COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO CONSTRUCT A 2-STORY BUILDING WITH OFFICE SPACE ON THE FIRST FLOOR AND 3 RESIDENTIAL UNITS ON THE SECOND FLOOR

Urban Planner Julia Fields said that this is the consideration of an ordinance for a conditional zoning of property located on Broad Street from RM-16 Residential Multi-Family High Density District to CBI/CZ Community Business I District/Conditional Zoning to construct a 2-story building with office space on the first floor and 3 residential units on the second floor, with a modification request to the landscape requirements. This public hearing was advertised on January 30 and February 6, 2015.

Ms. Fields said that the applicant is requesting review of a conditional zoning request to rezone property from RM-16 Residential Multi-Family High Density District to Community Business I District/Conditional Zoning in accordance with Section 7-7-8 of the UDO, for the construction of a two-story building containing 1800 square feet of "commercial business" space (first floor) and 1800 square feet (second floor) containing three one-bedroom apartments.

The subject property consists of an existing 6,624 square foot parcel (PIN 9649.53-7557) located at what will be addressed 135 Broad Street off of Charlotte Street. The closing of an unopened right of way between 135 and 137 Broad Street (recently approved by Council) would add an additional 1040 square feet to the subject property creating a development parcel 7,664 square feet in size (.176 acre). The property is currently vacant (with the exception of some storage crates to the rear of the property) and zoned RM-16 (Residential Multi-Family High Density). The site is bordered by properties zoned RM-16 (to the west containing a single family home) and CBI (to the north, east, and south). The surrounding CBI properties contain office buildings and a restaurant.

The applicant, Michael Derrig, AIA, for Broad Properties, LLC, proposes to construct a new mixed use building (24 feet in height) on the southern side of Broad Street, near the intersection of Broad and Charlotte Streets. The building will contain 1800 square feet (first floor) of "commercial business" space (limited to offices or instructional services by agreement) and 1800 square feet of residential space (second floor) containing three one-bedroom apartments. The applicant has also agreed to limit signage to a maximum of ten square feet per sign face and four feet in height.

Access to the site is proposed via a 14-foot driveway off of Broad Street. The drive leads to an area containing six parking spaces at the rear of the building. Parking for four bicycles and handicapped parking (one space) is shown on the site plan. There are existing sidewalks along Broad Street and an accessible pedestrian path planned to the west of the proposed new structure.

Landscaping is required for this project and includes street trees, parking lot landscaping, and a property line bufferyard to the west. A request to add a condition for Council consideration to reduce the required 20 foot buffer to 10 feet (for 51'6" of the property line) and 4 feet (for 43'4" of the property line) where there is a fence on the adjoining property has been submitted. The buffer yard shown contains all the requisite plantings but does not meet the required width. Staff is supportive of this condition feeling that it meets the spirit of the ordinance. Open space is not required as the property is less than an acre in size.

This proposal was approved with conditions by the Technical Review Committee on October 20, 2014, and requires review by the City Council and Final TRC prior to zoning approval. Many of the TRC comments have been addressed in the plans that are before the Asheville City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on January 7, 2015. At this meeting the commission voted unanimously (7-0) to recommend approval of this conditional zoning to Asheville City Council with conditions as presented. The motion also requested that the applicant provide outdoor balcony space for each of the three residential units and provide articulation to identify the entry to the residential units. Both these requests have been addressed in the elevations presented to City Council. One adjacent property owner spoke at the meeting concerned about buffering, parking and the cutting down of a particular tree.

The applicant is proposing to conditionally rezone the site from RM-16 to Community Business I Conditional Zoning to allow for a mixed use building. They have stipulated that the uses in the non-residential portion would be limited to instructional services and offices.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes a mixed use building that will serve as a transition from the higher impact uses found along Charlotte Street to the residential uses along Broad Street.
- The project is being designed to be compatible in design and scale with many of the residential structures found in the vicinity.

Staff recommends approval of the proposed conditional zoning to allow for a mixed use building of office/instructional services space and three dwelling units at what will be addressed 135 Broad Street. The Asheville Planning and Zoning Commission unanimously recommended approval of this conditional zoning to the Asheville City Council.

Mayor Manheimer opened the public hearing at 5:58 p.m., and when no one spoke, she closed the public at 5:58 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt moved to approve the conditional zoning request of Broad Properties, LLC for property located at what will be addressed 135 Broad Street from RM-16 Residential Multi-Family High Density District to Community Business I District/Conditional Zoning) and find that the request is reasonable, is in the public interest, and consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposed uses on the property are in keeping with other uses in the area and create a good transition between higher intensity uses and lower intensity residential uses; and (2) The proposal supports the goal found in the City's comprehensive plan of pursuing compatible infill development. This motion was seconded by Councilwoman Wisler and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER A SUBDIVISION WITH CONDITIONAL ZONING ON PROPERTY LOCATED AT 141, 145 AND 149 COURTLAND AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8/CZ RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING TO (1) ALLOW THE CONVERSION OF THREE EXISTING GROUP HOME BUILDINGS INTO MULTI-FAMILY UNITS AND THE SUBDIVISION OF LAND TO LOCATE THOSE BUILDINGS ON SEPARATE LOTS; AND (2) TO ESTABLISH 7 ADDITIONAL SINGLE-FAMILY HOME LOTS, WITH A CHANGED CONDITION TO THE LANDSCAPE AND OPEN SPACE STANDARDS

ORDINANCE NO. 4382 - ORDINANCE TO APPROVE A SUBDIVISION WITH CONDITIONAL ZONING ON PROPERTY LOCATED AT 141, 145 AND 149 COURTLAND AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RM-8/CZ RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING TO (1) ALLOW THE CONVERSION OF THREE EXISTING GROUP HOME BUILDINGS INTO MULTI-FAMILY UNITS AND THE SUBDIVISION OF LAND TO LOCATE THOSE BUILDINGS ON SEPARATE LOTS; AND (2) TO ESTABLISH 7 ADDITIONAL SINGLE-FAMILY HOME LOTS, WITH A CHANGED CONDITION TO THE LANDSCAPE AND OPEN SPACE STANDARDS

Urban Planner Julia Fields said that this is the consideration of an ordinance to approve a subdivision with conditional zoning on property located at 141, 145 and 149 Courtland Avenue from RS-8 Residential Single-Family High Density District to RM-8/CZ Residential Multi-Family Medium Density District/Conditional Zoning to (1) allow the conversion of three existing group home buildings into multi-family units and the subdivision of land to locate those buildings on separate lots; and (2) to establish 7 additional single-family home lots, with a changed condition

request to the landscape and open space standards. This public hearing was advertised on January 30 and February 6, 2015.

Ms. Fields clarified that City Council is only considering a conditional zoning and subdivision has already been decided by Planning & Zoning Commission, subject to City Council approval of the conditional zoning.

Ms. Fields said that the applicant is requesting conditional zoning for a single parcel along Courtland Avenue from RS-8 Residential Single-Family High Density District to RM-8CZ Residential Multi-Family Medium Density District/Conditional Zoning in accordance with Section 7-7-8 of the UDO with conditions for buffering and open space. The conditional zoning request would allow the creation of a major subdivision consisting of ten lots and the conversion of three existing units into multi-family dwellings. The major subdivision was conditionally approved by the Planning and Zoning Commission on January 7, 2015.

The project site (PIN 9639.91-5403) is 2.63 acres in size and is located at 141, 145, and 149 Courtland Avenue in the Montford community. The current zoning of the property is RS-8. The property is surrounded by properties that are unzoned (to the west - Department of Transportation right-of-way) or zoned RS-8. The properties in the surrounding area are predominately single-family residential in nature. There are three residential structures on the site which have been previously used as a group home. The property contains a number of large trees. A stream runs along the southern property line of the project site.

RPMM Properties, LLC proposes to subdivide the project site into ten new residential lots. Seven of the lots will be used for single-family development. The three existing buildings on the property will be located on the remaining three lots and it is proposed that the buildings be renovated to convert them to two- or three-unit residential structures. All buildings are proposed to be designed to reflect the character of the surrounding neighborhood. All lots meet the standards for lots in the RM-8 District. A water line will be extended along Courtland to service all the properties

Access to all properties is via driveways off of Courtland Avenue. Sidewalk is not required per the ordinance. There is an existing sidewalk along a portion of the property. The applicant has agreed to provide an easement for the remaining frontage to facilitate sidewalk construction in the future. Parking is provided for each lot on that lot with shared driveways utilized to reduce curb cuts.

Street trees are required and will be provided; perhaps some with existing vegetation. A 20 foot buffer is required along the two sides of the project site which abut RS8 zoning. A request has been submitted to add a condition for Council consideration to eliminate this buffer as it largely would require buffering single-family residences from other single-family residences. Staff is supportive of this modification.

Open space (20%) is required and can be provided along the rear of the properties. However, this open space, while compliant with base square footage requirements, does not meet the restrictions on the amount of open space that can be over 25% slope. Staff is supportive of adding a condition for Council consideration that 9,660.5 square feet of required buffer be waived because to require open space compliance would necessitate the construction of retaining walls which would not enhance the compatibility of the proposed development with surrounding properties. There is a public park in close proximity to the development site.

This proposal was approved with conditions by the Technical Review Committee on December 14, 2014, and requires review by the City Council and Final TRC prior to zoning approval. Most of the TRC comments have been addressed in the plans that are before the Asheville City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on January 7, 2015. At this meeting the commission voted unanimously to approve the major subdivision and recommend approval of the conditional zoning to Asheville City Council with conditions. One adjacent property owner spoke at the meeting concerned about traffic along Courtland.

City Council will have the final review of the conditional zoning. It will return to the Technical Review Committee for Final TRC review, if approved by Asheville City Council.

The applicant attended a meeting of the Montford Neighborhood Association to introduce this project to the community. Questions/concerns were raised over traffic and whether the rezoning to multi-family conditional zoning would allow the single-family lots to be developed subsequently for multi-family use. Staff has communicated with the neighborhood explaining the stipulations that come with conditional use rezonings.

The three existing residential units were approved as a group home in 2004. The structures have, however, been vacant for some time.

The applicant is proposing to conditionally rezone the site from RS-8 to RM-8CZ to allow for the subdivision of the property into ten lots. Seven of the lots will be used for single-family dwelling with allowable accessory structures. The other three lots, contain existing buildings that will be renovated to create two units on two of the lots and three units on the remaining lot.

The property is surrounded on three sides with parcels zoned RS-8 and containing single family homes. To the west the project site abuts unzoned Department of Transportation right-of-way. As this project is largely single-family in nature, the development is compatible with the development in the immediate vicinity. Additionally, the conversion of the previous group home buildings to small multi-family structures is more in keeping with the surrounding development.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes a largely single-family subdivision in an area with similar development patterns.
- The project involves the adaptive reuse of three existing vacant structures in a manner compatible with the surrounding area.
- The proposed size and design of the structures to be constructed as part of this project are in keeping with many of the residential structures found in the vicinity.

Staff recommends approval of the proposed conditional zoning to allow for the subdivision of the subject parcel into ten lots and the conversion of three existing units into multi-family dwellings.

The Planning and Zoning Commission recommended approval of the conditional zoning request with conditions as presented at their meeting on January 7, 2015. The Commission also approved the major subdivision subject to approval of the conditional zoning application.

Ms. Lucy Crown, representing the owner, said that they are in the process of due diligence but noted that the units will be sold as condos or town houses. They have brief conversations with the Planning staff about the possibility of affordable housing, and although their decision has not been made yet, they are relatively aware of what the conditions are and are not adverse to it.

Mayor Manheimer opened the public hearing at 6:09 p.m., and when no one spoke, she closed the public hearing at 6:09 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Davis moved to approve the conditional zoning request of RPMM Properties, LLC for property located at 141,145, and 149 Courtland Avenue from RS-8 Residential Single-Family High Density District to RM-8CZ Residential Multi-Family Medium Density District/ Conditional Zoning and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that (1) The proposal supports the goal found in the City's comprehensive plan of promoting compatible adaptive reuse of existing structures; (2) The proposal supports the goal found in the City's comprehensive plan of pursuing compatible infill development. This motion was seconded by Councilman Smith and carried unanimously.

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C. PUBLIC HEARING TO CONSIDER A MAJOR SUBDIVISION WITH CONDITIONAL ZONING ON PROPERTY LOCATED AT 95 CRAGGY AVENUE, 180 LOUISIANA AVENUE AND 178 LOUISIANA AVENUE, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8/CZ RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CREATION OF 45 LOTS IN TWO PHASES AND ASSOCIATED INFRASTRUCTURE, WITH A CHANGED CONDITION REQUEST FOR LOT SIZES AND SETBACKS, SIDEWALK STANDARDS AND PAVEMENT AND RIGHT OF WAY WIDTHS.

This public hearing has been removed from consideration at this meeting. The public hearing will be held on February 24, 2015.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. CONFIRMATION OF ESSAY QUESTIONS TO ELIGIBLE ASHEVILLE CITY BOARD OF EDUCATION CANDIDATES

Vice-Mayor Hunt said that the Boards & Commissions Committee reviewed all essay questions, for eligible Asheville City Board of Education candidates, submitted by City Council and narrowed them down to five final questions to ask the eligible candidates to respond to in writing.

Vice-Mayor Hunt said that there has been media coverage regarding background checks for Board of Education appointments. As this is an important topic, staff will continue to work with the Asheville City Schools Superintendent as this process moves forward. He said that any eligible candidate for an Asheville City Board of Education seat may have to submit to a background check.

It was the consensus of Council to accept the Boards & Commission's committee five recommended essay questions and wait until the deadline of February 24 before the essay questions are sent to all eligible candidates.

Mayor Manheimer announced that the deadline for Asheville City Board of Education applications is Tuesday, February 24, 2015, at 5:00 p.m. and to please contact City Clerk Burleson for an application form.

B. BOARDS & COMMISSIONS

At the recommendation of the African American Heritage Commission, it was the recommendation of the Boards & Commissions Committee and consensus of City Council to delay appointments until March 10, 2015.

RESOLUTION NO. 15-35 - RESOLUTION APPOINTING A MEMBER TO THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mr. Douglas Tate has resigned as a member of the Greater Asheville Regional Airport Authority and the Asheville Regional Airport Authority, leaving an unexpired term until June 30, 2016.

The following individuals have applied for a vacancy on the Authority: Stephanie Pace Brown.

The Boards & Commission Committee recommended appointing

Mayor Manheimer moved to appoint Stephanie Pace Brown to the Greater Asheville Regional Airport Authority and the Asheville Regional Airport Authority, to serve the unexpired term of Mr. Tate, term to expire June 30, 2016, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 38

RESOLUTION NO. 15-36 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mr. Brad Galbraith has resigned as a member of the Citizens-Police Advisory Committee, leaving an unexpired term until June 30, 2017.

The following individuals have applied for a vacancy on the Committee: Larry McCallum and Clifford T. Joslin.

At the recommendation of the Citizens-Police Advisory Committee, the Boards & Commission Committee recommended appointing Clifford Joslin.

Councilman Davis moved to appoint Clifford Joslin to serve the unexpired term of Mr. Galbraith, term to expire June 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 39

RESOLUTION NO. 15-37 – RESOLUTION APPOINTING THE CHAIRMAN TO THE CIVIL SERVICE BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mr. Marvin Rosen as asked to step down as Chair to the Civil Service Board, thus leaving an unexpired term of Chair until June 25, 2015, or until their successor is appointed, whichever occurs first.

It is the responsibility of City Council to appoint the Chair of the Civil Service Board and the Chair of the Civil Service Board shall be appointed annually by City Council.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

On January 5, 2014, all members were advised to contact City Clerk Burleson if they were interested in serving as Chair. Mr. Alan Coxie was the only interested member.

Councilwoman Wisler moved to appoint Mr. Alan Coxie as Chairman of the Civil Service Board to serve the unexpired term of Mr. Rosen; term to expire June 25, 2015, or until his successor is duly and annually appointed by the City Council, as provided by law. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 40

RESOLUTION NO. 15-38 - RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mr. Richard Leatherman has resigned as a member of the Homeless Initiative Advisory Committee, leaving an unexpired term until November 1, 2015.

The following individuals have applied for a vacancy on the Committee: Warren Furmann and Allison Bond.

At the request of the Homeless Initiative Advisory Committee, the Boards & Commission Committee recommended appointing Allison Bond.

Councilman Smith moved to appoint Allison Bond to serve the unexpired term of Mr. Leatherman, term to expire November 1, 2015, and then a full three-year term until November 1, 2018, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 41

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Carl Solesbee spoke about the noise ordinance and urged City Council to amend their ordinance that the Noise Ordinance Appeals Board can hear appeals filed by one property owner.

Councilman Pelly said that he has received a letter from the State Board of Transportation that they have approved a traffic light and pedestrian crossing at the intersection of Coleman Avenue and Merrimon Avenue. He said they are also evaluating other intersections on Merrimon Avenue as well.

Closed Session

At 6:25 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including but not limited to, a lawsuit involving the following parties: City of Asheville v. Robert

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Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:27 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:27 p.m.

Magdalen Bulleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – February 24, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

MOMENT OF SILENCE

Mayor Manheimer asked for a moment of silence on the passing of Mr. J.W. "Red" Hoyle on December 20, 2015, who was Vice-Mayor from December, 1971 - December 1973 and a Councilmember from December 1973 - December 1977. On behalf of City Council, she expressed Council's condolences to Mr. Hoyle's family.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of City staff, it was the consensus of Council to add a the following resolution to the Consent Agenda "Resolution approving the submission for a re-accreditation application, on behalf of the WNC Nature Center, to the Association of Zoo and Aquariums."

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 10, 2015

B. RESOLUTION NO. 15-39 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK WATER TREATMENT PLANT DAM/SPILLWAY UPGRADE PHASE 1: DESIGN PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel Engineering South, PC, for the North Fork WTP Dam/Spillway Upgrade Phase I: Design project for the proposal in the amount of $3,903,350.

On June 27, 2014, the Water Resources Department issued a Request for Qualifications (RFQ) for professional engineering services for the upgrade of the North Fork Dam/Spillway. As outlined in the RFQ, engineering services for the project will be conducted in two phases: Design and Construction Services. The selected engineering firm will be responsible for all of the design phase (Phase I) and construction phase (Phase II) aspects of the project. Phase I and II are the engineering phases of the $30 million dam/spillway construction upgrade project to occur at the North Fork Water Treatment Plant in Black Mountain.

Phase I Design includes design services, geotechnical exploration, assessment of the existing gated spillway, environmental permitting, bid process support, and public outreach. Phase II Construction Services includes contract administration, observation of all construction-

related activities, field and laboratory quality control testing, full-time onsite representation, attendance at construction meetings, preparation of reports, and final record drawings. Engineering services will be divided into two phases because the cost of Phase II Construction Services will not be known until Phase I Design is complete. Since the RFQ included that the selected firm would provide services for both phases, the department will not have to issue another RFQ for Phase II. The department will seek Council approval for the Phase II contract with the selected firm once the amount of that contract is known.

In response to the RFQ, the department received three Statements of Qualifications from the following firms responding:

1. Gannett Fleming / Hazen and Sawyer (a joint effort) – Raleigh, NC
2. Rizzo Associates – Columbia, SC
3. Schnabel Engineering South, PC – Greensboro, NC

Schnabel has presented a scope of work and cost proposal in the amount of $3,903,350.00 for Phase I Design engineering services associated with this project. Due to the firm's intimate knowledge of the North Fork Dam, Schnabel Engineering is the most qualified firm to complete Phase I and subsequent Phase II once that contract amount is known.

Pros:
- Schnabel Engineering has provided engineering services on various dam and spillway projects for the City of Asheville. The firm's experience and extensive knowledge of the dam and spillway at North Fork make them the most qualified firm.
- This project will allow the Water Resources Department to upgrade the North Fork dam and spillway to comply with State regulations.

Cons:
- The cost for the engineering services agreement while substantial, is typical for a construction project of this size. The overall construction project is estimated at $30 million.
- Failure to award an engineering services agreement would prevent Water Resources from making the necessary upgrades to the North Fork dam and spillway.

The funding needed for the professional engineering services contract is currently allocated within the North Fork WTP Dam/Tunnel Repairs project in the Water Resources Capital Improvement Projects fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel Engineering South, PC, for the North Fork WTP Dam/Spillway Upgrade Phase I Design project for the proposal amount of $3,903,350.

Director of Water Resources Steve Shoaf responded to Councilwoman Wisler regarding the agreement.

RESOLUTION BOOK NO. 37 - PAGE 42

C. RESOLUTION NO. 15-40 - RESOLUTION CHANGING THE NAME OF "SUSTAINABLE ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT" TO "SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT"

RESOLUTION BOOK NO. 37 - PAGE 43

D. RESOLUTION NO. 15-41 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE HIGH INTENSITY DRUG TRAFFIC AREA GRANT

ORDINANCE NO. 4383 - BUDGET AMENDMENT TO ACCEPT THE 2015 HIGH INTENSITY DRUG TRAFFIC AREA GRANT

Summary: The consideration of (1) a resolution authorizing the City Manager to accept the 2015 High Intensity Drug Traffic Area (HIDTA) grant in the amount of $30,980 as a fiduciary for the Asheville Area HIDTA Task Force; and (2) a budget amendment, in the amount of $30,980, to establish the budget.

The High Intensity Drug Trafficking Areas (HIDTA) program was authorized by the Anti-Drug Abuse Act of 1988 and is administered by the Office of National Drug Control Policy. The HIDTA's mission is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. Asheville HIDTA, which has been in place for many years, serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA, a component of the Asheville United States Drug Enforcement Administration (DEA) Task Force, is comprised of members of the DEA, Asheville Police Department, the Buncombe County Sheriff's Office, Henderson County Sheriff's Office and McDowell County Sheriff's Office. The HIDTA task force primarily concentrates on high volume, high value drug trafficking. As an example the task force was recently involved in the seizure of several hundred grams of crack cocaine tied to local and national gangs, a seizure of 30 pounds of marijuana and $65,000 cash; multi pounds of methamphetamine and the seizure of 335.3 grams of heroin. All of the cases mentioned involved people trafficking narcotics in the regional area and beyond. In several of the cases it involved organized gang activity and weapons.

The City of Asheville serves as the fiduciary for the Asheville HIDTA. The allotted funds form the federal government will go for investigative purposes. The expenditure of all funds are tracked and audited by both local and federal authorities.

Pro:

- Federal HIDTA monies to cover the cost of investigative special purposes

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City Staff recommends City Council (1) adopt the resolution to accept the HIDTA 2015 grant funds; and (2) adopt the budget amendment in the amount of $30,980.

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E. ORDINANCE NO. 4384 - ORDINANCE AMENDING SECTIONS 19-144 AND 19-164 OF THE CODE OF ORDINANCES TO ALLOW REVERSE ANGLE PARKING

Summary: The consideration of an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

City Council approved a complete streets policy on June 26, 2012, via Resolution No. 12-154. A major purpose of a complete streets policy is to enable staff to consider all modes of transportation when designing and/or reviewing transportation-related projects. Staff would like to

revise certain existing city ordinances to allow reverse angle parking (a change to prohibit parking in designated bicycle lanes will be coming forward at a later date combined with some changes that the Legal Department is working on).

Reverse angle parking (or back-in parking) is a new parking style that enables drivers to back into a parking space so that the front of the vehicle is facing the street. Benefits of reverse angle parking include improved driver visibility, easier loading and unloading, improved accessibility, and traffic calming. Assuming the amendments are made, staff would review future requests on a case-by-case basis to be sure that the most effective treatment is used.

This item was reviewed by the Council's Public Safety Committee on January 26, 2015, and has received their endorsement. This item was reviewed by the Multimodal Transportation Commission on January 28, 2015, and has received their endorsement.

Pros:

- Enhances the pedestrian and bicycle experience.
- Promotes complete streets principles and guidelines.
- Improves driver visibility.
- Provides easier loading and unloading.

Cons:

- "Learning curve" for drivers.
- Strict enforcement might be needed during the early stages of implementation.

City staff recommends that City Council approve an ordinance amending Chapter 19 of the Code of Ordinances in order to allow for reverse angle parking (or back-in parking).

ORDINANCE BOOK NO. 29 - PAGE 370

F. RESOLUTION NO. 15-42 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDED SUB-RECIPIENT AGREEMENT WITH THE CITY OF HENDERSONVILLE FOR 2012 NEW FREEDOM FUNDS

Summary: The consideration of a resolution authorizing the City Manager to amend the sub-recipient agreement with the City of Hendersonville to: (1) provide increased New Freedom grant funding-$21,498; (2) expand the scope of services; and (3) extend the period of performance.

The City of Asheville (City) is the Designated Recipient of grant funding by the Federal Transit Administration (FTA) entitled, "New Freedom Grant Funds (NF)."

The provision of adequate transportation is deemed a primary barrier to integrating those with disabilities into the workforce. The New Freedom Grant Program administered by the FTA, is intended to provide new public transportation services and public transportation alternatives beyond those required by the Americans with Disabilities Act of 1990.

As a Designated Recipient of New Freedom Grant Funds, the City was required to undergo an intensive planning process to develop a Coordinated Public Transportation and Human Services Transportation Plan (CTP-HSTP) based on community participation. Since inception of the program and to ensure neutrality, this plan has been developed by the French Broad Metropolitan Planning Organization, with participation of the City, Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals. Consistent with the City's preference as approved by FTA, the CTP-HSTP was approved on March 29, 2012 by the French Broad River

MPO's governing body (the Board). The MPO Board consist of elected representatives from the eighteen local governments which make up the MPO The CTP-HSTP set the rules to apply for projects and the projects were selected in a competitive process that was approved by the Board.

In September 2012, MPO recommended and the City approved NF funding for the City of Hendersonville and Customer Inspired Services. The 2012 Program of Projects for NF funding was approved by FTA. The City entered into a sub-recipient agreement with the City of Hendersonville but, Customer Inspired Services (CIS) closed its doors and no sub-recipient agreement was executed. While the CIS project, which provided for operating funds to hire an additional dispatcher, and capital funds for the rehabilitation of a van, is different in scope and services, the MPO on June 26, 2014, approved a transfer of the CIS funds to the City of Hendersonville Project, in that both the CIS and Hendersonville projects were chosen at the same time, in the same call for projects, and the construction by the City of Hendersonville of sidewalks would allow for the construction of a longer sidewalk, and is the only feasible project at this time for additional NF funds. FTA has approved the transfer of funding.

The project funding changes are listed as follows:

Sub-Recipient	Project	Program	Previous federal amount	New federal amount	Sub-Recipient's match
City of Hendersonville	Pedestrian improvements along US 64	NF	$239,918	$257,116	$64,279

Both projects are under the same MUNIS project code and do not require a budget ordinance amendment. Since the transfer of additional funds constitutes a change to the 2012 Program of Projects, the sub-recipient agreement must be amended to comply with FTA requirement.

The City as the Designated Recipient is responsible for program management and the proper administration of funding. The program management requires the use of City resources, mainly staff. As a Designated Recipient the City is using $28,567 of NF funds for program administration for a period of four years. These funds are already budgeted in the operating budget.

Pro:

- Project funding is provided by the FTA, 80% of capital projects. The sub-recipients are responsible for the local match.

Con:

- None.

This program is fully funded with federal grant funds and sub-recipients match; there is no impact to the City's General Fund budget.

Staff recommends that City Council adopt the resolution authorizing the City Manager to execute an amended sub-recipient agreement with the City of Hendersonville for 2012 New Freedom Funds.

RESOLUTION BOOK NO. 37 - PAGE 45

G. ORDINANCE NO. 4385 - BUDGET AMENDMENT TO ADD ADDITIONAL COMPONENTS TO A REPLACEMENT COMPRESSED NATURAL GAS BUS FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of a budget amendment in the amount of $5,000 to increase the budget project to add additional components to a replacement Compressed Natural Gas (CNG) bus for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is $148,600.4. Federal funds will provide $115,976 covered with grant NC-90-X439; this grant requires a match of $28,994.4 provided by Henderson County, plus $3,630 for the title, tag and graphics. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. The bus has been ordered and these components will be added to the order.

Pros:

- The bus will produce savings in maintenance and fuel costs for Henderson County.
- The Federal Transit Administration (FTA) provides 80% of the cost of the bus.
- Henderson County provides 20% of the total estimated project cost plus tag, title's costs and graphics.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $148,600.4, $115,976 or 80% of the cost of the bus are coming from Federal funds, 20% or $28,994.4 and tag and title in the amount of $3,630 coming from Henderson County. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council adopt the budget amendment in the amount of $5,000 to increase the budget project to add additional components to a replacement Compressed Natural Gas (CNG) bus for Henderson County's transit system.

ORDINANCE BOOK NO. 29 - PAGE 371

H. ORDINANCE NO. 4386 - BUDGET AMENDMENT FOR LED EXTERIOR LIGHTING UPGRADES AT TWO TRANSIT FACILITIES

Summary: The consideration of a budget amendment from General Fund and Federal Transportation Administration grant money to establish a Fiscal Year 2015 budget in the City's Special Revenue Fund the amount of $10,000 for procurement and installation of LED exterior lighting at two transit facilities.

The City of Asheville has access to Federal Transportation Administration (FTA) grant monies to fund energy efficiency projects at transit facilities. Staff has identified exterior lighting upgrade opportunities at both the Asheville Redefines Transit station on Coxe Avenue as well as the Transit Maintenance Facility on West Haywood Street. The total cost for the project is

estimated at $10,000. The FTA grant can cover up to 80% of this cost, while the City's match of $2,000 will come from the Green Sustainability budget.

Pros:

- Energy saving opportunity will cut energy consumption of exterior lighting in half
- Better, brighter light will create a safer environment for both ART riders and ART staff

Con:

- None foreseen

The lighting project will be paid with a combination of $8,000 FTA grant money and $2,000 of the City's Green Sustainability money, which is from streetlight avoided costs.

City staff recommends City Council adopt a budget amendment to perform exterior LED lighting upgrades at ART Station downtown and ART Maintenance Facility.

ORDINANCE BOOK NO. 29 - PAGE 373

I. ORDINANCE NO. 4387 - BUDGET AMENDMENT FOR THE BINGHAM ROAD WATER MAINTENANCE FACILITY

Summary: The consideration of a budget amendment in the amount of $3,525,000 to move funds from Water Resources Fund Balance to the Bingham Road Water Maintenance Facility capital project in order to fund the purchase and renovation of 200 Bingham Road.

In recognition of the deteriorating condition of the Water Maintenance/Meter Services facility at 174 S. Charlotte Street, the Water Resources Department (Department) started setting aside capital project funds for a new facility in Fiscal Year 2008-09. For the next several years, additional funds were added to the project. As an economic development proposal, White Labs recently expressed an interest in purchasing part of the Water Maintenance property at 172/174 South Charlotte Street. The transformation of South Charlotte Street to a higher use has been an economic development goal, and the White Labs project is a major step towards realizing that goal. The Department, with assistance from the Community & Economic Development Department expedited the search for a new facility.

Utilizing a consultant engaged in commercial real estate, several properties were investigated. There were very limited choices for buildings and property sized to house the two divisions being relocated. The building needed to accommodate two operating divisions and the surrounding property needed space for heavy equipment and service vehicles. The search led to 200 Bingham Road in northwest Asheville. This site has the necessary space both inside and outside. The location re-purposes a property that is outside the central business district.

The building at 200 Bingham Road is larger than what is needed by the Water Maintenance /Meter Services divisions. The Department is in discussion with the Finance Department about relocating the Central Stores portion of Purchasing to this location. That would free up another City-owned parcel along the South Charlotte Street corridor. Additionally, there should be space to accommodate needs from another City department.

In a September 23, 2014, closed session, Council authorized the acquisition of the property at 200 Bingham Road. Thereafter, the seller and City representatives engaged in negotiations and subsequent due diligence and executed a purchase and sale agreement. A February closing date has been set with a final purchase price of $2,855,000. This price is discounted to less than the square foot fair market value in recognition of some necessary repairs. The Department will need to make renovations to the property (immediately and over the next five years) and with those costs factored in the final price will be just over the square foot fair

market value. By making the renovations, the value of the property will increase, protecting the investment.

In order to proceed to closing, a budget amendment is necessary to ensure the project budget is in place for financial reconciliation of the sale and associated expenses. As part of the budget amendment, funds are included to modify the facility's systems and retrofit it and the property to better serve the needs of Water Resources. The property will be purchased and renovated with Water Resources funds and will remain with the Department if there is a future disposition of the property, thus it is in compliance with the Sullivan Act(s) I, II, and III.

Pro:

- Approval of the budget amendment will ensure that the necessary funds are in place for the purchase and renovation of 200 Bingham Road.

Con:

- If the budget amendment is not approved, the Department will not be able to complete the transactions necessary to fund the purchase and renovation of 200 Bingham Road.

The Water Resources Department currently has $764,264 budgeted for the Bingham Road Water Maintenance Facility project. The remaining funds of $3,525,000 needed for the purchase and renovation of 200 Bingham Road will be transferred from the Water Resources Fund Balance. In order to transfer funds from fund balance, a budget amendment is necessary.

Amount Budgeted in Bingham Road Water Maintenance Facility project	$ 764,264
Additional Amount Needed for Purchase & Renovation	$3,525,000
Total Amount Needed for Project	$4,289,264

Water Resources began FY 2014-15 with more than $17.7 million in fund balance. With an operating budget of $34.6 million, this equated to a fifty-one percent fund balance. The drawdown of $3,525,000 will leave Water Resources with a fund balance of $14.2 million, or forty-one percent of their operating budget for the year. Finance staff believes that this fund balance is sufficient for any operating needs and demonstrates the continued fiscal health of the fund. Staff will seek Council approval of contracts associated with the renovation project for amounts required by the City of Asheville Procurement, Purchasing and Contracting Policy.

City staff recommends City Council approve a budget amendment in the amount of $3,525,000 to move funds from Water Resources Fund Balance to the Bingham Road Water Maintenance Facility capital project in order to fund the purchase and renovation of 200 Bingham Road.

ORDINANCE BOOK NO. 29 - PAGE 375

J. ORDINANCE NO. 4388 - BUDGET AMENDMENT TO AUTHORIZE THE USE OF NORTH CAROLINA STATE DRUG SEIZURE FUNDS

Summary: The consideration of a budget amendment in the amount of $20,600 to authorize the use of North Carolina State Drug Seizure Funds to fund the purchase of covert surveillance equipment ($14,000), and support of Changing Together ($6,600).

The North Carolina State drug seizure program is an equitable sharing program between the North Carolina State government and local law enforcement agencies which divides the proceeds from illegal drug dealing. It is designed to allow local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The proceeds from illegal drug dealing are divided with 25% going to the North Carolina Department of Revenue and 75% going to the local law enforcement agency initiating the seizure.

This amendment will authorize the use of $20,600 in North Carolina State drug seizure funding for: 1) The purchase of covert surveillance equipment to be utilized to secure evidence of criminal activities related primarily to drugs sales and prostitution; and 2) Funding the partnership with Changing Together for services related to Violent Criminal Offenders and the Domestic Violence Task Force.

Pros:

- North Carolina State drug seizure revenue used to fund covert surveillance equipment, and the Changing Together partnership.
- Reduction in cost to the City of Asheville for the purchase of this equipment by use of the forfeiture funds
- Increase officer and public safety by providing covert audio/video equipment
- Support of partnership with Changing Together

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the City allowing the Asheville Police Department to better equip employees and provide safety measures to protect the public. There is no impact to the General Fund budget.

City staff recommends City Council adopt a budget amendment in the amount of $20,600 authorizing the use of North Carolina State Drug Seizure Funds to fund the purchase of covert surveillance equipment and support of Changing Together.

In response to Mayor Manheimer, Interim Police Chief Steve Belcher, provided the specifics on the use of the equipment, which 90% of its use will be for narcotics surveillance. This equipment is not used for demonstrations or freedom of speech issues - use is strictly for criminal issues. These actual criminal surveillance videos are commissioned and coordinated with the District Attorney's Office and closely managed by command staff at the Police Department.

Councilman Smith hoped that going forward there will be a public process about civil liberties and about what is going to be appropriate in the community so we can make sure that everyone is as safe as we can make them and make sure we are still protecting civil liberties.

ORDINANCE BOOK NO. 29 - PAGE 377

K. ORDINANCE NO. 4389 - BUDGET AMENDMENT TO ALLOW THE PARKS & RECREATION DEPARTMENT TO USE FUNDS FROM THE SALE OF A DUMP TRUCK TO THE STREET CUT UTILITY FUND TO PURCHASE AN EXCAVATOR

Summary: The consideration of a budget amendment increasing the budgeted expenditures of the Parks and Recreation Department in the General Fund in the amount of $73,000 to be offset by a revenue in the same amount from the Street Cut Utility Fund.

The Street Cut Utility Fund has budgeted funds to purchase a dump truck in the 2014-2015 budget year. The Parks and Recreation Department has a dump truck available to sell to the Street Cut Utility Fund and would like to use the funds received to purchase an excavator which will serve their needs better. The Street Cut Utility Fund would pay the General Fund the book value of the dump truck and the Parks and Recreation Department would use those funds to purchase an excavator.

Pros:

- The Parks and Recreation Department of the General Fund and the Street Cut Utility Fund would each gain a piece of equipment that would better serve their needs.
- City resources will be put to their most effective use.

Cons:

- None

There is a net fiscal impact of $0 on the General and Street Cut Utility Funds. The budget amendment will increase the City's General Fund revenue and expenditure budgets by $73,000 and there will be no effect on the Street Cut Utility Fund's budget. The Street Cut Utility Fund already has sufficient funds budgeted to purchase a dump truck and the General Fund will use the payment from the Street Cut Utility Fund's purchase of the dump truck to purchase an excavator.

Staff recommends City Council approve the budget amendment authorizing the City Manager to increase the General Fund revenues and appropriations by $73,000 to reflect the Street Cut Utility Fund's purchase of a dump truck from the General Fund and the appropriation of those funds in the General Fund to allow the Parks and Recreation Department to purchase an excavator.

ORDINANCE BOOK NO. 29 - PAGE 379

L. RESOLUTION NO. 15-43 - RESOLUTION APPROVING THE SUBMISSION OF A RE-ACCREDITATION APPLICATION, ON BEHALF OF THE WNC NATURE CENTER, TO THE ASSOCIATION OF ZOO AND AQUARIUMS

Summary: The consideration of a resolution authorizing the City Manager to approve the submission of the City of Asheville's (City) re-accreditation application on behalf of the WNC Nature Center (Nature Center) to Association of Zoos and Aquariums (AZA).

The Nature Center has been an accredited member of AZA since 1999. The accreditation process, which occurs every five years and is due again in 2015, requires the consideration and approval of the City's governing authority.

Pros:

- Maintains the Nature Center as an AZA accredited institution
- Demonstrates the high standards of the Nature Center operations and credibility

Con:

- None

The AZA application fee of $3,250 is included in the Nature Center's FY 2014-2015 adopted budget.

City staff recommends City Council to adopt a resolution authorizing the City Manager to approve the submission of the City's re-accreditation application on behalf of the Nature Center to AZA.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Davis and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. FISCAL YEAR 2014 CARBON FOOTPRINT UPDATE

Interim Sustainability Manager Kerby Smithson updated City Council on the Fiscal Year 2014 carbon report.

In 2008, City Council established a 2% annual carbon footprint reduction goal. That goal was increased in 2011 to 4%. In Fiscal Year 2014 the City of Asheville reduced our carbon footprint from municipal operations by 4.5%. For the 6th year in a row, the City has met the goal by reducing its greenhouse gas emissions by 1,328 metric tons of CO2 equivalent.

Last year's increase was due, in large, to conversion of the biodiesel the City uses from B-5 to B-20 for all fleet and transit operations. The lower carbon footprint of the B-20 fuel alone accounted for 40% of the year's improvement. In concert with the fuel change, the City's fleet overall managed a 2.1% reduction in fuel volume consumption of diesel, gasoline and CNG. More efficient vehicles purchased through the more robust Fleet CIP had a large part to do with this achievement.

Additional actions that resulted in the reduction included:

- 1,500 more streetlights were converted in the City's fourth phase of LED streetlight installations;
- Efficiency improvements in water production and distribution operations; and
- Efficiency improvements in City buildings.

City reduced its energy spending to $5.6 Million, a reduction of $164,000 from the previous year.

When Councilman Bothwell asked what areas we can next see progress in, Mr. Smithson said that there is still a lot of opportunity in downtown street lighting and electrification of our fleet.

B. MID-YEAR FINANCIAL REPORT

Budget Manager Tony McDowell provided the Council with a brief report which reflects the City's overall financial position for the fiscal year through December 2014.

Amendments. The General Fund budget presented in this second quarter report reflects the adopted budget of $99,547,954 along with six budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	10,000
Traffic Signal Pole Replacement	16,590
City Workforce Investments	500,000
Thomas Wolfe Auditorium Roof Repairs*	60,000
Senior Center and Harvest House Grants	7,786
12/31/2014 Budget	$100,196,125

*Fund Balance Appropriation

Revenues. Through December 31, 2014, the City has collected $23,759,568 in General Fund revenue, which represents approximately 24% of the total General Fund revenue budget. Staff received assessed valuation data from Buncombe County in early February that showed tax base growth was less than originally expected. Fiscal 2014-15 property tax revenue estimates have been adjusted downward to reflect this data. Sales tax revenue, which is up approximately 9% compared to the same period last fiscal year, is expected to exceed budget. Through two quarters, state utility tax revenue is up 6.6% compared to the prior year. Revenue from Development Service fees continues to trend higher than anticipated and is at 58% of budget at the end of December. Overall, staff is currently projecting that *FY 2014-15 General Fund revenue will exceed budget by $450,000 or 0.46%.*

Expenditures. General Fund expenditures through December 31, 2014 total $46,469,381 or 46% of the budget, which is slightly ahead of where expenditures were last fiscal year after two quarters. Personnel expenses, the largest component of the General Fund budget, are running right on budget through the first two quarters. With the drop in gas prices, expenditures for fuel and fleet maintenance are performing better than budget through December. *Based on current trends, staff is projecting that expenditures will finish the year under budget by approximately $1.0 million (99% of budget).*

Fund Balance. The City began FY 2015 with unassigned fund balance of $15.0 million. As noted above, an additional $70,000 has been appropriated from unassigned fund balance during the first two quarters of FY 2015. Based on *current revenue and expenditure projections for FY 2015, staff estimates that unassigned fund balance at June 30, 2015 will be $16.4 million or 16.6% of estimated expenditures.*

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING ON PROPERTY LOCATED AT 95 CRAGGY AVENUE, 180 LOUISIANA AVENUE AND 178 LOUISIANA AVENUE, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8/CZ RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING THAT WILL ALLOW FOR THE CREATION OF 45 LOTS IN TWO PHASES AND ASSOCIATED INFRASTRUCTURE, WITH A CHANGED CONDITION REQUEST FOR LOT SIZES, SETBACKS AND SIDEWALK STANDARDS

ORDINANCE NO. 4390 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 95 CRAGGY AVENUE, 180 LOUISIANA AVENUE AND 178 LOUISIANA AVENUE, FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8/CZ RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING THAT WILL ALLOW FOR THE CREATION OF 45 LOTS IN TWO PHASES AND ASSOCIATED INFRASTRUCTURE

Interim Planner Director Alan Glines said that this is the consideration of a conditional zoning on property located at 95 Craggy Avenue, 180 Louisiana Avenue and 178 Louisiana Avenue, from RS-8 Residential Single-Family High Density District to RS-8/CZ Residential Single-Family High Density District/Conditional Zoning that will allow for the creation of 45 lots in two phases and associated infrastructure, with a changed condition request for lot sizes, setbacks and sidewalk standards. This public hearing was advertised on February 14 and 21, 2015.

City Attorney Currin said that a valid protest petition has been filed, thus requiring a three-fourths vote of City Council to approve the rezoning of the property.

Mr. Glines said that the applicant is requesting conditional zoning for four parcels located off of Louisiana Avenue and Craggy Avenue from RS-8 Residential Single Family High Density District to RS-8/CZ Residential Single Family High Density District/Conditional Zoning in accordance with Section 7-7-8 of the UDO with conditions for smaller lots and setbacks with larger areas of common open space, which will allow creation of a major subdivision with 45 lots conditionally approved by the Planning and Zoning Commission on January 7, 2015.

The applicant is proposing to create 45 residential lots including two new street sections. The project is proposing a space saving compact development proposal to protect some of the sensitive areas of the site as common space. The subdivision was approved by the Planning and Zoning Commission subject to approval of the conditional zoning request.

The project site consists of four parcels which join in the center but are accessed from two city streets: Louisiana Avenue on the east side and Craggy Avenue on the south side. The developer proposes a recombination and subsequent subdivision of an overall project area of 8.58 acres. The property has a stream through the center which currently acts as the property boundary. There is a significant grade change from the higher portions of the parcels and the lower area near the stream. To reduce the impact to the stream and other natural areas, and to provide a lower impact development, the development is proposing: smaller sized lots, narrower street pavement and right-of-way widths and reduced building setbacks. The lot dimension reductions require approval as specific conditions through the conditional zoning process. The narrower rights of way and pavement widths were approved through the Technical Review Committee process completed on December 1, 2014.

There are three existing dwellings and several associated structures on the parcels. One of the homes will be retained as a part of the site development. To the north of the project area are two parcels owned by the City of Asheville. One of the properties known as the Falconhurst Preserve, is a 7.9 acre parcel that has a conservation easement to protect it in its natural state. The proposed subdivision would provide a walking path near this property for future public access.

Adjacent to this area again on the north side is the second property that is currently leased to the Army Reserve. This 8.76 acre parcel has access from Louisiana Avenue and is zoned Institutional. There are no proposed connections to this parcel and the new development either.

Access to the site is proposed via two separate roadways: roadway A-B with access from Louisiana Avenue. Roadway C is accessed from Craggy Avenue. The project is proposing sidewalk sections along the two street connections but there is a request to reduce the length of the sidewalk to not include the entire roadway. There are also secondary walkway sections that connect through the common green space areas. It is the intent of the developer to allow the public to access the green space.

Landscaping is required but limited for this project and includes street trees meeting UDO standards and tree save areas. The landscaping plans meet the requirements of the ordinance. Tree save plantings are required to cover 30% of the lot area and provide for additional plantings if needed. Trees that are protected and saved can also be used as credits.

Open space is required for the development and is required to be a minimum of 15% of the lot area. Since the development is adjacent to City owned property known as the Falconhurst Preserve, this permits the development to qualify for a reduction of 25% of required open space reducing it from 20% to 15% as described in 7-11-4(e)(2). The subdivision is adjacent to the Falconhurst Preserve land but any future connections will need to be coordinated with the city Parks and Recreation Department after submitting a separate proposal for use. That process has not been initiated at this time.

The amount of open space required for the project is 1.29 acres but the development is providing **1.59** acres. The proposal exceeds this amount even considering the number of exclusions to open space described in the UDO (steep portions of the land, wetland areas, narrow portions, etc.) There will be additional 'community common area' of **.77** acre which will be provided in the development for reservation.

The Technical Review Committee (TRC) reviewed this application at their meeting on December 1, 2014, and approved it with conditions along with the narrower right of way and pavement widths. As with all conditional zoning applications, this development proposal was reviewed by the Planning and Zoning Commission who completed their review on January 7. City Council will have the final review of the conditional zoning. It will return to the Technical Review Committee for a final TRC review, if approved by Asheville City Council. The subdivision portion of the application was approved by the Planning and Zoning Commission subject to the approval of the CZ request by the City Council.

Although not required, the developer held several neighborhood meetings during the design stage before the project was officially submitted. Since those meetings staff had two meetings with neighborhood residents who wanted additional information regarding the proposal and shared some concerns about the lots sizes proposed, additional traffic using neighborhood streets, loss of tree cover and additional stormwater runoff.

Council conditions requested to modify development standards: City Council may consider conditions modifying dimensional requirements as a part of the conditional zoning approval process.

- Lot size- 35 of the lots are requesting the approval of area less than the district standard of 5,000 square feet. The lot sizes range in size from 2,691 to 4,972 square feet.

- Lot Setbacks- The development is seeking setback reductions from the district standards (Front/ rear 15' and 6' sides) to be a consistent 5 foot front and side setbacks and 10 foot rear setbacks. A single lot, Lot 11 is seeking a front setback of 2 feet.

- Lot Width- 23 lots are requesting the approval of lot width reduction less than the district standard of 50 feet. The proposed lot widths will range between 30 and 48 feet.

- Sidewalk sections- The developers are seeking to reduce the length of sidewalk provided for several portions of both street sections. There will be a sidewalk at the street intersections at existing roads which will continue into the development to a point. The development team is proposing several foot paths to link major sections of the development. The Technical Review Committee reviewed this request and asked that easements be provided for the street sections without sidewalks in case sidewalks are ever requested at a future date. The Planning and Zoning Commission conditioned their recommendation for approval subject to the developer studying options for increasing the length of pedestrian connectivity throughout the development.

The subject parcels and adjacent lots are zoned RS-8, with an Institutional parcel to the north of the site. The properties are immediately surrounded by single-family homes with the Army Reserve occupying the city parcel. The proposed development area taken with the additional open space area provides a density of about 5.25 units per acre and like the proposal, single-family homes are common in the surrounding area. The property is located along a bus line and is within walking distance of a number of services and retail businesses on Patton Avenue and Haywood Road.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use

permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- Infill development furthers the goals and objectives of the comprehensive plan.
- The proposed development provides residential lots in an area close to many services, transit and within walking distance to the pedestrian-oriented Haywood Road.
- Additional areas of open space and common space centered around riparian areas of the property are the basis of the development plan.
- The project requires a number of modifications to development standards under the current RS-8 zoning district prompting the need for the conditional zoning application.
- Concern has been voiced by surrounding neighbors regarding increased traffic, changes in community character and storm water runoff.

Staff recommends approval of the proposed conditional zoning along with the conditions requested, finding it consistent with City-adopted plans and strategic goals for development. The Planning and Zoning Commission recommended approval of the conditional zoning request at their meeting on January 7, 2015. They asked that the developer investigate additional pedestrian connections adjacent to the proposed street. The Commission also approved the subdivision subject to approval of the conditional zoning application.

Conditions agreed upon by the developer include:

1. The zoning designation will be RS 8 CZ
2. Site plans show 45 residential lots and open space based on the conditional zoning approval. The development will be in substantial compliance with the site plan which is incorporated herein.
3. Tree Save areas will be provided as required by the UDO.
4. Street trees will be provided along street frontages as illustrated in the plan.
5. Open space is designated as shown on plans and totals approximately 1.59 acres.
6. Additional community commons areas are also provided on the plans.
7. Walking paths will be provided in the areas of open space or community common areas as show on the plans.
8. Sections of street length without adjacent sidewalks will be provided for by easement 10 feet wide.
9. Of the 45 residential lots, 35 lots are approved on the site plan with sizes ranging from between 2,691 square feet to 4,972 square feet.
10. The development is approved for 5 foot front setbacks, 5 foot side setbacks and 10 foot rear setbacks. A single lot, Lot 11 is approved for a front setback of 2 feet.
11. Of the 45 lots, 23 lots are approved on the site plan with a lot width of between 30 and 48 feet.
12. Stormwater and grading will be approved by separate permits. A combination of curb and gutter and swales will be used to manage storm water runoff.
13. Retaining walls will meet retaining wall standards for design and plantings.
14. Along the road in Phase II and the 'Y', traffic control and crosswalks needed per engineering requirements.
15. Retaining walls will meet City and building code standards for landscaping and guardrail protection where required.
16. Pedestrian bridge will require a separate building permit.
17. The developer will need to obtain all right of way and utility cut permits.
18. All street lights to be LED lights.
19. The Property owner will work with the Asheville Design Center to further the design and development of the Smith Mill Creek Greenway.

20. The Property owner agrees to pursue restoration for the streams located on the Property in Areas and 3 and 10 on the Site Plan at page C-16, and to work with RiverLink and/or other similar organizations to effectuate such restoration.

    Clarification requested from the development team: The property owner agrees to pursue restoration of the streams located on the Property in Areas 3 and 10 on the Site Plan at page C-16, and to work with RiverLink and/or other similar organizations, **if there is a grant to do the work for stream restoration**, to effectuate such restoration. **If there is no grant to do the work, the property owner agrees to provide stream enhancements.**

21. The property owner will create and post a sign at or near the boundary of the Property and the adjoining Falconhurst Natural Area (PIN No. 9638-17-3304-00000)(the "Natural Area") informing the public as to the condition of the Natural Area and any rules and regulations which are applicable to the Natural Area. The sign characteristics and language must be approved by the City Parks and Recreation Department.

Vice-Mayor Hunt was interested in a condition that the developer commit to establishing an easement or a commitment for public access across their property along the stream to ultimately connect to the Falconhurst Natural Area.

Councilman Bothwell felt that larger lots tend to have more greenspace around the homes. He felt that by permitting more homes in a denser area, we are reducing the actual greenspace in this neighborhood.

In response to Councilman Pelly, Mr. Glines explained how the site plan might change if the developer were required to build in the RS-8 Residential Single-Family High Density District with no conditional zoning request.

In response to Councilman Davis, Mr. Glines believed that there is an additional five years left on the Army Reserve lease and he has not heard any indication that they plan on moving their facility. Councilman Smith said that when the lease is re-negotiated, the City may have an opportunity to extend this public access space down to the Smith Mill Creek Greenway.

Mr. Brian Nelson, Principal of East West Craggy, said they committed to transform this property into a neighborhood where people who care about green living will be aspired to live. They designed a low impact development that takes into consideration a careful balance of the environment, the community and the economic realities of infill developments in the City. They have worked to define plans that actually fit the land and the fabric of the community. They sent out 400 mailings to surrounding homes, held two community meetings and held numerous one-on-one meetings with neighbors. Without going through the conditional zoning process, a different development would require substantial grading and impact to the property in order to yield enough units to make it economically feasible. This project serves the community with real economic benefits - 45 new GreenBuilt homes in a market that is scare of supply. He asked that Council approve the conditional zoning request to help maintain the sensitive balance of environmental and economic factors.

Mr. David Tuch, President and Landscape Architect at Equinox, gave a brief background of Craggy Park which includes (1) zoned RS-8 Single-Family High Density District; (b) developed compact clustered development pattern to maximize open space and tree preservation; (c) utilized low impact development to reduce overall impacts to the landscape and watershed; (d) located near goods and services, including shopping, employment, recreation, transit corridor, and park land; and (e) conducted two public meetings to gain feedback from the community and neighbors. He said that their goal is to (1) provide infill development; (2) meet the City's smart growth goals; (3) create a healthy housing project; (4) utilize sustainable design techniques; (5) comply with the City's Comprehensive Plan; (6) locate near a transit line; and (7) be compatible

with surrounding development. The primary goal of low impact development is to design a development to protect or restore the natural hydrology of the site so that the overall integrity of the watershed is protected. Benefits to low impact development include (1) preserves the quality of water of downstream water bodies; (2) reduces flood occurrence; (3) reduces impervious cover as compared to traditional development; (4) maintains hydrology; and (5) preserves habitat. He pointed out specific design elements as follows: (1) innovative stormwater control measures/low impact development; (2) reduced impervious surfaces (3) green space/open space/preservation; (4) stream enhancements; (5) pedestrian oriented amenities/public access; (6) GreenBuilt homes; and (7) provides much needed housing through infill.

Mayor Manheimer opened the public hearing at 6:01 p.m.

The following individuals spoke in opposition of the conditional zoning request for various reasons, some being, but are not limited to: need to protect the natural environment and inhabitants of the natural environment; loss of green space that is critical to the quality of life of our citizens; request for a fence on the developer's property to prohibit public access to the Falconhurst Preserve; pedestrian concerns on Craggy Avenue; suggestion to decrease the number of homes allowed; development does not fit into the neighborhood unless conditional modifying the requirements are granted; increased in traffic on Craggy Avenue, which is narrow and steep, especially with Village of Haywood project approved; need for neighborhood repurposing program to help neighborhoods cope with infill development; safety concerns for young children and older adults who walk on Craggy Avenue; if the development residents are allowed to have access to the Falconhurst Preserve property, the the rest of the area should also be allowed to have that access; concern that homes abutting the Falconhurst Preserve will take advantage of that natural area; concern that developer has asked for modifications but has not offered any money to alleviate neighborhood concerns; and need for a park in the area:

Ms. Catherine Morris, resident of the Falconhurst neighborhood
Mr. Paul Olszewski, resident on Craggy Avenue
Mr. David Dvorscak, resident on Craggy Avenue
Resident at 46 Blue Ridge Avenue
Resident at 39 Blue Ridge Avenue
Ms. Monica Hall, area resident
Ms. Deidra Duffy, resident on Craggy Avenue
Mr. Michael Kohnle, resident on Craggy Avenue
Resident on Blue Ridge Avenue

In response to Councilman Smith, Mr. Mike Figura, representing Mosaic Realty, said that their target date for breaking ground on Phase I is May 5, 2015. As far as the trail, they would like to get started on that soon, but realize that this is part of the larger conservation that they are having with the community. That is why they have hired the Asheville Design Center. If the project is approved by City Council, the next step is the community design charette.

Mr. Tuch also provided the City with letters of support from RiverLink, Asheville on Bikes, Kieran Roe (who has worked in land conservation for 20 years) and WNC Green Building Council.

Mayor Manheimer closed the public hearing at 6:51 p.m.

In response to Councilman Smith, City Traffic Engineer Jeff Moore said that any conversation about closing Druid Drive would be part of a broader conversation around the Haywood Road Traffic and Parking Study.

Councilman Smith felt a Neighborhood Repurposing Program is a good idea and suggested the Neighborhood Advisory Committee (NAC) look into that suggestion. Councilman

Pelly said that the NAC is hosting a Festival of Neighborhoods on March 15, 2015, at which time they will be having workshops on how neighborhoods can more effectively address these type growth and development issues. He encouraged the neighborhood to attend.

Councilman Bothwell felt that the letters of support provided by the developer only supported elements of the project, not the actually endorsement of the entire project. He felt the City should protect the green space and neighborhood and not facilitate the developer in making as much money as possible.

Vice-Mayor Hunt felt that a different developer may not plan a project with the best interest of the neighborhood and environment in mind. He felt that there is a demand for housing and felt that infill development in the City is important to avoid urban sprawl.

Councilman Pelly felt that even if the development was reduced from 45 units, the developer would still have to put in all the improvements, i.e., stormwater, etc. He felt that how much the developer is trying to make a profit should not be a factor in this decision. We know that we don't want sprawl and there is a need for housing in the City.

Councilman Davis has seen other projects constructed by this development team and felt this will also be a quality project.

Mayor Manheimer agreed with Councilman Smith that a clarifying the process for neighborhoods and opening up communication is a good idea, and suggested that be a project for the new permanent Planning Director.

Mr. Tuch explained the clarification of Condition No. 20 request. City Council and the developer agreed that Condition No. 20 read "The property owner agrees to support restoration for the streams located on the Property in Areas 3 and 10 at page C-16, and to work with RiverLink and/or other similar organizations to effectuate such restoration; however, should such restoration not occur, the Property owner agrees to provide stream enhancements for the same area.

Vice-Mayor Hunt asked for a new condition that the developer grant an easement to the City for public access across their property along the stream to ultimately connect to the Falconhurst Natural Area, subject to acceptance by the City after the infrastructure is built out.

After discussion, City Council and the developer agreed to the following new Condition No. 23 - "The property owner will make an offer of dedication of an easement to the City for a trail beginning at Tanglewood Drive and terminating at the north end of the open space area adjacent to Lots 31 and 32 on the Site Plan, and which approximately follows the patch indicated on the Site Plan and Exhibit B-2 attached hereto. The trail will be located so as to provide the ability to connect to the Falconhurst National Area in the future. The easement area shall be 20 feet in width where available, but in no event less than 10 feet wide. The final location of the easement and design shall comply with all local, state and federal regulations and shall be subject to final approval by the City of Asheville. The offer of dedication shall be in a form acceptable to the City Attorney and shall be executed and recorded at the Buncombe County Register of Deeds on or before the issuance of building permits for infrastructure for Phase II. The City shall have no obligation to accept the offer of dedication, but should the City choose to accept, this right must be exercised within one year following the date the offer of dedication is recorded."

Councilman Davis moved to approve the conditional zoning request for Craggy Park on Louisiana Avenue and Craggy Avenue from Residential Single Family High Density District (RS-8) to Residential Single Family High Density Conditional Zoning (RS-8 CZ), with the conditions to: lot size, lot widths, setbacks and sidewalk waivers for certain areas, based on the master plan and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Infill development is encouraged in areas close to shopping, employment, recreation and near transit corridors; (2) Riparian areas will be protected in the plan as open space which is adjacent to city parkland; (3) The proposed lots are sufficiently sized for single family use; (4) The conditional rezoning request

allows flexibility for development standards which are reviewed based on specific site plans and details of the proposal. This motion was seconded by Councilwoman Wisler and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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Closed Session

At 7:22 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: City of Asheville v. Robert Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:46 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 40 COXE AVENUE FOR BUNCOMBE COUNTY'S HEALTH & HUMAN SERVICES BUILDING ADDITION AND PARKING STRUCTURE

City Attorney Currin reviewed with Council the conditional use permit hearing process, which is quasi-judicial. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the Applicant.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Interim Planner Director Alan Glines submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Glines said that Buncombe County is requesting approval of a Conditional Use Permit for an addition to the Health and Human Services Building and a new 650 space parking structure located at 40 Coxe Avenue. The application for a government use in the CBD requires that the project be reviewed as a conditional use permit following in 7-5-5 of the UDO (City Exhibit 4 - Application).

Using City Exhibit 5 (drawings, site plan, landscape plan, floor plans, building elevations and context renderings), Mr. Glines said that the site consists of a 1.91 acre parcel located on Coxe Avenue, The parcel is zoned Central Business District (CBD) and currently houses the existing 71,000 square foot Health and Human Services building (HHS) at 40 Coxe Avenue (the former Sears Building). The parcel is bordered by four streets or rights of way: Sears Alley to the north, Buncombe Street to the east, Aston Street to the south and Coxe Avenue to the west. Neighboring uses include, surface parking, a church and commercial offices, the downtown post office and the Asheville Transit Center. The site also provides surface parking for visitors and clients of the HHS building.

The proposal consists of a 69,000 square foot, 7-story addition to the existing Buncombe County HHS Building located at 40 Coxe Avenue. In addition, an 8-tier parking structure is

proposed in the center of the parcel fronting on Sears Alley and Buncombe Street. The parking structure will have two driveway connections from Sears Alley.

Sears, Roebuck & Co. opened the three-story Moderne-style brick store in 1948. The block-long building is noted for its simple stylish embellished brick banding with flat cast concrete canopies on the Coxe Avenue facade. The structure will be redeveloped with interior renovations to support the HHS expansion.

The proposal consists of a 69,000 square foot, 7-story addition with frontage on Coxe Avenue connecting to the existing structure. The design of the proposed addition is a modern interpretation of a base-middle-cap composition with subtle differences between the three zones. The base includes the first two stories of the office building and the cap reintroduces a masonry material (that is used in vertical pilasters on the building) to create a horizontal cap proportion. Coxe Avenue is a key pedestrian street, so the minimum windows, doors and openings standard is 70% fenestration which the project exceeds. The primary pedestrian entrance is provided along Coxe Avenue in compliance with development standards.

Pedestrians will access the building directly from the Coxe Avenue entrance with a secondary entrance adjacent to the garage elevator. Vehicular access to the site is from Coxe Avenue using Sears Alley as access to the parking structure. Sears Alley provides two-way movement and drivers can access Buncombe, Commerce Street and Aston Street to exit the property. There is a light at the intersection of Aston Street and Coxe Avenue. Sidewalks surround the parcel and except for the existing Aston Street sidewalk which will remain in place, all sidewalks will be improved and provide space for street trees. Bicycle parking will also be provided in the parking structure totaling 30 spaces.

The parking structure is proposed to be 8-levels providing 650 parking spaces. It will provide parking for staff and clients of the HHS building. The new construction will free up several lots along Coxe Avenue that are currently being leased for surface parking.

Landscaping required for the project is limited to street trees. These are being provided along all street frontages. The project requested alternative compliance from the Tree Commission for the spacing of street trees along Coxe Avenue which is needed to avoid the existing metal awnings on the HHS Building and for the number of street trees provided along Aston Street. The Tree Commission approved the request at their meeting on February 16, 2015. Open space is not required for downtown projects but there will be a small plaza space in front of the elevator tower.

This proposal was approved with conditions by the Technical Review Committee on July 7, 2014. The Downtown Commission reviewed the proposal at their meeting on July 11, 2014. The application also requires a quasi-judicial review by the Asheville City Council and Final TRC review.

The site is currently zoned Central Business District and Buncombe County is proposing to meet the standards of this District and the building design requirements.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. There are total of ten standards that the project must meet; seven findings are usual for all conditional use permits and three additional findings are specific to governmental uses in the Central Business District. The applicant has provided a statement on these findings which is attached to the staff report.

Staff finds that the relevant standards of the City have been met or can be met with this application. The Downtown Commission reviewed the site plan and building design and voted

unanimously to recommend approval of this conditional use permit to the Asheville City Council on July 11, 2014 (by a vote 9-0 with Councilman Davis excused from the review proceedings and vote). They also provided these recommended conditions that Buncombe County (1) strongly consider adding public restrooms; and (2) strongly consider allowing public use of the parking garage after hours. These Downtown Commission recommendations are not binding for City Council.

When Councilman Davis asked if there was any partnership opportunities for underground utilities, Mr. Glines said that that is budgeted in the Capital Improvement Plan at this time, but that would really be outside of this project in some ways.

Buncombe County Senior Staff Attorney Michael Frue asked for City Council's support of this project.

In response to Councilman Smith, Assistant County Attorney Jon Creighton said that the County does plan on having general public use of the parking deck during the day and also at night.

Mr. Creighton then spoke about how the demand for human services continues to rise and asked for Council's support.

Mr. Keith Hargrove, architect, explained the project, using Applicant Exhibit 1 (renderings of different views, materials, elevations and site plan).

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 8:12 p.m.

Mr. Byron Greiner, representing the developers on the S&W building, the Bank of America Building and the Swicegood Building, said they intended to build a luxury hotel but have now decided to put their properties on the market, due to this proposed project. They wanted to invest in Asheville, but their feeling that if this project is built at this location, it will increase the population of undesirables that we deal with everyday in terms of homeless and panhandling. He has been talking with homeless providers, Buncombe County Commissioners, some members of City Council, and Mission Hospital to locate a campus of service providers in one location, where it would be cost efficient, delivery better services, and alleviate some of the issues with Mission and the emergency rooms. They have identified a location and shared that with the Commissioners. He noted that the Downtown Commission requested that this building contain public restrooms but that is not part of their design. If this project were in a different location, there would be over $10 Million worth of property possibly back on the tax roles.

Ms. Nancy Hayes felt that a lot of people have invested in downtown and felt that allowing this building at that location will drive business out of downtown. This property is a very expensive piece of real estate and the health and human services component of the County should be located in the Innsbruck Mall.

After rebuttal, Mayor Manheimer closed the public hearing at 8:18 p.m.

Mr. Frue said that the County concurs with the statement on the findings which are attached to City Exhibit 1.

In response to Councilman Davis, Mr. Creighton said that one out of five people in our community get assistance of some sort, and their clients are not only homeless and panhandlers, but everyday working people. Out of 100,000 clients a year, the homeless population is a very small percentage of their clients.

Councilman Smith said that the City & County 10-Year Plan to End Homelessness has reduced homelessness by over 82% in the community and they are looking at getting this to zero in the near future. The transient homeless folks that come through is a whole different population. He felt his proposed building is at the epic center of the bus service. It's the best place for this especially for families in need. He said that downtown is not just for the wealthy, but for everyone.

Councilman Bothwell felt that the project is a good idea; however, felt the parking deck is a waste of downtown real estate.

Councilwoman Wisler moved to approve the conditional use permit for Buncombe County Health and Human Services building and parking garage located at 40 Coxe Avenue, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the ten conditional use permit standards as demonstrated by the applicant. This motion was seconded by Councilman Pelly and carried unanimously.

C. PUBLIC HEARING RELATIVE REZONING PROPERTY NEAR 230 HILLIARD STREET AT 99999 S. FRENCH BROAD AVENUE AND AT 99999 S. GROVE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4391 - ORDINANCE TO REZONE PROPERTY NEAR 230 HILLIARD STREET AT 99999 S. FRENCH BROAD AVENUE AND AT 99999 S. GROVE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4392 - ORDINANCE AMENDING OFFICIALLY ADOPTED MAP PERTAINING TO THE CENTRAL BUSINESS DISTRICT: MASTER PLAN CONCEPTS - CONTEXT TRANSITION EDGE AND HEIGHT ZONE MAP PERTAINING TO THE REZONING OF 226 HILLIARD AVENUE

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to rezone property near 230 Hilliard Street at 99999 S. French Broad Avenue and at 99999 S. Grove Street from RS-8 Residential Single-Family High Density District to Central Business District. This public hearing was advertised on February 14 and 21, 2015.

The site proposed for rezoning consists of two parcels with a combined area of .66 acres, located at the southwest corner of Hilliard and South French Broad Avenues. The site does not have any buildings and is landscaped. The larger parcel is split zoned Central Business District (CBD) and Residential Single-Family High Density (RS-8) with the majority of the parcel already being CBD. The smaller, interior parcel is zoned RS-8 and is .03 acre or 1300 square feet. The total area that would be re-zoned from RS-8 to CBD is approximately .11 acre (less than 5000 square feet).

The applicant is proposing a standard rezoning of two parcels to Central Business District (CBD).

This is the second standard rezoning request received by staff in this immediate location to expand the CBD along its southwest boundary. In the past year, City Council approved a rezoning request along Hilliard Avenue and including the corner of Hilliard and Asheland Avenues to the east (1.65 acres from RB and RS-8 to CBD at 226 Hilliard on June 24, 2014). In 2013, there were two other re-zonings on the east side of Asheland Avenue.

Approval of the rezoning request would require an adjustment to the Downtown Height Zones map. Similar to the previous requests along Asheland Avenue, staff proposes extending the intermediate height zone in this location, which would allow for a maximum height of 145 feet.

Additionally, the context transition edge, which is already in place in this area, would be applied along the parcel boundary adjacent to RS-8 zoning and would limit the building height allowed adjacent to that neighborhood.

As the Context Transition Zone is already in effect along this boundary, no additional review is required, but the Zone will extend farther south along a new boundary between the CBD and RS-8 if approved. Staff gave an update to the Downtown Commission on December 12, 2014. The proposal was reviewed by the Planning & Zoning Commission at their meeting on February 4, 2015, and recommended for approval by a vote of 7-0.

This site sits at the corner of Hilliard and South French Broad Avenues at the edge of the CBD with Aston Park to the west (zoned RM-8); offices and commercial uses (United Way Building) to the north (zoned CBD); commercial properties to the east (zoned CBD); and single-family residential to the south (zoned RS-8). Uses allowed in the CBD would be appropriate and compatible on this site. Design standards found in the UDO would require that any future development be pulled up towards Hilliard Avenue. While the maximum height permitted (145 feet) would be significantly greater than current RS-8 zoning (40 feet), the context transition edge would limit the height of structures within 100 feet of the neighborhood and provide a gradual scale at that property line.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating on downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

Although the area proposed for rezoning is small, rezoning it to CBD will allow a greater use of the overall larger parcel. The smaller parcel, zoned RS-8, is not large enough to build upon, thus it makes sense to rezone it and allow it to be potentially consolidated with the parcel to the north in the future.

Similarly, the *Downtown Master Plan* anticipated that growth on the edges of the Central Business District would occur. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having the potential to grow and improve following an urban development pattern.

The *Strategic Plan* includes several objectives supporting higher density infill development with investment downtown and efforts that continue to implement the *Downtown Master Plan*. If the proposed rezoning is approved, future development on the site would be allowed higher residential densities and follow strict design requirements with emphasis on the pedestrian experience which would be consistent with goals of the *Strategic Plan* pertaining to downtown vitality and overall quality of life.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- This request would clean up the zoning district lines along parcel lines. It is current practice to have zoning district boundaries follow parcel lines.
- The zoning district lines were originally drawn at a time when there was not a Context Transition Zone, and therefore there was no protection for adjacent neighborhoods.
- Expansion of the CBD is generally recommended in the *2025 Plan,* and this rezoning will allow a greater use of the land on the corner of Hilliard and South French Broad.

- Application of the context transition edge and development standards in the UDO pertaining to building placement will minimize some impact to the adjacent neighborhood with future development
- Several similar requests have been approved in this immediate location over the past year and a half.

Staff recommends approval of the proposed rezoning, finding that the request to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 8:30 p.m. and when no one spoke, she closed the public hearing at 8:30 p.m.

Mayor Manheimer said that members of Council have been previously furnished with copies of the ordinances and they would not be read.

Councilman Pelly moved to approve the zoning map amendment from RS-8 and Central Business District to Central Business District as a standard rezoning and the amendment to the height zone map and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the 2025 Plan and the Downtown Master Plan recommend CBD expansion; and (2) Design standards and the application of the context transition edge should minimize impact from future development on adjacent neighborhood. This motion was seconded by Councilman Bothwell and carried unanimously.

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D. PUBLIC HEARING TO CONSIDER A MAJOR SUBDIVISION WITH CONDITIONAL ZONING ON PROPERTY LOCATED ON WELLEN WAY FROM RS-2 RESIDENTIAL SINGLE-FAMILY LOW DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CREATION OF 7 SINGLE FAMILY LOTS AND ROADWAY TO SERVE THOSE LOTS, WITH A MODIFICATION REQUEST FOR LOT WIDTH.

Mayor Manheimer announced that the applicant has withdrawn this item from City Council's consideration.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Todd Stimson asked for City Council support of cannabis for medical use. Mayor Manheimer said that the City Council Governance Committee would review the request.

Councilman Davis was pleased to announce the Southern Conference starting on March 5-9, 2015, and encouraged the public to attend and enjoy themselves.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:38 p.m.

Magdalen Burleson
City Clerk

Esther E. Manheimer
Mayor

Tuesday – March 10, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; Acting City Manager Cathy Ball; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Davis, Consent Agenda Item "K" was removed from the Consent Agenda for discussion and/or individual vote.

At the request of Councilman Smith, Consent Agenda Item "M" was removed from the Consent Agenda for discussion and/or individual vote.

At the request of Mayor Manheimer, it was the consensus of Council to add the following resolution to the Consent Agenda: "Resolution supporting the North Carolina Historic Preservation Tax Credit Program's reinstatement in the North Carolina Tax Code."

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 24, 2015

B. RESOLUTION NO. 15-44 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH HAREN CONSTRUCTION COMPANY FOR THE NORTH FORK WATER TREATMENT PLANT DAM INTAKE TOWER & CONDUIT REPAIRS PROJECT

Summary: The consideration of a resolution that authorizes the following relative to the North Fork Water Treatment Plant Dam Intake Tower and Conduit Repairs Project (1) the City Manager to enter into a construction agreement with Haren Construction Company, Inc., for the bid amount of $1,658,000; (2) the City Manager to execute any change orders to said contract or documents which may arise during construction of said project up to the budgeted amount; and (3) a contingency amount of $165,800.

The North Fork Water Treatment Plan Dam Intake Tower and Conduit Repairs Project (Project) consists of the construction and installation of all materials, labor, incidentals, and equipment necessary to: (1) remove and replace selected metal features inside the intake tower; (2) prepare, prime and re-paint remaining metal features inside the intake tower, on the access bridge and inside the conduit; (3) install fiberglass reinforced plastic (FRP) platforms, designated stem guides, ladder with fall arrest, and appurtenant features in the intake tower; (4) miscellaneous removal of utilities from within the conduit; (5) construct two reinforced concrete bulkheads in the conduit; (6) fabricate and install a steel gate on the upstream bulkhead in the conduit; (7) replace a portion of the existing raw water line at the downstream end of the conduit; (8) install a new HDPE access pipe, PVC carrier pipe and PVC drainage pipe and appurtenant features in the existing conduit; (9) fill the annular space of the existing conduit with leveling and

cellular concrete; and (10) install a new filter diaphragm around the existing conduit at the North Fork Water Treatment Plant in Black Mountain, North Carolina.

In response to an Advertisement for Bids for the construction project on June 9, 2014, the Department received one bid. Pursuant to N.C.G.S. § 143-132, three competitive bids are required for formal construction projects. Upon rebidding the project on August 6, 2014, the Department received five (5) bids in response to the second advertisement. Since the proposed award of the contract was protested by a bidder, all bids were rejected and the project was rebid on January 8, 2015. In response to the second rebid, the Department received three bids from the following:

1. Haren Construction Company, Inc. – Etowah, TN
2. NHM Constructors, LLC – Asheville, NC
3. Crowder Construction Company – Charlotte, NC

Following a review of bids by the City's project engineers, Schnabel Engineering project and City Staff, Haren Construction Company, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of $1,658,000. If a contingency amount of $165,800 is approved, the total project budget would be $1,823,800.

Pros:
- This project will bring the intake tower and conduit up to code in preparation for construction of a new spillway.
- This project is aligned with the City and Departmental goal to provide safe and reliable service through continued investment and improvement of the City's water system through Capital Improvement Projects.

Con:
- Failure to award a construction contract would prevent the completion of this project, which is required in order to bring the intake tower and conduit up to code in preparation to construct a new spillway.

The funding needed for the construction agreement is currently allocated within the North Fork Water Treatment Dam/Tunnel Repairs Project in the Water Resources Capital Improvement Projects fund. No budget adjustment is necessary.

Staff recommends Council approval of a resolution that authorizes the following relative to the North Fork Water Treatment Plant Dam Intake Tower and Conduit Repairs Project (1) the City Manager to enter into a construction agreement with Haren Construction Company, Inc., for the bid amount of $1,658,000; (2) the City Manager to execute any change orders to said contract or documents which may arise during construction of said project up to the budgeted amount; and (3) a contingency amount of $165,800.

RESOLUTION BOOK NO. 37 - PAGE 47

C. RESOLUTION NO. 15-45 - RESOLUTION AUTHORIZING THE MAYOR AND DESIGNATED CITY STAFF TO PERFORM GRANT-RELATED ADMINISTRATIVE TASKS TO ACCESS FEDERAL TRANSIT ADMINISTRATION FUNDING

Summary: The consideration of a resolution authorizing the Mayor and designated City staff to perform grant related administrative tasks to access Federal Transit Administration (FTA) funding.

The City of Asheville became a designated recipient after the 2000 Census, because the region reached the 200,000 population threshold. The designation is defined by 49 U.S.C Section

5307 (A)(2) with the Federal Transit Administration for federal assistance authorized by 49 U.S.C chapter 53, Title 23, United States Code.

In order to access financial assistance through the FTA, the City of Asheville, as designated recipient of the French Broad River Metropolitan Region needs to perform administrative tasks for funding that comes to the region; this funding is made available through the FTA's website interface. Some of these tasks require specific officials and personnel to be accountable for. Tasks are as follows:

- Execute and file Certifications and Assurances, performed by the Mayor, the Deputy City Attorney or the City Attorney.
- Creation and submission of grants, performed by the Transportation Planning Manager or his/her designee.
- Grant execution, performed by the Mayor.

Last time a similar resolution was passed was on June 13, 2006. During the last Triennial Review conducted by FTA in 2013, the auditors recommended updating the titles of personnel that performs the grant administration tasks.

Pro:

- Performing FTA administrative tasks will allow access to transportation funding.

Con:

- The Federal Transit Administration funds partially transit operations, and some other transit related projects; the lack of compliance can put in jeopardy the funding allocated to those projects.

Though there is no direct impact, lack of compliance with FTA requirements can affect funding.

City staff recommends that City Council adopt a resolution authorizing the Mayor and city staff to perform FTA administrative tasks to access transportation funding, as listed above.

RESOLUTION BOOK NO. 37 - PAGE 49

D. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR THE ADDITION TO THE HEALTH AND HUMAN SERVICES BUILDING AND NEW 650 SPACE PARKING STRUCTURE LOCATED AT 40 COXE AVENUE

E. RESOLUTION NO. 15-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE CONVEYANCE OF REAL PROPERTY AT 880 NEW HAW CREEK ROAD FROM HAW CREEK FIRE AND RESCUE INC. FOR THE CONTINUED OPERATION OF CITY OF ASHEVILLE FIRE STATION 12

Summary: The consideration of a resolution authorizing the City Manager to accept the conveyance of real property at 880 New Haw Creek Road for the continued operation of the City of Asheville Fire Station #12.

In 1962, AR and Hazel Masters donated 0.2 acres of land (PIN# 9659953741) to Haw Creek Fire and Rescue, Inc. for the exclusive purpose of operating a fire station from the property. In 2002, an additional 0.56 acres (PIN# 9659953914) was conveyed by Edward and Julie Masters for a total site measuring 0.76 acres. Haw Creek Fire and Rescue operated out of the site until the area became part of Asheville City limits. At that point, the City extended fire service to the area, and subsequently entered into a lease agreement with Haw Creek Fire and

Rescue for use of the building and premises to operate a community fire station, known as Fire Station #12.

The lease agreement between the City and Haw Creek Fire and Rescue, Inc. has now expired and according to specific provisions of the lease, the property is to be transferred to the City. The original deed restrictions that limit the use to fire protection services will remain in place, and the City will continue to utilize the property for this purpose.

Pros:

- Donation of an existing Community Fire Station
- Fee simple ownership of fire station facilities is preferable to leaseholds, in terms of potential future capital improvements and long term maintenance of the site

Cons:

- None

No monetary consideration required for the conveyance.

Staff recommends that Council adopt the resolution authorizing the City Manager to accept the property transfer of 880 New Haw Creek Road from Haw Creek Fire and Rescue, Inc.

RESOLUTION BOOK NO. 37 - PAGE 50

F. RESOLUTION NO. 15-47 - RESOLUTION AMENDING THE 2015 CITY COUNCIL MEETING SCHEDULE TO (1) CANCEL THE CITY COUNCIL COMMUNITY MEETINGS SCHEDULED FOR THE 5TH TUESDAYS OF ANY MONTH AND INSTEAD HOLD COMMUNITY ENGAGEMENT EVENTS ON SPECIFIC TOPICS THROUGHOUT THE YEAR; (2) ADD A COMMUNITY ENGAGEMENT EVENT REGARDING SHORT TERM RENTALS ON MARCH 25, 2015, AT 5:00 P.M. IN THE US CELLULAR CENTER BANQUET HALL; (3) ADD BUDGET WORKSESSIONS ON APRIL 28, 2015, AND MAY 12, 2015, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM IN CITY HALL; (4) SCHEDULE A PUBLIC HEARING ON JUNE 9, 2015, TO CONSIDER THE FISCAL YEAR 2015-16 ANNUAL OPERATING BUDGET; AND (5) CANCEL THE DECEMBER 22, 2015, CITY COUNCIL FORMAL MEETING

RESOLUTION BOOK NO. 37 - PAGE 51

G. RESOLUTION NO. 15-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL SERVICES AGREEMENT WITH HAZEN & SAWYER FOR FAIRVIEW SERVICE AREA WATER SYSTEMS IMPROVEMENTS PHASE II

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services agreement with Hazen and Sawyer for the proposed amount of $967,500 plus a 5% contingency amount of $48,375 for a total project budget in the amount of $1,015,875 for the Fairview Service Area Water System Improvements Phase II Part 1.

The southeastern portion of the City of Asheville's (City) water system, referenced as the Fairview service area, is currently serviced with a high capacity pumping station and two major ground storage reservoirs. The South Buncombe Reservoir (5 MG) supplies suction to the South Buncombe booster pumping station, which discharges into the Concord Road reservoir (1 MG) creating the Concord Tank pressure zone. The Concord Tank reservoir pressure is reduced through a pressure reducing valve to create the Mine Hole Gap pressure zone. Formerly, the

Mine Hole Gap pressure zone was supplied by its own pumping station and reservoir. There are also several small pressure zones served by localized pump stations and ground storage tanks within these two major pressure zones.

Over time, increased growth and changes to the water system have made it more difficult to meet water capacity demands in this service area. It is the City's desire to improve capacity and delivery methods for the service area. Also, lower areas within these pressure zones, particularly along the Cane Creek Road corridor, experience operating pressures in excess of what is required or desirable. Investigating options for pressure reduction strategies in the Fairview Service area will be another component of this study.

In January of 2013, the Water Resources Department (Department) issued a Request for Qualifications (RFQ) for Engineering Services related to the project. The RFQ specified that the project would be divided into two phases and completed by the same engineering firm. In response to that RFQ, the department received ten (10) proposals. A review team, comprised of Department staff reviewed these proposals and recommended the firm Hazen and Sawyer.

The overall water system improvement initiative was subdivided into two phases. The scope of the first phase included existing facility investigations, hydraulic modeling, development of design alternatives with preliminary engineering and cost analysis. On May 14, 2013, Council approved a resolution to award an Engineering Services Contract for Phase I of the project to Hazen and Sawyer in the amount of $95,700. A contingency amount of $9,570 was added for a total project budget in the amount of $105,270.

Hazen and Sawyer successfully completed Phase I of the project and Department staff selected the design alternative to best address an array of water issues in the Fairview Service Area. The selected alternative will result in the construction of a series capital improvement projects. It is anticipated that these series of capital improvement projects will be constructed in three parts over an 8 year period with a total estimated design and construction cost of $17.6 million. Part 1 consists of a new Booster Pumping Station, a new 0.5 Million Gallon Water Storage Reservoir and 4 pressure reducing valve stations. Part 2 will consist of a new 3 mile section of 12 inch water transmission main along Hwy 74-A . Part 3 will consist of 5 miles of new 12 inch water transmission main along Cane Creek Rd and Lower Christ School Road.

This proposed professional services agreement is for the full engineering survey and design, property acquisition, permitting and contract administration work for part 1 of the capital improvements. The preliminary opinion of cost for part 1 of the capital improvements is $3,250,000 with a construction completion date of June 2017. Department staff met with Hazen and Sawyer and negotiated an Engineering Services Contract for Phase II Part 1 of the project in the amount of $967,500 plus a 5% contingency amount of $48,375 for a total project budget in the amount of $1,015,875.

Pros:

- This project will improve water capacity and delivery methods for the Fairview Service Area.
- Reliability of water delivery will be improved with an additional connection to the distribution system from a different portion of the distribution network.
- This project will also lead to strategies targeting areas of low and high pressures in the service area.

Con:

- None.

The funding needed for the professional services agreement is currently allocated within the Fairview Service Area Waterline Improvements Project in the Water Resources Capital Improvement Projects fund. No budget adjustment is necessary for the professional services agreement.

Amount Available in Fairview Service Area WL Project	$2,544,730.00
Amount Needed for Hazen and Sawyer Engineering Contract	$1,015,875.00
Amount Remaining in Fairview Service Area WL Project	$1,528,855.00

The amount remaining in the Fairview Service Area Waterline Improvements Project will be saved for the construction portion of the project, which is estimated at $12 million over the next eight years. The WRD is in consultation with the Finance Department to determine if the cost of this project can be added to the 2017 Revenue Bond issue, along with the $40 million North Fork WTP Dam/Spillway Upgrade Project for a total issue of $52 million. A requested reimbursement resolution would allow some expenditures to be recovered retroactively.

Staff recommends City approval of a resolution to (1) authorize the City Manager to enter into a professional services agreement with Hazen and Sawyer for the proposed amount of $967,500; (2) approve a 5% contingency amount of $48,375 for a total project budget in the amount of $1,015,875 for the Fairview Service Area Water System Improvements Phase II Part I; and (3) authorize the City Manager to execute any change orders arising during the project up to the project budget amount.

RESOLUTION BOOK NO. 37 - PAGE 52

H. RESOLUTION NO. 15-49 - RESOLUTION AUTHORIZING THE STANDARDIZATION OF CITY OF ASHEVILLE PURCHASES WITH MUELLER SYSTEMS LLC FOR THE 5/8" RESIDENTIAL WATER METERS FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

Summary: The consideration of a resolution authorizing the standardization of City of Asheville purchases with Mueller Systems, LLC, for the 5/8" Residential Water Meter for consistency in operation and functionality.

The Water Resources Department (Department) has been utilizing the Mueller Systems 5/8" residential water meter throughout the entire water system since 2009. As the time draws near to request updated bids for water meters, the Department would like to continue to use the Mueller Systems 5/8" residential water meter. By continuing to use the Mueller Systems 5/8" residential water meter, the Department will (a) ensure compatibility with the existing system of meters and the Mueller Systems Automated Meter Reading (AMR) devices, and (b) reduce costs to maintain, repair, and test meters. The Department has been able to purchase meters with the AMR device factory-attached, avoiding in-field splices which could create problems. In the past, Mueller Systems has offered a 2% discount on invoices if paid in a timely manner.

If approved, the City's authorization for standardization shall be effective for up to 5 fiscal years (FY '19). At that point, the matter would be re-visited to determine if authorization to standardize should continue or if it should be released.

Pros:

- Standardization of the Mueller Systems 5/8" residential water meter will ensure consistency with training and equipment used.
- Standardization will ensure compatibility with the Mueller Systems AMR devices. The AMR project cost the department approximately $8.3 million, so it is in the City's best interest that the meter be compatible with the AMR system.

Con:

- If standardization is not authorized and a bid for water meters is issued, the lowest bidder may not be Mueller Systems. The Department would then have to order a complete new

inventory of residential water meters, retraining of staff on the new equipment, and potential compatibility issues with the Mueller Systems AMR system.

The Department budgets for the purchase of water meters in the Meter Services annual operating budget. Standardizing the Mueller Systems 5/8" residential water meters will not change how their procurement is budgeted.

Staff recommends Council adopt a resolution authorizing the standardization of City purchases with Mueller Systems, LLC, for the 5/8" Residential Water Meter for consistency in operation and functionality.

RESOLUTION BOOK NO. 37 - PAGE 53

I. ORDINANCE NO. 4393 - ORDINANCE AMENDING SECTION 1-5 OF THE CODE OF ORDINANCES REGARDING CHANGES TO NOTICE REQUIREMENTS FOR ALL CIVIL PENALTIES

Summary: The consideration of amending Section 1-5 of the Asheville City Code.

1. City of Asheville Code Section 1-5

Section 1-5 of the City of Asheville Code of Ordinances (Ordinance number 2585), is entitled "General penalty; civil remedies; enforcement of ordinances; continuing violations." Subsections (j) and (k) in part read as follows:

(j) Upon determination of a violation of any section of this Code, the penalty for which is a civil penalty, **the city shall cause a warning citation to be issued to the violator** ... **The warning citation shall specify that a second citation shall incur a civil penalty.**

(k) **Upon failure of the violator to obey the warning citation, a civil citation shall be issued** by the appropriate official of the city and either served directly on the violator ....

(emphasis added)

2. City of Asheville Ordinances Assessing Civil Penalties

The City's authority to assess civil penalties to enforce its ordinances is found in N.C. Gen. Stat. § 160A-175(c). That statute reads:

> (c) An ordinance may provide that violation shall subject the offender to a civil penalty to be recovered by the city in a civil action in the nature of debt if the offender does not pay the penalty within a prescribed period of time after he has been cited for violation of the ordinance.

There are many ordinances in Asheville's City Code that subject violators to a civil penalty. Currently, pursuant to Section 1-5(j) and (k), before assessing any civil penalty for a violation of any City ordinance, the violator must be issued a "warning citation." This section is both ineffective and problematic for several reasons, including but not limited to:

1. Many of the City's ordinances that subject offenders to civil penalties independently require a warning citation or notice prior to assessing a civil penalty. (See, e.g., Sections 7-18-3 and 16-3(e)); and

2. The enforcement of other ordinances is hindered by the notice requirement of Section 1-5. For example, Section 19-143(c) makes it illegal to park a vehicle along a street or

alley in the Central Business District, unless there is a marking that designates that parking is specifically allowed within an area in the CBD. A violation of Section 19-143(c) subjects the offender to a $10.00 penalty. Pursuant to Section 1-5, before assessing a civil penalty for illegally parking in the CBD, the violator must first be issued a warning citation. This procedure hinders the City's ability to properly enforce illegal parking in the CBD. The same result occurs with overtime parking at metered or nonmetered spaces, handicapped parking violations, safety equipment at skateboard parks, violations regarding pushcarts, outdoor dining areas and outdoor merchandise areas, animal control violations and noise violations.

3. The Transportation Department has also expressed concern with Section 1-5, as they must be able to issue parking tickets for overtime parking without first issuing a warning citation. With the proposed amendment, Staff will still be able to issue warning citations in their discretion, however, it will no longer be a mandatory requirement.

Based on all of the above, amending Section 1-5 to remove the requirement for a warning citation is in the City's best interest. Staff presented the proposed amended ordinance to the Public Safety Committee on February 23, 2015, and the Committee unanimously agreed to recommend approval of the amended ordinance to City Council.

Pros:

- Removes repetitive and unnecessary notice requirements prior to assessing civil penalties.
- Improves enforcement of ordinances.
- Complies with the authority granted in N.C. Gen. Stat. § 160A-175.
- Clarifies ambiguities.

Con:

- None noted.

There is no known fiscal impact associated with this amendment.

City staff recommends City Council adopt the ordinance amending Section 1-5.

ORDINANCE BOOK NO. 29 - PAGE 393

J. ORDINANCE NO. 4394 - BUDGET AMENDMENT TO MOVE FUNDING FOR THE DESIGN OF THE CRAVEN STREET GREENWAY PAVILION

Summary: The consideration of a technical capital project budget amendment in the amount of $16,070 to move funding for the design of the Craven Street Greenway pavilion from the General Fund to the Craven Street Project in the General Capital Projects Fund.

Additional design is required to accommodate a pavilion at the trailhead of the Craven Street Greenway. The design contract is with Equinox Environmental. The construction will be funded by the Tourism, Product Development Fund grant.

This component of the Craven Street capital project was not included in the adopted budget for the project. Staff initially planned to fund the design by utilizing existing funds within the Economic Development Department's Fiscal Year 2014-15 General Fund budget. In order to provide more accurate fixed asset accounting, Finance Department staff is recommending that the expense instead be charged to the Craven Street capital project. In order to accomplish this, the Craven Street capital project budget must be increased by $16,070. The amendment is funded by a transfer from the General Fund to the General Capital Projects Fund.

Pros:

- Provides budget authorization for project expenses.

- Conforms the City's financial records with generally accepted accounting and reporting standards.

Con:

- None.

There is no net fiscal impact to this budget amendment. Budget is simply being transferred from one fund to another.

City staff recommends City Council adopt the technical capital project budget amendment in the amount of $16,070 to move funding for the design of the Craven Street Greenway pavilion from the General Fund to the Craven Street Project in the General Capital Projects Fund.

ORDINANCE BOOK NO. 29 - PAGE 395

K. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DONATION AGREEMENT WITH THE 26TH NORTH CAROLINA FOR THE RESTORATION OF THE VANCE MONUMENT. AND TO ACCEPT THE PROJECT UPON SATISFACTORY COMPLETION OF THE RESTORATION

This item was removed from the Consent Agenda for discussion and/or an individual vote.

L. ORDINANCE NO. 4395 - ORDINANCE AMENDING THE 2014 FEES & CHARGES MANUAL FOR FEE ADJUSTMENTS AT THE ASTON PARK TENNIS CENTER

Summary: The consideration of an ordinance amending the Fees & Charges Manual for proposed fee adjustments at the Aston Park Tennis Center (Tennis Center) for the Fiscal Year 2014-2015.

The major types of revenue available to North Carolina counties and municipalities are local taxes (including property taxes); local fees, charges and assessments; and intergovernmental and miscellaneous revenue. Municipalities have increasingly looked for appropriate opportunities to implement local fees and charges in order to align service provision directly with payment; therefore, the person or entity receiving the benefit of a service pays for the service.

A study of the Tennis Center's operations, completed by City staff, reviewed opportunities to reduce the level of subsidy. The study included a public engagement process with Tennis Center users that was conducted during the summer of 2014 and fee proposals were shared.

In a concurrent process, the City engaged Matrix Consulting Group (consultants) to conduct a Cost of Services Study (User) Fee Study (Cost of Services Study) for the Parks & Recreation Department. The consultants reviewed direct and indirect costs of providing fee-based recreation services. The Tennis Center was included as a component of the study.

Based on the results of the Cost of Services Study and staff analysis, staff recommends amending the current fees at the Tennis Center effective immediately, in order for staff to implement the change prior to the Tennis Center's opening on April 1, 2015. Amending the general user fees will help reduce the level of operational subsidy at the Tennis Center, in accordance with direction provided by the Finance Committee.

Proposed FY 2014-15 Fee Amendment:

1. *Changes to Aston Park Tennis Center pass holder fees.* If approved, the staff recommended changes to pass holder fees at the Aston Park Tennis Center would generate additional revenue as summarized below.

Fund	Projected Range of Additional Revenue
General Fund	$14,668 -- $43,125

The proposed FY 2014-15 fee adjustments were reviewed by the Council Finance Committee on February 24, 2015.

Pros:

- Provides additional revenue to help balance the FY 2014-15 budget.
- Provides staff with time to begin communicating and implement fee changes to citizens, customers and stakeholders in advance of the April 1, 2015 opening of the Aston Park Tennis Center.

Con:

- None

The following are fiscal impacts: (1) Recreation best practices show that tennis facilities of this type shift a greater burden of the costs from the taxpayer subsidy to the individual users. The current Tennis Center subsidy is approximately $150,000 annually. The goal of fee increase is to enhance revenues with an end goal of reducing the subsidy to $70,000 annually. (2) The proposed set of fee increases is projected to cut the level of subsidy by at least 18% in FY 2015/16; (3) The proposed fee increase is the first phase in a 3-year step up fee proposal; and (4) The anticipated General Fund subsidy for the Tennis Center in FY 2015-16 is projected at $135,332 based on revenue enhancements alone. Further reductions in the subsidy may be realized through operational changes impacting expenses.

Staff recommends that Council adopt the ordinance amending the Fees & Charges Manual for proposed fee adjustments at the Aston Park Tennis Center (Tennis Center) for the Fiscal Year 2014-2015.

ORDINANCE BOOK NO. 29 - PAGE 397

M. ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES TO REGULATE E-CIGARETTES TO THE SAME EXTENT AS TRADITIONAL LIGHTED CIGARETTES

This item was removed from the Consent Agenda for discussion and/or an individual vote.

N. RESOLUTION NO. 15-51 - RESOLUTION SUPPORTING THE NORTH CAROLINA HISTORIC PRESERVATION TAX CREDIT PROGRAM'S REINSTATEMENT IN THE NORTH CAROLINA TAX CODE

Summary: The City of Asheville supports the reinstatement of the North Carolina Historic preservation Tax Credit Program back into the North Carolina Tax Code as a tool to spur economic recovery in our community.

RESOLUTION BOOK NO. 37 - PAGE 55

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Items "K" and "M", and the addition of Consent Agenda Item "N". This motion was seconded by Councilwoman Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

K. RESOLUTION NO. 15-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A DONATION AGREEMENT WITH THE 26TH NORTH CAROLINA FOR THE RESTORATION OF THE VANCE MONUMENT. AND TO ACCEPT THE PROJECT UPON SATISFACTORY COMPLETION OF THE RESTORATION

Summary: The consideration of a resolution authorizing the City Manager to enter into a donation of services agreement with the 26th North Carolina (26th) for the restoration of the Vance Monument; and for staff to accept the project upon satisfactory completion of the restoration.

The Vance Monument, constructed in 1897 at the west end of Pack Square Park, commemorates the life of Zebulon B. Vance, Governor of North Carolina during the Civil War, and U.S. Senator from North Carolina.

In 2008, the City of Asheville (City) conducted a condition report of its public art collection that includes the Vance Monument. The report found the monument and its associated plaques and fence to be in fair to poor condition with deterioration in mortar joints, corrosion, deteriorated paint, and over all dirty and stained.

In 2012, the 26th North Carolina entered into an agreement with the City to adopt the Vance Monument as a preservation project in which the 26th was authorized to raise the funds to support the cost of restoration. In 2014, the 26th accomplished its fundraising goal of $115,000 to support the project.

As cited on its website, 26nc.org., the 26th is a non-profit organization designed to commemorate the lives of North Carolina soldiers and civilians during the period of the American Civil War; and to support the preservation of land, places and structures that played a role in that historic time period.

During the project, the 26th will (a) serve as the project manager, (b) retain all funds and assume liability for the project, and (c) contract with Kestrel Construction for project management, and with Karkadoulias Bronze Art for the actual restoration of the monument. The scope of the restoration includes 1) clean granite, replace all deteriorated chalk and repoint, 2) repair and clean all bronze plaques, 3) clean and paint the iron fence surrounding the monument.

The City, which will serve as the project administrator and provide oversight, will contribute $11,000 to the overall project cost, prepare the site for work, repair the wrought iron fence, and remove, preserve and replace the existing time capsule located in the base of the monument.

The project work will occur in April 2015 and is anticipated to take three to four weeks to complete. During that time, a construction fence will surround the base of the monument, and scaffolding will extend to the full height of the monument. A rededication ceremony is anticipated to be held by the 26th following the completion of work on May 16, 2015.

The City's Community and Economic Development Department is responsible for the overall management of the City's Public Art Program. The Parks and Recreation Department is responsible for the maintenance and repair of the public art collection.

Pro:

- Assist the city in accomplishing the restoration of the most prominent and highly valued historic landmark in downtown Asheville.

Con:

- None

The Vance Monument restoration will not increase the City's annual operating budget. Funds for future maintenance of the monument will be available in the Public Art and Maintenance Budget.

Staff recommends that Council adopt a resolution authorizing the City Manager to enter into a donation of services agreement with the 26th North Carolina for the restoration of the Vance Monument, and to accept the project upon the satisfactory completion of the restoration valued at $115,000.

Assistant Park and Recreation Director Debbie Ivester said that the Vance Monument is part of the City of Asheville's public art collection. In 2008, the City conducted a condition assessment on the monument which revealed a significant amount of corrosion, failing mortar joints, corroded markers, and over all dirt and stain. The 26th North Carolina has made a generous donation to the City of Asheville to make restoration possible. Even though the City of Asheville is contributing $11,000, the credit really goes to the 26th North Carolina for their $115,000 donation. The restoration will be conducted by a professional conservator following the guidelines of the American Institute for Conservation.

Mr. Chris Roberts, representing the 26th North Carolina, said that during the restoration, the monument will be enclosed in a construction fence, and encased to its full height in scaffolding. The restoration will involve meticulous repair of mortar joints and sealant, followed by an overall cleaning of the monument and the bronze plaques. The final touch will be to repair and paint the wrought iron fence surrounding the monument. He looked forward to the opportunity of restoring the monument and restoring the story behind the lifespan of the monument.

On behalf of City Council, Councilman Davis appreciated the work of the 26th North Carolina.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Davis moved for the adoption of Resolution No. 15-50. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 54

M. ORDINANCE NO. 4396 - ORDINANCE AMENDING CHAPTER 11 OF THE CODE OF ORDINANCES TO REGULATE E-CIGARETTES TO THE SAME EXTENT AS TRADITIONAL LIGHTED CIGARETTES

Summary: The consideration of an ordinance amending Chapter 11 of the Code of Ordinances to regulate e-cigarettes to the same extent as traditional lighted cigarettes.

The use of e-cigarettes, a noncombustible product that employs a mechanical heating element, battery, or electronic circuit regardless of shape or size and that can be used to heat a liquid nicotine solution contained in a vapor cartridge, continues to gain popularity among

traditional cigarette smokers. Following a number of complaints from riders of the City's transit buses, pertaining to secondhand exposure to vapors released from e-cigarettes, the City's Transit Committee asked that the City's Smoking Ordinance be amended to include e-cigarettes.

Since e-cigarettes are not lighted tobacco products, they cannot be regulated the same as traditional cigarettes under Chapter 130A of the North Carolina General Statutes. Research revealed that the Federal Government and North Carolina State Government were both considering legislation to regulate the use of e-cigarettes, and perhaps totally pre-empt local regulation. Although the Federal Drug and Food Administration and the State of North Carolina have enacted rules/legislation respectively, regulating the sale and distribution of e-cigarettes to minors, neither pre-empts local regulation. According to the School of Government, the City may (and many North Carolina cities and counties have), adopt an ordinance regulating the use of e-cigarettes under Chapter 160A-174 of the North Carolina General Statutes, known as the "Police Powers." Chapter 160A-174 allows the City to define, regulate, prohibit, or abate acts, omissions, or conditions detrimental to the health, safety or welfare of citizens.

While the long term health effects of exposure to 2nd hand vapors emitted from e-cigarettes are unknown, according to a Study conducted by the Federal Drug and Food Administration, on 2 leading e-cigarette brands, there was evidence of toxic chemicals in both. Critics point to studies revealing that exhaling vapors from e-cigarettes releases measurable amounts of carcinogens and toxins into the air. Finally, in the last six months, there have been battery explosions either during charging of the e-cigarette or while in use.

The proposed ordinance prohibits the use of e-cigarettes to the same extent as traditional lighted cigarettes with enforcement being the same as traditional lighted cigarettes.

The proposed ordinance was presented to the Transit Committee on February 3, the Public Safety Committee on February 23 and the Multi-Modal Commission on February 25, with all three bodies unanimously approving and recommending placement on City Council's agenda for adoption.

Pro:

- Allows for the regulation and enforcement of e-cigarettes the same as traditional lighted cigarettes

Con:

- Require additional signage to be placed alongside the current "No Smoking" signs

Potential fiscal impacts, such as the addition of signage, are expected to be minimal.

Staff requests that City Council adopt the amended ordinance to regulate e-cigarettes to the same extent as traditional lighted cigarettes.

Councilman Smith asked to hear the Public Safety Committee's process and deliberations. Councilman Pelly, member of the Public Safety Committee, said that staff expressed concern that in our public facilities we do not allow smoking, and there are concerns that the health effects of e-cigarettes are unknown at this time. To err on the side of caution, the Committee felt it was appropriate to regulate e-cigarettes to the same extent as traditional lighted cigarettes.

Councilman Davis noted that this would regulate e-cigarettes, as traditional lighted cigarettes, in City property controlled by the City of Asheville, i.e., City parks, buses, Transit Center, etc.

Councilman Bothwell said that the FDA is still waiting to make a determination. Their concern is there are approximately 250 different e-cigarette devices available and there is no consistency on what is in them. Some don't cause the kind of second hand pollution that lighted

cigarettes are known to cause, but others may cause that. He felt the same rules should apply to e-cigarettes as lighted cigarettes until we know something different.

Deputy City Attorney Martha McGlohon provided the Council with an amended ordinance, which revised the definition of e-cigarettes. She thanked Ms. Karen Collins with the N.C. Dept. of Health and Human Services for her assistance with the revised definition.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Bothwell moved for the adoption of Ordinance No. 4396. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 29 - PAGE 399

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A MULTI-FAMILY APARTMENT DEVELOPMENT, WITH CONDITIONS REGARDING ACCESS AND LOT FRONTAGE

At the applicant's request, Councilman Smith moved to continue this public hearing until May 12, 2015. This motion was seconded by Councilman Bothwell and carried unanimously.

B. PUBLIC HEARING TO CONSIDER A REQUEST FOR A CONDITIONAL ZONING FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR A NINE-LOT MAJOR SUBDIVISION LOCATED OFF OF SHELBURNE DRIVE

At staff's request, Councilman Bothwell moved to continue this public hearing until March 24, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONFIRMATION OF ASHEVILLE CITY BOARD OF EDUCATION INTERVIEWEES

Vice-Mayor Hunt said that the terms of Jacquelyn Hallum and Precious Folston, as Asheville City Board of Education members, expire on April 1, 2015.

The following individuals have applied for a vacancy on the Asheville City Board of Education: Joanna Best, John S. Brigham, Martha L. Geitner, Elizabeth Hampton Jones, James "Drew" Shelfer, Melissa Sites, Greg Walker Wilson, Verita Brown Woods, Shaunda Sandford, James E. Lee III, Maceo Z. Keeling, Kate Fisher, Steve Dykes and Erica Englesman Rawls.

Ms. Sites did not submit responses to essay questions, therefore, she will not be considered for appointment.

After reviewing all applications and essay questions, and after speaking highly of all applicants who applied, Joanna Best received 4 votes; John Brigham received no votes; Steve Dykes received 7 votes; Kate Fisher received 2 votes; Martha Geitner received 4 votes; Elizabeth Hampton Jones received 2 votes; Maceo Keeling received 1 vote; James Lee received 6 votes; Erica Englesman Rawls received 1 vote; Shaunda Sandford received 6 votes; Drew Shelfer received no votes; Greg Walker Wilson received 7 votes; and Verita Brown Woods received 2 votes.

Therefore, it was the consensus of Council to interview Joanna Best, Steve Dykes, Martha L. Geitner, James Lee, Shaunda Sandford and Greg Walker Wilson. Those interviews will be held in the afternoon of March 24, 2015, with appointments being made later that evening in the formal session. Both appointments will be effective April 1, 2015.

Vice-Mayor Hunt explained how the background check process will work for those candidates selected for interviews, noting that the results will not be public record.

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the HUB Community Economic Development Alliance, it was the consensus of the Commission to re-advertise, since only two applicants responded to the two seats available: Kendra Penland and Ted Figura.

RESOLUTION NO. 15-52 - RESOLUTION APPOINTING MEMBERS TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Ms. Jan Goffney and Mr. Al Whitesides have resigned from the African American Heritage Commission, thus leaving two unexpired terms - July 1, 2017, and July 1, 2016.

The following individuals have applied for a vacancy on the African American Heritage Commission: Mychal Bacoate, Jesse Junior, Georgia Shannon, Daniel Jonas Young, Viola Spells, Damita Jo Wilder, Willie Cameron Jr. DeWayne Barton, Tiffany DE'Bellott and Alberta Williams.

The African American Heritage Commission recommended, and the Boards & Commission Committee concurred, to recommend appointing DeWayne Barton and Viola Spells.

Councilman Pelly moved to (1) appoint DeWayne Barton to serve the unexpired term of Ms. Goffney, term to expire July 1, 2017, or until his successor has been appointed; and (2) appoint Viola Spells to serve the unexpired term of Mr. Whitesides, term to expire July 1, 2016, or until her successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 56

RESOLUTION NO. 15-53 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Mr. Victor Palomino has resigned from the Public Art & Cultural Commission, thus leaving an unexpired term until June 30, 2017.

The following individuals have applied for a vacancy on the Commission: Jay Miller, Nancy S. Long and Irene Morris.

The Public Art & Cultural Commission recommended, and the Boards & Commission Committee concurred, in appointing Dr. Jay Miller.

Councilman Smith moved to appoint Jay Miller to serve the unexpired term of Mr. Palomino, term to expire June 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 57

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Chef Good and Chef Liam urged City Council to ask candidates for the Asheville City Board of Education about how they feel about changing the child nutrition to healthy foods in City schools.

Closed Session

At 5:30 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(e). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 5:43 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 5:43 p.m.

Magdalen Bowlson
CITY CLERK

Edwin C. Manheimer
MAYOR

Tuesday – March 24, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 6, 2015, AS "TARTAN DAY" IN THE CITY OF ASHEVILLE

Mayor Manheimer read the proclamation proclaiming April 6, 2015, as "Tartan Day" in the City of Asheville. She presented the proclamation to Mr. Judson Lohr, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

At the request of Councilman Smith, Consent Agenda Items "E" was removed from the Consent Agenda for discussion and/or individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 10, 2015

B. MOTION TO REQUEST THE BUNCOMBE COUNTY BOARD OF ELECTIONS TO ARRANGE FOUR ADDITIONAL EARLY VOTING SITES (ONE EACH IN NORTH, SOUTH, EAST AND WEST SECTIONS OF ASHEVILLE) THE ONE WEEK (INCLUDING SATURDAY) IMMEDIATELY PRECEDING THE 2015 CITY COUNCIL GENERAL ELECTIONS

Summary: The Buncombe County Board of Elections has asked if the City of Asheville will be requesting remote additional early voting sites for the General election on November 3, 2015. There are 37 normal polling places for City Council elections - during the primary and the general elections. The City must notify the Board of Elections 30-45 days prior to the election if they would like to have more remote sites, in order for them to submit a plan of implementation to the State Board of Elections for approval. The City can let the Board of Elections know what locations they would like for a remote site; however, the Board of Elections will ultimately have to find a suitable site in that area.

In 2013, City Council approved four additional early voting sites (one each in the North, South, East and West sections of Asheville, preferably at a library or community center) the one week (including Saturday) immediately preceding the City Council general election. The cost for those additional sites was approximately $20,000. In 2013, 2,453 people voted in the four additional early voting locations.

If City Council chooses to move forward with the additional early voting sites, the Budget staff will include that amount in the City Manager's recommended budget which will be considered by City Council in May.

At the March 10, 2015, Governance Committee meeting, the Committee recommended the City move forward with requesting the four additional early voting sites, with suggestions that the East location be in the East Asheville Community Center, and if a different location is necessary for the Election Services Office, that the Stephens-Lee Community Center or the Senior Opportunity Center sites be considered.

C. RESOLUTION NO. 15-54 - RESOLUTION ACCEPTING AYR COURT AND AN EXTENSION OF QUAIL HOLLOW DRIVE AS CITY- MAINTAINED STREETS

Summary: The consideration of a resolution to accept Ayr Court and an extension of Quail Hollow Drive as city-maintained streets.

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on November 10, 2014 asking the City to accept the subject streets as city-maintained streets.

Ayr Court from Quail Hollow Drive to its dead-end is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.05 mile, and a right-of-way width of 45 feet.

Quail Hollow Drive (extension) from its dead-end to Quail Hollow Drive is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.10 mile, and a right-of-way width of 45 feet.

Transportation Department staff, Fire Department staff, and Public Works Department staff inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the streets.
- The streets provide access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the streets.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the streets.

Staff recommends that City Council accept Ayr Court and an extension of Quail Hollow Drive as city-maintained streets.

RESOLUTION BOOK NO. 37 - PAGE 58

D. RESOLUTION NO. 15-55 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO PROVIDE A SECTION 5307 CAPITAL GRANT TO BE

USED FOR THE STATE MATCH TO PURCHASE A COMPRESSED NATURAL GAS REPLACEMENT BUS FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to provide a Section 5307 Capital Grant to be used for the State match to purchase one Compressed Natural Gas replacement bus for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with Federal funds.

The estimated total cost of the subject project is $148,600. Federal funds will provide $115,976 covered with grant NC-90-X439; this grant requires a match of $28,994, $14,103 provided by NCDOT and the remaining $18,521 provided by Henderson County. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. The bus has already been ordered, but confirmation from the state's participation came recently.

Pros:

- The CNG bus will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides approximately $115,976 of the total estimated project cost.
- Henderson County provides $18,521 of the total estimated project cost and NCDOT provides the remaining $14,103.
- There is no cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $148,600, with $115,976 coming from Federal funds, $18,521 coming from Henderson County and $14,103 from the NCDOT. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation in the amount of $14,103, as State match to purchase one CNG bus.

RESOLUTION BOOK NO. 37 - PAGE 60

E. RESOLUTION ADOPTING THE 2015-16 CITY COUNCIL STRATEGIC OPERATING PLAN

This item was removed from the Consent Agenda for discussion and/or an individual vote.

F. RESOLUTION NO. 15-57 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE A PORTION OF BRADLEY STREET AND SETTING A PUBLIC HEARING ON APRIL 28, 2015

Summary: The consideration of a resolution of intent to permanently close a portion of Bradley Street and setting a public hearing on April 28, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Sandra Alexander of 8 Moore Avenue Megan and John Griffin of 430 State Street, Jay Fiano – multiple properties adjacent to the closure area, Aaron Marmaret and B. J. Harden Jones of 147 Bradley Street, have requested the City of Asheville to permanently close a portion of Bradley Street. A copy of this resolution of intent shall be sent by registered or certified mail to all owner of this property abutting this alley, not joining in the petition to close.

The Multimodal Transportation Commission met on February 13, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close a portion of Bradley Street and set a public hearing on April 28, 2015.

RESOLUTION BOOK NO. 37 - PAGE 65

G. ORDINANCE NO. 4397 - TECHNICAL BUDGET AMENDMENT TO PARTIALLY FUND THE CONTRACT WITH HYLAND SOFTWARE AND OTHER SUPPLIERS FOR THE INTEGRATED DOCUMENT MANAGEMENT SOFTWARE REPLACEMENT PROJECT

Summary: The consideration of a technical budget amendment in the amount of $32,750 to move available budget from the City's General Capital Projects Fund to the General Fund to partially fund the contract with Hyland Software and other suppliers for the Integrated Document Management Software Replacement Project.

In 2012, the City of Asheville entered into a contract with Sire Technologies to implement a document management system including the conversion of more than two million records from a legacy software system. In late 2012, Sire Technologies was acquired by Hyland Software. Since that time, Hyland has announced that Sire Technologies will no longer be developed and is now in end-of-life status. However, Hyland has offered existing customers the opportunity to migrate to primary document management product, OnBase. At this point, Sire is actively being used by multiple City departments including Police, Fire, Legal, Water, and Public Works. Plans are underway to expand use within Police as well as to move Human Resources records from paper to digital.

The project will provide an integrated software system that will support City staff

throughout the organization in the appropriate use, storage, retrieval, archiving, and potential disposal of documents following defined business rules and state regulations in a manner that takes advantage of best practices and improves the efficient use of documents and related information resources.

Funding for the original implementation of the document management system, including the contract with Sire Technologies, was budgeted in the City's General Capital Projects Fund. There is currently $32,750 remaining in that project budget which staff intends to utilize to partially fund the contract with Hyland Software. A technical budget amendment is needed to move this budget from the General Capital Projects Fund to the General Fund. The remainder of the funding for the contract with Hyland will come from the existing Information Technology Services Department's General Fund budget.

Pros:

- Replaces a system that has reached its end of life
- Enhances ability to streamline and eliminate paper-based processes
- Provides secure, long-term digital storage and retrieval of critical documents throughout the organization, including the conversion of more than 2 million existing documents
- Improves quality and accessibility of information for decision support and business planning.

Con:

- Any software implementation causes some degree of organizational turbulence during implementation

As outlined above, the technical budget amendment is only needed to move budget from one fund to another. Otherwise, this project is fully funded with existing resources.

City staff recommends City Council adopt a technical budget amendment in the amount of $32,750 to move available budget from the City's General Capital Projects Fund to the General Fund to partially fund the contract with Hyland Software and other suppliers for the Integrated Document Management Software Replacement Project.

ORDINANCE BOOK NO. 29 - PAGE 402

H. ORDINANCE NO. 4398 - BUDGET AMENDMENT FOR LEGAL FEES ASSOCIATED WITH CIVIL SERVICE BOARD GRIEVANCE HEARINGS

Summary: The consideration of a budget amendment in the amount of $45,018 from unassigned fund balance to appropriate funding for outside legal services for grievance related matters that have exceeded the initial budget for the Civil Service Board (CSB).

The Civil Service Act, as amended on August 3, 2009 by the General Assembly, requires the City of Asheville (City) to provide and pay for independent legal counsel to the Board for the purpose of advising the board during or in connection with grievance hearings. The Human Resources Department's Fiscal Year 2014-15 adopted budget included a total of $20,000 in funding for third party legal services relative to non-grievance and grievance related items handled by the CSB. Historically, the $20,000 allocation for third party legal services has been adequate to cover items that are grievance and non-grievance related. As a result of increased grievance activity in the current fiscal year, expenses for Civil Service Board legal services have already exceeded the appropriation by a total of $25,017.25. Staff estimates that an additional $20,000 is needed to meet outside legal expenses for the remainder of the current fiscal year. The budget amendment appropriates $45,018 from unassigned fund balance to meet this need.

Pro:

- Provides budget authorization for FY 2014-15 outside legal expenses as required by the Civil Service Act.

Con:

- Requires an appropriation from unassigned fund balance.

Based on current unassigned fund balance estimates, the City has sufficient resources to appropriate $45,018 associated with this budget amendment and still maintain an unassigned fund balance that exceeds the City's 15% policy target.

City staff recommends City Council approve the budget amendment in the amount of $45,018 from unassigned fund balance to appropriate funding for Civil Service Board independent legal services for grievance related matters that have exceeded the initial budget.

ORDINANCE BOOK NO. 29 - PAGE 404

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, minus Consent Agenda "E". This motion was seconded by Vice-Mayor Hunt and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

E. RESOLUTION NO. 15-56 - RESOLUTION ADOPTING THE 2015-16 CITY COUNCIL STRATEGIC OPERATING PLAN

Summary: The consideration of a resolution affirming City Council's Strategic Plan for fiscal year 2015-2016.

At the January 30, 2015, City Council retreat, Asheville City Council discussed and prioritized focus areas for the coming year. During the retreat, it was noted that presenting goals in a way that highlights the interconnected nature of Council's strategic goals would be ideal.

The focus areas are:

- Economic Growth & Sustainability - Seek to ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work and invest.

- Affordability & Economic Mobility - Seek to ensure a sustainable future for Asheville through a standard of living that is affordable and attainable for people of all incomes, life stages and abilities.

- High Quality of Life - Seek to ensure a sustainable future for Asheville by promoting a safe environment where basic needs are met and all people can enjoy a high quality of life.

City Manager will produce a comprehensive quarterly report and Committee Chairs will produce updates on policy initiatives designed to further achievement of strategic goals for Economic Growth and Sustainability, Affordability and Economic Mobility, and High Quality of Life.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution reaffirming Council's Strategic Operating Plan.

Councilman Smith asked that Focus Area 2, Goal 1, the third action item be amended to read "Identify and initiate use of city owned land for development of affordable housing projects."

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Smith moved for the adoption of Resolution No. 15-56, as amended. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 61

III. PRESENTATIONS & REPORTS:

A. MAYOR'S DEVELOPMENT TASK FORCE

Mr. Brian Moffitt, representative of the Mayor's Development Task Force, said that beginning in September, the City hosted a task force designed to review and discuss challenges associated with developing in the City of Asheville. The group of 23 stakeholders met once a month for four months and identified numerous issues commonly experienced during the development process.

Prior to the formation of the Task Force, Development Services staff had independently identified a variety of priorities to be considered in the coming year and had initiated action on several. These priorities, not surprisingly, significantly overlapped the priorities identified by the task force. The work of the task force helps to focus current and future actions and begins to identify what resources may be needed, the most significant one being "staff time" which is repeated throughout the summary table. With many competing demands, it is helpful to identify the highest priorities and those other initiatives that may easily be accomplished as part of a larger initiative. The spread sheet identifies the task force recommendations and priorities, and staff had added possible initiatives that could be considered to address the concerns raised.

With the assistance of our colleagues in other departments, Development Services anticipates being able to accomplish many of the initiatives identified on the master list with the highest priorities focused on:

1. Simplifying/expediting the submittal and review process
    - Offering formalized early assistance
    - Expanding options for on-line submittals
    - Looking at opportunities for expedited submittals and reviews

2. Improving communication between departments, and between customers and staff
    - Improve permitting system to communicate project status
    - Develop consistency meetings between departments

- Explore options for sharing/posting valuable information

3. Improving the delivery of our service
   - Implement an electronic lobby q-ing system
   - Improve permitting system to simplify permit numbers
   - Build knowledge base and confidence in staff

In addition to the initiatives identified in these focus areas, staff is also exploring the potential benefits of establishing a Development Services Advisory Group for the limited purpose of helping staff review, research and discuss strategies for implementation of the task force recommendations. The conceptual behind forming this group would be:

- Assemble a committee of 9 members representing different stakeholder groups in the development community (contractors, design professionals, real estate professionals, property owners, business owners, financial institutions, etc.)
- Meet once a month for 1 ½ hours to review priorities, schedules, progress and offer feedback, ideas, research and perspectives on various initiatives
- DSD staff to be primary staff assigned to group, with representatives from other departments invited to participate as applicable
- Committee to report out every 6 (12 months?) months to the Planning & Economic Development Committee

Progress - As an example of the on-going efforts to improve the efficiency and effectiveness of our development related services, the following accomplishments have been completed in the last three months:

1. Filled four key vacancies
2. Enabled email notification for all final inspections
3. Moved all inspectors to two trades to increase comfort level in areas of expertise (trial program)
4. Established a mentoring rotation pairing more junior inspectors with experienced inspectors
5. Added credit card payment options in water resources
6. Updated TCO policy and broadcasted to the development community
7. Reviewed and tested two different digital submittal software programs and met with vendors
8. Developed a pre-assistance (a.k.a. pre-application) program to be implemented July 1
9. Reviewed and tested three different electronic lobby queuing systems
10. Established a phone tree to direct customers to the most appropriate extension

Implementing these recommendations will require additional resources, the exact amount has yet to be determined but conservative estimates fall around $300,000 spread over two years. Included in this number is: a full-time, benefited employee to perform and manage technology based improvements; consultant fees; and technology based capital investments (primarily focused on digital plan submittal and review). Needed resources would be derived from development fees and charges. A fee increase is not now planned and we are hopeful for continued levels of permit activity.

This report is for informational purposes only and no Council action is needed.

Councilman Bothwell said that despite constant complaints, he agreed that the Unified Development Ordinance is complex but clear.

On behalf of City Council, Mayor Manheimer thanked the Task Force for their hard work, time and dedication on this project.

B. FRENCH BROAD WHITEWATER PARK IN RIVER ARTS DISTRICT

Using a PowerPoint, Mr. Wilson Sims updated Council on the French Broad Whitewater Park in the River Arts District (RAD). He introduced Mr. Ben Van Camp as a key partner for fundraising/partnering purposes. He provided an overview and asked for authorization of the next step in project feasibility as they would tie into the broader RAD planning by the City.

He explained there are two whitewater parks - artificial and in-stream. This would be a public park amenity, but they would be eager to support making it largely privately funded. He emphasized that this is about an in-stream park which is simpler, much more natural/harmonious, and much less expensive. The preliminary design and permitting for an in-stream park would be $149,000, the final design and modeling would be $249,000, and construction would be $1,383,000 - for a total of $1,781,000. There would need to be modifications to the riverbed to create whitewater features that do not otherwise exist. On-shore amenities would include greenway trails, river access viewing points, and parking.

The most successful are ones in urban areas and engage community with river. The suddenness of the current push relates to suddenness of TIGER 6 announcement and quick evolution of RAD redevelopment.

He said this is a bold and cutting-edge vision; those rarely are developed in a broad master-planning process, rather they typically emerge as new and different ideas from outside advocates just like this has (e.g., Pack Place, Azalea Park, Carrier Park, Waller Tract – some of most important innovations in last 15 years).

Three locations were studied. The Bowen Bridge site was selected as it has an existing gradient of river, its proximity to public land, parking and other recreational amenities, separation from core of arts/culture district. He then pointed out some of the locations of planned parking.

Much of required on-shore amenities (parking, greenway, parkland) are being developed anyway, but some additional cost is required for expanded spectator areas and access to river. The reaction by many has been how inexpensive the estimate is for the benefits that will derive. This will be primarily funded from non-city sources.

Per FEMA Flood Insurance Program and Army Corps, impacts on flooding must be acceptable. Project permitting must be in combination with other plans.

He emphasize tight schedule to meet permitting timetable. With a few months, 30% of the design and permitting applications would be due. The final design and modeling would occur in 2018 or later, with construction in 2019 or later. There is sufficient time to raise funds and construct, once permitting is achieved.

There are many community benefits. This unique 21st century park reinforces Asheville as the whitewater capital city of the United States. It will not be just for advanced users, as a novice channel must be included. There is a growing popularity of river recreation here and recreational popularity of other communities who have whitewater parks. This will engage youth, schools, and families with river. With the public attention to river, there will be stronger stewardship ethic. The impact on the riverbed will be modest – aquatic life can still migrate. This will bring traffic to RAD artists, and its branding Asheville as a growing center for outdoor product manufacturing. This will also bring in the outfitting industry, along with tourism.

In conclusion, the aim of advocates group is to be a constructive partner, facilitate, support with fundraising, but not to own or develop or be primary driver. This will be a rightfully city-led project. He asked the City to evaluate the project for inclusion in its RAD redevelopment initiative. They asked for Council to allow City staff to do necessary research/analysis over next

few weeks so that $150,000 design phase can move forward in time for flood permitting. He believed that external funding for this project is within reach, and the group wants to work under auspices of Parks and Greenways Foundation to support project with necessary external funding. He asked that Council authorize City staff to continue the necessary research/analysis so that Phase I can move forward. They understand that there are various ways that permitting can be accomplished and they have every confidence they will be able to work with the City to help make it happen.

Mayor Manheimer felt this was a really exciting project and felt that it fits in with the transformation in the River Arts District. She hoped City Council would support continuing in this process.

Vice-Mayor Hunt hoped that Council will agree that there is so much potential with this project and that it's worth to take the next steps.

In response to Councilman Bothwell, City Manager Jackson said that staff is in the process of researching the other 20 models that have been planned and constructed. In the grand scheme, we are doing a $50 Million make-over and there are a lot of moving parts, along with state, federal, Tourism Development Authority, and private monies. Some of the work (like permitting) will need to be integrated and led by the City. We have some conceptual plans for the parking and the trail heads. We have the expectation that we will take some of the capital money and apply that towards the project management. His role is to make sure that everyone has very clear responsibilities. We have the staff and structure which we are putting in place to carry out the $50 Million project and with Council's approval they will add this $2 Million to the scope of it and start identifying what additional work would need to be done. The permitting, integration of the plan, any design contracts, etc. will go through the City as well. There is quite a bit of coordination work that needs to be done, some of which we already have in-house staff to handle. If there is going to be fund-raising for the project, it might as well be applied toward any of these out of pocket expenses that we have to put into managing the project.

Councilman Davis said that the Pack Square Project cost the City a lot of money and this project makes him step back and request additional information because he did not see a lot of process up to this point, and he did not want Council to be in that kind of position again.

Councilman Smith agreed with Councilman Davis in that Council's role is a deliberative body and they must approach projects in the most responsible manner that they can. He was curious about on-going operating costs, noting that the Finance Committee is talking about what level of subsidy to provide which amenities and questioned how this project would fold into that philosophical discussion. Another question would be what the additional costs around access and spectators might be. He did not want the presumption made that moving forward with responses to these questions means that the project is green-lighted.

Councilman Pelly said that the City is facing a lot of challenges and we will have some big impacts on the City, so we will really be relying on the Parks and Greenways Foundation and other advocates to support the majority of the fund-raising on this project.

City Manager Jackson said that after Council's approval, staff will evaluate the project for integration into the River Arts District redevelopment. Those results will come back to Council will then Council will decide if there needed to be a further planning phase and a formal agreement with the entity. He did not feel the City is ready to enter into a partnership agreement for financing this project.

It was the consensus of Council to instruct the City Manager to evaluate the project for integration into the River Arts District redevelopment.

C. MAYORS' CHALLENGE FOR SAFER PEOPLE AND SAFER STREETS

Councilwoman Wisler explained the Mayors' Challenge for Safer People and Safer Streets. She said that on Thursday, March 12, 2015, jurisdictions from across the country met at the U.S. Department of Transportation (USDOT) headquarters in Washington, DC at the Mayors' Challenge for Safer People, Safer Streets Summit, the start of a year long initiative to improve bicycle and pedestrian safety. City Manager Jackson and she represented Asheville. They spoke with modal experts at USDOT, bicycle and pedestrian safety resource partners, and one another to discuss current non-motorized activities within their communities and shared ideas on how to improve upon pedestrian and bicycle safety over the Challenge year and beyond. A few things we learned is (1) One in 5 traffic deaths in the US are bicyclist or pedestrian deaths; (2) More than ¼ of Americans rode a bicycle in the past year; (3) Low stress environments will encourage more walking and cycling; and (4) The safest thing for cyclists and pedestrians are more cyclists and pedestrians on the roads. There were seven identified challenge areas. City staff graded the City and in general we scored pretty well. The Mayor's Challenge activities include (1) Take a Complete Streets approach; (2) Identify and address barriers to make streets safe and convenient for all road users, including people of all ages and abilities and those using assistive mobility devices; (3) Gather and track biking and walking data; (4)Use designs that are appropriate to the context of the street and its uses; (5) Take advantage of opportunities to create and complete pedestrian and bicycle networks through maintenance; (6) Improve walking and biking safety laws and regulations; and (7) Educate and enforce proper road use behavior by all.

However, we did highlight a few areas that we could improve more substantially: (1) Gathering data such as three of people biking and walking, safety data such as crash information specific to Asheville, descriptions of trips and inventory of bicycle and pedestrian facilities. This will help in evaluating where and how we can improve our infrastructure; (3) Improve laws – while this is mostly a state issue, we can continue to be engaged in this; and (3) Educate and enforce proper road behavior by all -- reinforcing appropriate actions and attitudes for all users will substantially improve interactions on our roads.

We definitely want this initiative to be folded into the Multimodal Transportation Plan.

Improving our cycling and pedestrian infrastructure and experience not only will increase Asheville's quality of life but will improve economic and racial equity. People of color are increasing their use of bicycles at substantially higher percentages than white Americans.

She provided other statistics about cycling and economics. She was excited that Asheville has accepted Secretary Foxx's challenge, as this will continue to push Asheville to be a safer place to walk and ride.

When Councilman Bothwell stressed that it is legal to ride bicycles on sidewalks, Councilwoman Wisler said that education is one of the challenges the City is taking on.

City Manager Jackson said that Asheville is a national role model for building partnerships and turning that into funding partnerships.

D. ASHEVILLE POLICE DEPARTMENT ORGANIZATIONAL ASSESSMENT

The report lays out a short term and long range plan to accomplish a more functional, high performing Police Department. The analysis and recommendations in the report will take time, and buy in and participation of every employee in the organization.

Mr. Brady then reviewed the recommendations and/or improvement opportunities. The recommendations are structured in two ways - immediate change which should be implemented, a 180 Day Plan for the Interim Police Chief, and longer range recommendations in each

management systems of concern. The management issues which exist in the APD today took years for it to get to that point and it will take some time to address and remediate those issues. The new Interim Chief, with the support of the City, will initiate the process of change - changing the tone of the Department at the top; he will also start a process of change management that will outlast his tenure. For each recommendation a priority is accorded by the project team as well as a timeframe for its implementation.

Mr. Richard Brady, President of Matrix Consulting Group, provided Council with a summary of the scope of work for the APD Organizational Assessment, the methods for the conduct of the study and a summary of recommendations. He said that the project scope of work was (1) to evaluate the organization, management and organizational culture of the Police Department; (2) to compare the management systems and practices of the Police Department to best practices; and (3) to evaluate improvement opportunities in the management systems of the Asheville Police Department.

The project methodology was (1) extensive input from Asheville Police Department employees through interviews, employee surveys and focus group meetings; (2) documentation of management systems in use in the Department; (3) comparison of Police Department management practices to best practices in law enforcement; and (4) development of short term and longer range strategies for improving management systems and the organizational culture together with implementation plans.

Perceptions expressed in the project and addressed in the final report (1) poor and inconsistent internal communications; (2) the development of an "us" vs. "them" culture; (3) lack of accountability; (4) consistency issues in policies and disciplinary actions; (5) management training and knowledge transfer; (6) a lack of transparency; (7) all leading to a perceived lack of effective leadership; and (8) an organized culture has developed with makes it impossible for the Asheville Police Department to function as a high performing organization.

Results of the employee survey (1) the project team conducted many staff interviews. However, we also utilized an anonymous survey to which 100 people responded; (2) key positives arising from the survey focused on (a) high levels of service to the community; and (b) positive work group interactions; and (3) However, several significant issues were also identified (a) internal communications are poor; (b) the Department lacks consistency in many of its actions; (c) decision-making processes; (d) problem solving; and (e) leadership is a significant issue as it relates to vision and direction.

A new beginning (1) The Fire Chief initiated a process of enhanced employee involvement in determining strategic direction; (2) an Interim Chief came into the Department with a track record of assisting with the development of positive organizational culture and already initiated processes to improve internal communications and interactions; (3) the City has provided administrative assistance in human resource and financial processes; and (4) this study was intended to provide a road map to start on in developing a more positive organization and management culture.

Immediate needs - The 180 Day Plan - (1) Establish a broadly-based Chief's Advisory Committee to empower staff to develop a plan with accountable action steps to transition to a more effective organization; (2) continue with recent efforts at improving internal communications (a) regular meetings with top and mid-managers/supervisors; (b) executive staff attending more staff briefings; (c) regular meetings with employee groups; and (d) develop a code of conduct; (3) begin to develop a more effective approach to monitoring performance and communicating performance; (4) a plan needs to be developed to target and increase the amount of training that managers receive on promotion and annually; (5) the City needs to continue to show its support through human resource and administrative assistance, management training and work group facilitation; (6) a year from now re-apply the employee survey to gauge the magnitude of change

from this point; and (7) once the new chief is hired, hold a management and supervisory retreat to involve him/her in the new team approach.

Longer range improvements (1) develop a training and career development plan for all staff; (2) develop job task guides for each assignment in the Department; (3) implement minimum commitments for management and supervisory staff assignments; (4) discontinue the roundtable panel approach for disciplinary reviews and return to an improved disciplinary matrix approach; (5) begin immediately with replacing policies with a standardized law enforcement template; (6) develop more proactive public and media relations approaches relating to program review, budget, and use of the website and social media; and (7) with the assistance of human resources develop more effective performance evaluation and career development programs; (8) organizational changes should be made to help facilitate change (a) an administrative staff position for ongoing support; (b) the Treasury Services Manager position transferred to the Police Department should be made permanent; (c) the spans of control for Logistics and Special Operations Lieutenants should be narrowed; and (d) a second Deputy Chief position should be created; and (9) The City Police Department and employees need to improve the labor/management environment.

In summary, (1) the issues identified in the Asheville Police Department did not happen overnight; (2) the issues identified in the Asheville Police Department involves all levels in the organization; (3) resolving these issues will take a concerted short term and longer range commitments to change involving improved communication; inclusion and empowerment of staff; better accountability; and creating appropriate and modern management and personnel systems.

Councilman Davis, Chair of the Public Safety Committee, said that the Committee heard a more in depth presentation at the meeting. He stressed that we have a lot of good people working in the Asheville Police Department. We have a culture that needs changing and Council needs to be very supportive in how that happens.

Councilman Bothwell said that the report shows that the complaints about leadership in the Police Department are spread amongst the different divisions, not only about the leadership of the Chief of Police, as has been alluded to in the social media.

Councilman Pelly felt that we have challenges, but if we follow these recommendations, he felt we will be on track again.

On behalf of City Council, Mayor Manheimer appreciated the thorough and extensive report. She stressed that City Council supports the men and women in our Police Department and hoped that this will provide us with a clear path forward. She looked forward to positive outcomes in the future.

City Manager Jackson said that the action steps will be a consistent item on the Public Safety Committee and City Council will also be kept track of progress in their quarterly Strategic Operating Plan reports.

E. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: regulation of bee hives; sales tax redistribution; local debt; tax value for property improvements; protest petitions; and historic preservation tax.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING ON PROPERTY LOCATED AT 1 SUNSET PARKWAY FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RM-6/CZ RESIDENTIAL MULTI-

FAMILY LOW DENSITY DISTRICT/CONDITIONAL ZONING TO ALLOW THE RENOVATION OF AN EXISTING CHURCH TO TWO SINGLE-FAMILY RESIDENCES

ORDINANCE NO. 4399 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 1 SUNSET PARKWAY FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RM-6/CZ RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT/CONDITIONAL ZONING TO ALLOW THE RENOVATION OF AN EXISTING CHURCH TO TWO SINGLE-FAMILY RESIDENCES

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone property located at 1 Sunset Parkway from RS-4 Residential Single-Family Medium Density District to RM-6/CZ Residential Multi-Family Low Density District/Conditional Zoning to allow the renovation of an existing church to two single-family residences. This public hearing was advertised on March 13 and 20, 2015.

The subject property consists of a .82 acre parcel (zoned RS-4) located at 1 Sunset Parkway. The property contains a former place of worship and accompanying parking on a corner parcel with frontage along Sunset Parkway and Charlotte Street. The Parcel Identification Number for the proposed rezoning is 9649.65-3576. The site is bordered by properties also zoned RS4 to the north and east and containing single-family and two-family dwellings. To the west across Charlotte Street is property zoned Institutional (Unitarian Universalist Church) and to the south is property zoned HCU (Historic Conditional Use – Manor Apartments).

The applicant, Howard Stafford, proposes to convert the existing structure that has been used most recently as a place of worship into two dwelling units. One dwelling unit (Unit A) will have entrances fronting on Sunset Parkway and Charlotte Street. The other unit (Unit B) will have an entrance fronting on Charlotte Street. The existing structure is 12,663 square feet in size and 35 feet 4 inches in height.

Existing access points to the property on Charlotte Street and Sunset Parkway will be maintained. The Charlotte Street drive will lead to a reconfigured parking area with five parking spaces provided. The drive off of Sunset Parkway will function as a more typical residential driveway. Sidewalks exist along both street frontages. The applicant has agreed to provide the City with a 10 foot easement along both frontages to facilitate any future sidewalk improvements.

Landscaping provided for this project includes street trees, the screening of the parking area along Charlotte Street, and a twenty foot bufferyard with requisite plantings to the east adjacent to the RS-4 zoned neighboring residential property. Open space is not required.

This proposal was approved with conditions by the Technical Review Committee on February 2, 2015. The Asheville Planning and Zoning Commission recommended this project unanimously (6-0) for approval at a meeting on March 4, 2015. One person, representing the Grove Park/Sunset Neighborhood Association, spoke in favor of the project. This project requires Final TRC review should Council grant the requested condition zoning

The applicant is proposing to conditionally rezone the site from RS-4 to RM-6 to allow for conversion of the existing building into two dwelling units. This conversion could be done as a use by right subject to special requirements if there were not a duplex located on the property immediately adjacent to this parcel.

A conditional zoning application for this property was submitted in 2014 for rezoning to HBCZ to develop a residence and canine rehabilitation clinic and dog daycare facility on the property. The application was withdrawn by the applicant before it was heard by the Asheville City Council.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes the adaptive reuse of a historic structure.
- The two family structure will be in an area with a mix of housing types (multi-family, duplex, single-family).

Staff recommends approval of the proposed conditional zoning to allow for the conversion of a building previously used as a place of worship into two dwelling units. The Asheville Planning and Zoning Commission unanimously recommended approval of this conditional zoning to the Asheville City Council.

Mayor Manheimer opened the public hearing at 6:44 p.m.

Mr. Buzz Barry, President of the Grove Park-Sunset Mountain Neighborhood Association Board, read the following letter dated March 4, 2015, into the record: "On February 26, 2015, the Grove Park-Sunset Mountain Neighborhood Association Board, representing over 600 households voted unanimously to support the conditional zoning request to rezone property at One Sunset Parkway. This vote is based upon information provided by City of Asheville Urban Planner Julia Fields."

Mr. Mark Allison, architect of 1 Sunset Parkway, urged the Council to support this great use of this building.

Mayor Manheimer closed the public hearing at 6:48 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly moved to approve the conditional zoning request of Howard Stafford for property located at 1 Sunset Parkway from RS-4 (Residential Single-Family Medium Density District) to RM-6CZ (Residential Multi-Family Low Density District) and find that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the goal found in the City's comprehensive plan of promoting the adaptive reuse of the City's valuable commercial and residential historic resources; and (2) The proposal supports the goal found in the City's comprehensive plan of promoting adaptive reuse of vacant or underutilized structures, while ensuring that neighborhood compatibility is met. This motion was seconded by Councilman Davis and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING ON PROPERTY LOCATED AT 39 ELM STREET FROM COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING, WITH CONDITIONS TO BUILDING SIZE, IMPERVIOUS AREA AND SETBACK, FOR THE CONSTRUCTION OF A 5-STORY HOTEL WITH PARKING

At the applicant's request, Councilman Smith moved to continue this public hearing until August 25, 2015, in order to provide more time for N.C. Dept. of Transportation and the City to continue with their current pedestrian study for the Merrimon Avenue corridor and determine what is appropriate for improvements and to propose a solution to benefit all parties. This motion was seconded by Councilman Davis and carried unanimously.

C. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO INCREASE THE ALLOWANCES FOR REAL ESTATE AND CONSTRUCTION SIGNAGE

Process Manager for the Development Services Department Chris Collins said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinances to increase the allowances for real estate and construction signage. This public hearing was advertised on March 13 and 20, 2015.

In December of 2014, City Zoning Enforcement staff served a notice of violation (NOV) to the City Centre and Hilton Garden Inn projects for construction signage in excess of that allowed by Section 7-13-2(d)(7) at 301 and 309 College Street. The NOV was generated due to the fact that the above listed construction projects are currently displaying construction signage that is in violation of the UDO allowance of two (2) signs with a maximum of 32 square feet in area per sign face with a required ten (10) foot setback from the right-of-way.

In response to the serving of this NOV, the developer met with City staff and subsequently submitted a formal request for a wording amendment to Section 7-13-2(d)(7) to increase the allowed number of and size of construction signs when attached to construction fence screening materials. The request noted the following benefits of allowing further construction signage when attached to screening materials:

- Screening attached to construction fencing makes for a much better appearance to the public; and
- This type of signage assists in vendor and delivery identification for construction sites; and
- The ability to advertise on construction screening helps mitigate the cost to developers of installing the screening material itself.

In receipt of this request which is centered on an active construction site within the Central Business District (CBD) zoning district, staff prepared a report and proposed wording amendment for presentation to the City's Downtown Commission. On February 13, 2015, staff presented the option of allowing unlimited 32 square foot sign panels on construction fencing screening materials when said panels were spaced at least 50 linear feet apart and eliminated the requirement of a 10 foot setback for this type of signage within the CBD. The majority of the Downtown Commission members demonstrated support for increasing the allowance for the construction signage. Several members identified the possibility of allowing a greater size and quantity than that identified in the staff report.

On March 4, 2015, the City's Planning & Zoning Commission unanimously adopted a motion to recommend approval of an amended and less restrictive ordinance allowing unlimited sign faces that are no more than 50 square feet in area and no closer than 20 linear feet to the next sign face.

Research by City staff has found that many other cities have a regulation in place mirror our current 32 square foot requirements. Research has also indicated that this type of construction screening materials is often not regulated nor enforced by other cities. If the trend of relaxing the proposed restrictions on construction screening signage is an indicator, Council may want to consider exempting this type of signage from regulation. The use of construction screening material on construction fencing is not required by City ordinance.

Currently, the text of Section 7-13-2(d) (7) reads as follows:

7) *Construction Signs.* Construction signs shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign

for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of the issuance of a certificate of compliance. A minimum setback of ten feet is required.

This proposed UDO text amendment adds one new definition to Section 7-2-5. These definitions are as follows:

Construction Screening: Temporary and opaque material attached to a perimeter fence or barrier surrounding an active construction site for the purpose of minimizing the visual distraction and safety issues of the subject site.

Additionally, the proposed text amendment revising the wording of Section 7-13-2(d)(7) as follows (additions are underlined):

7) *Construction Signs.*

a. *Freestanding Construction Signs*: Shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. ~~Construction signs shall not be erected prior to the issuance of a building grading permit and shall be removed within seven days of the issuance of a certificate of compliance.~~ A minimum setback of ten feet is required.

b. *Construction Signs Attached to Construction Screening*: When used in lieu of a Freestanding Construction Sign, construction signage may be attached to construction screening materials subject to the following:

i. Sign area shall not exceed 50 square feet per sign.
ii. Individual signs may be repeated an unlimited number of times but shall be spaced a minimum of 20 linear feet apart, measured from the closest two edges of the sign face.

c. Construction signs shall not be erected prior to the issuance of a ~~building~~ grading permit and shall be removed within seven days of the issuance of a certificate of compliance.

This wording amendment may support (1) Focus Area 1 (Economic Growth & Stability) of the Strategic Plan by adding allowances for a common practice in large developments thereby promoting important projects within the community; an (2) Focus Area 2 (High Quality of Life) may be promoted through this wording amendment by the improved visual quality and pedestrian safety offered by the use of construction screening materials. This amendment also supports the following goals from the City Development Plan 2025: (1) Economic Development Goal I: Insure that Asheville's urban planning, zoning, and permitting processes, as created and administered by the City, facilitate sustained and positive development; and (2) Transportation Goal II: Making Asheville a more walkable and livable city.

Considerations:

- Provides a specific definition for *Construction Screening* within the UDO.
- Incentivizes the use of construction screening material thereby assisting with the aesthetics of active construction sites and reducing the risk of an attractive distraction.

- Signage affixed to screening materials eliminates the more commonly used free-standing signs which may contribute to visual clutter.
- Higher allowances may improve project recognition within the community and communicate valuable information.
- Benchmarking from the standards of other jurisdictions has produced mixed results. The large majority of those surveyed enforce a similar standard to that currently found in the UDO. However, many of those surveyed noted that signage affixed to screening is not commonly regulated.

City staff recommends approval of this wording amendment.

After a brief discussion about whether the City wanted to regulate this type of construction screening material, noting that even with this amendment the City Centre and Hilton Garden Inn projects would still be out of compliance, Council agreed that screening is a good idea, but having advertising on the screening is not.

Mayor Manheimer opened the public hearing at 7:04 p.m. and when no one spoke, she closed the public hearing.

Councilman Davis moved to approve the proposed wording amendment to Sections 7-2-5 and 7-13-2(d)(7) of the UDO of the City of Asheville and find that this request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilwoman Wisler and said motion failed on a 2-5 vote, with Mayor Manheimer, Vice-Mayor Hunt, Councilman Bothwell, Councilman Smith and Councilman Pelly voting "no."

In response to Councilman Bothwell, Director of Development Services Shannon Tuch said that if Council chooses to direct staff to craft a different wording amendment, any enforcement action against City Centre and Hilton Garden Inn projects would be suspended, as they are currently in violation of the Unified Development Ordinance for construction signage.

City Attorney Currin said that Ms. Tuch will contact the developer and give them some time to come into compliance, noting that they have already exhausted a larger period of their grace time already.

D. PUBLIC HEARING TO CONSIDER A REQUEST FOR A CONDITIONAL ZONING FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT AND RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR A NINE-LOT MAJOR SUBDIVISION LOCATED OFF OF SHELBURNE DRIVE

Mayor Manheimer said that this item does not need City Council consideration as all City requirements can now be met.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 15-58 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE CITY BOARD OF EDUCATION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville City Board of Education. He said that all background checks on the potential candidates came back with no flags or negative items.

The terms of Jacquelyn Hallum and Precious Folston expire on April 1, 2015. Ms. Hallum and Ms. Folston are not eligible for reappointment.

The following individuals have applied for the vacancies: Joanna Best, John S. Brigham, Martha L. Geitner, Elizabeth Hampton Jones, James "Drew" Shelfer, Melissa Sites, Greg Walker Wilson, Verita Brown Woods, Shaunda Sandford, James E. Lee III, Maceo Z. Keeling, Kate Fisher, Steve Dykes and Erica Englesman Rawls. Ms. Sites did not complete the written essay questions and was therefore not considered for these vacancies.

It was the consensus of City Council to interview Joanna Best, Martha L. Geitner, Greg Walker Wilson, Shaunda Sandford, James E. Lee III and Steve Dykes.

Council spoke highly of all the very qualified candidates and after noting it was a hard decision, Joanna Best received 1 vote, Steve Dykes received 3 votes, Martha Geitner received 3 votes, James Lee received no votes, Shaunda Sandford received 6 votes, and Greg Walker Wilson received 1 vote.

Because there was a tie between Mr. Dykes and Ms. Geitner, City Council voted again as follows: Joanna Best received no votes, Steve Dykes received 3 votes, Martha Geitner received 4 votes, James Lee received no votes, and Greg Walker Wilson received no votes.

Therefore, Shaunda Sandford and Martha Geitner were appointed as members of the Asheville City Board of Education, to each serve a four year term respectively, terms to begin April 1, 2015, and expire April 1, 2019. All terms are until their successors have been appointed.

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VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaronmonte spoke to Council.

Mr. Todd Stimson urged City Council to adopt a resolution in support of medical cannabis.

Closed Session

At 7:24 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:37 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:37 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – April 14, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized Accreditation Manager - Battalion Chief Wes Rogers; Senior Firefighter Trey Young; Engineer Ken Myrick; Lieutenant Rich Rauschenbach; and GIS Technician Stephanie Osbourn for the reaccreditation of the Asheville Fire Department; and McCray Coates, Tim Bayless, Amy Deyton, Steve Shoaf, Al Kopf, Stephanie O'Conner, Erin Marie Wheeler, Tony McDowell, Greg Shuler, Cathy Ball, Dan Phairas, and Tony Rathbone for the roadway and river improvements project at Azalea Road.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING APRIL AS "PARKINSON'S DISEASE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming April, 2015, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Nancy and Jim Hall, and others, who briefed City Council on some activities taking place during the month.

C. PROCLAMATION PROCLAIMING APRIL 2015 AS "CHILD ABUSE PREVENTION MONTH"

Mayor Manheimer read the proclamation proclaiming April, 2015, as "Child Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Ms. Jennifer Nehlsen, the current Chair of the Community Child Protection Team and Ms. Katie Swanson, Social Work Program Administrator for BCHHS, and others, who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING APRIL 2015 AS "CHILD SEXUAL ABUSE PREVENTION MONTH"

Councilwoman Wisler read the proclamation proclaiming April, 2015, as "Child Sexual Abuse Prevention Month" in the City of Asheville. She presented the proclamation to Ms. Laura Warren, Membership Engagement Director, Asheville YMCA, who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING APRIL 18, 2015 AS "ASHEVILLE NEIGHBORHOOD CLEAN UP DAY"

Councilman Pelly read the proclamation proclaiming April, 17, 2015, as "Asheville Neighborhood Clean Up Day" in the City of Asheville. He presented the proclamation to Ms. Dawn Chavez from Asheville Greenworks, and others, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 24, 2015

B. ORDINANCE NO. 4400 - BUDGET AMENDMENT FOR DONATION FOR THE MAINTENANCE AND REPAIR OF THE WNC VETERANS' MEMORIAL LOCATED IN PACK SQUARE PARK

ORDINANCE NO. 4401 - BUDGET AMENDMENT FOR DONATION FOR COMMUNITY SERVICE WORKDAY MATERIALS IN CARRIER PARK

Summary: The consideration of budget amendments in the amount of (1) $10,860 from the WNC Veterans' Memorial Fund for improvements to the Western North Carolina (WNC) Veterans' Memorial located in Pack Square Park; and (2) $5,000 from BB&T for materials for a community service workday in Carrier Park.

WNC Veterans Memorial - In 2011, the WNC Veterans' Memorial Board, a non-profit organization, donated the WNC Veterans' Memorial in Pack Square Park to the City. At the same time, the WNC Veterans' Memorial Board established two trust funds held by the Community Foundation of Western North Carolina. Both trust funds are designed to provide resources to support the perpetual upkeep and maintenance of the Memorial. $10,860 will be used to repair the brick pavers, replace landscape materials, and other improvements in the Memorial.

Branch Banking and Trust Company (BB&T) Donation - In 2014, BB&T selected the City of Asheville's Carrier Park as its 2014 community service project to perform maintenance. Twenty five BB&T employees volunteered to sand and seal park furnishings and to spread mulch on trails. $5,000 reimburses the city for its cost to provide the materials and supplies for the community service work day.

Pro:
- Provides funds for improvements WNC Veterans' Memorial located in Pack Square Park.

Con:
- None

A budget amendment increasing the project budget authorizing recurring maintenance and repair to the WNC Veterans' Memorial located in Pack Square Park will authorize expenditures up to $10,860. These expenditures will be fully funded with trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of $10,860 that has been received; thus, there is no net fiscal impact to the City's operating budget.

A budget amendment in the amount of $5,000 will reimburse the City of Asheville for cost of materials for a community service day at Carrier Park. The reimbursement is fully funded with a contribution from BB&T; thus, there is no net fiscal impact to the city's operating budget.

Staff recommends City Council to approve the budget amendments authorizing the City Manager to (1) accept the trust fund contributions from the WNC Veterans' Memorial Fund held by the Community Foundation of Western North Carolina in the amount of $10,860 for maintenance and repair of the WNC Veterans' Memorial located in Pack Square Park; and (2) accept the contribution from BB&T in the amount of $5,000 for community service workday materials.

ORDINANCE NO. 4400 - ORDINANCE BOOK NO. 29 - PAGE 411
ORDINANCE NO. 4401 - ORDINANCE BOOK NO. 29 - PAGE 413

C. RESOLUTION NO. 15-59 - RESOLUTION ADOPTING THE BOND ORDER AUTHORIZING THE ISSUANCE OF WATER SYSTEM REVENUE REFUNDING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

RESOLUTION NO. 15-60 - RESOLUTION PROVIDING FOR THE ISSUANCE, SALE AND DELIVERY OF WATER SYSTEM REVENUE REFUNDING BONDS

Summary: The consideration of (1) a Bond Order authorizing the issuance of not to exceed $60 million Water System Revenue Refunding Bonds, Series 2015 of the City of Asheville, North Carolina (the "2015 Refunding Bonds"); and (2) a Resolution providing for the sale of the 2015 Refunding Bonds and setting the terms and conditions upon which the 2015 Refunding Bonds will be sold.

Based on internal analysis and advice from the City's financial advisor and bond counsel, staff is recommending that City Council take action to move forward with refunding the Water System Revenue Refunding and Revenue Bonds that were issued in 2005 and 2007, respectively (the "Refunded Bonds"). Based on current interest rates (at March 31, 2015), the refunding is expected to produce total debt service savings of approximately $8.8 million. This figure may increase or decrease prior to the sale of the 2015 Refunding Bonds based on potential changes in interest rates and overall municipal market conditions.

The Bond Order provides the following:

- In order to raise the money required to refund the Refunded Bonds, the 2015 Refunding Bonds are authorized by City Council and shall be issued pursuant to North Carolina General Statues, Section 159-80;
- The principal amount of the 2015 Refunding Bonds shall not exceed $60 million;
- The 2015 Refunding Bonds shall be paid solely from revenues from the operation of the water system; NOT from general funds, credit or taxing power of the City;
- The proceeds from the sale of the 2015 Refunding Bonds shall be deposited in accordance with the Series Indenture; and
- The Bond order shall be effective upon adoption.

The resolution for the sale of 2015 Refunding Bonds provides the following:

- Makes certain statements of fact to support the City's application to the Local Government Commission (LGC) and approves the financing team;
- Approves the issuance of the 2015 Refunding Bonds in a principal amount not to exceed $60 million;
- Approves, confirms and incorporates by reference the provisions of the General Indenture and Series Indenture; stipulates that the 2015 Refunding Bonds shall be special obligations of the City and shall not be payable from the general funds of the City;
- Authorizes and directs the Mayor, City Manager, City Clerk and Chief Financial Officer to execute and deliver the Series Indenture and other financing documentation and do all

things necessary to effect the issuance of the 2015 Refunding Bonds and to carry out and comply with the Series Indenture;
- Approves the form and content of the Bond Purchase Agreement and stipulates that the 2015 Refunding Bonds will be sold to the underwriters pursuant to the terms of the Bond Purchase Agreement; and
- Authorizes and approves the form and content of the Preliminary Official Statement and Official Statement and their use by the underwriters in the sale of the 2015 Refunding Bonds.

Pro:
- Anticipated total debt service savings based on current market conditions is approximately $8.8 million. Actual savings level will be determined on the date the 2015 Refunding Bonds are sold, which is scheduled for May 12, 2015.

Con:
- None noted.

As noted above, anticipated total debt service savings based on current market conditions is approximately $8.8 million.

City staff recommends City Council adopt (1) a Bond Order authorizing the Issuance of Water System Revenue Refunding Bonds, Series 2015 of the City of Asheville, North Carolina; and (2) Resolution authorizing the issuance and sale of City of Asheville, North Carolina Water System Revenue Refunding Bonds, Series 2015.

RESOLUTION NO. 15-59 - RESOLUTION BOOK NO. 37 - PAGE 68
RESOLUTION NO. 15-60 - RESOLUTION BOOK NO. 37 - PAGE 70

D. RESOLUTION NO. 15-61 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CODE STUDIO TO DEVELOP A FORM BASED CODE FOR THE GREATER RIVER ARTS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Code Studio to develop a Form Based Code.

In 2014 Asheville City Council allocated $100,000 in the FY 2015 general fund budget for the development of the next area-specific Form Based Code. Council was supportive of staff's recommendation that the next new code be developed for the greater River Arts District, and an RFQ was released in January 2015 to hire a consultant to lead the process. Three members of staff plus Mr. Karl Koon, a Planning and Zoning Commission member that also sits on the Asheville Area Riverfront Commission (AARRC), and Mr. Tim Schaller, a member of the River Arts District Business Association, evaluated the proposals. The selection process is complete, and staff desires to contract with the top ranked consultant, Code Studio. If authorization is received by Council, the project will be managed by Urban Planner II Sasha Vrtunski.

The Asheville Area Riverfront Commission endorsed this as an implementation item when recommending Council adopt the Riverside Drive Development Plan.

Pros:
- Implements parts of Council Strategic Operating Plan and the Riverside Drive Development Plan
- Updates zoning regulations in a market based manner that complies with City's Comprehensive Plan

Cons:

- Requires use of City funds to pay consultant
- Requires use of City employees to manage process

As noted earlier, funding for this contract is already included in the FY 2015 general fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Code Studio to develop a Form Based Code for the greater River Arts District.

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E. RESOLUTION NO. 15-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THRESHOLD ACOUSTICS LLC FOR ACOUSTICAL AND STRUCTURAL ANALYSIS OF THE THOMAS WOLFE AUDITORIUM

ORDINANCE NO. 4402 - BUDGET AMENDMENT TO REDIRECT FUNDING FOR THE ACOUSTICAL AND STRUCTURAL ANALYSIS OF THE THOMAS WOLFE AUDITORIUM

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with Threshold Acoustics LLC for Acoustical and Structural Analysis of the Thomas Wolfe Auditorium; and (2) a technical budget amendment in the amount of $60,000 to redirect funding from the US Cellular Center Capital Fund to the US Cellular Center Operating Fund to fund the contract.

In December of 2014 the U.S. Cellular Center issued a Request for Qualifications for professional services associated with analysis of structural and acoustical conditions of the Thomas Wolfe Auditorium. The RFQ requested that responding teams have the ability to:

- Complete a site inspection;
- Review existing data;
- Interview key staff members and tenant (Asheville Symphony);
- Investigate and measure the existing acoustical conditions of the auditorium, including the solicitation of input from the Asheville Symphony;
- Evaluate the structural capabilities and acoustical enhancements required, current code compliance requirements and cost estimation for implementation any identified condition improvements;

Six firms responded and through a two phase interview process by a review panel, Threshold Acoustics LLC of Chicago, Illinois, was deemed as the most responsive and qualified firm. Staff was able to negotiate an acceptable scope of services and price.

The proposed Contract is not to exceed $60,000. The terms of this contract were discussed at the Civic Center Commission meeting on March 3, 2015, and the Civic Center Commission supported staff's recommendation to enter into a contract with Threshold Acoustics LLC.

Pros:

- City will receive deliverable; in the form of acoustical models of the Thomas Wolfe
- City will receive a list of suggested needed improvements along with pricing for each item

Con:

- None.

Funding for the contract was included in the adopted FY 2014-15 US Cellular Center Capital Fund budget. Since the analysis will not result in the acquisition of a fixed asset, staff is recommending that the budget for the contract be moved to the US Cellular Center's operating budget.

Staff recommends that City Council adopt: 1) a resolution authorizing the City Manager to enter into a professional services contract with Threshold Acoustics LLC; and 2) a technical budget amendment in the amount of $60,000 to redirect funding from the US Cellular Center Capital Fund to the US Cellular Center Operating Fund to fund the contract.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: sales tax redistribution; local planning and development regulation; Building Code regulation reform bill; amongst others. She will continue to track legislation with trips to Raleigh to get a better feeling of what becomes a reality in this session.

In response to Councilman Smith, Mayor Manheimer said that nothing has been introduced or addressed about the privilege tax replacement.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDMENTS TO CHAPTER 7 OF THE CODE OF ORDINANCES TO INCLUDE REASONABLE ACCOMMODATION PROCEDURES

ORDINANCE NO. 4403 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO INCLUDE REASONABLE ACCOMMODATION PROCEDURES

Assistant City Attorney Catherine Hofmann said that this is the consideration of amendments to the Unified Development Ordinance ("UDO") to provide for a procedure for handicapped and disabled persons to request and obtain a reasonable accommodation from UDO provisions, pursuant to federal law. This public hearing was advertised on April 3 and 10, 2015.

A. Summary of Federal Law.

The federal Fair Housing Act, 42 U.S.C. § 3601 et seq. ("FHA") and the Americans with Disabilities Act, 42 U.S.C. § 12131 et seq. ("ADA") are intended to eliminate discrimination against protected individuals. The FHA applies specifically to discrimination in housing opportunities, while the ADA applies more generally to discrimination against disabled individuals.

The FHA makes it unlawful to discriminate, make unavailable or otherwise deny a dwelling to any person because of a handicap. See 42 U.S.C. § 3604(f). A "handicap" is defined as "(1) a physical or mental impairment which substantially limits one or more of such person's major life activities, (2) a record of having such an impairment, or (3) being regarded as having such an impairment.". However, the term handicap "does not include current, illegal use of or addiction to a controlled substance." Id. Prohibited discrimination includes a municipality's refusal to make a reasonable accommodation in its rules, policies, practices, or services, when such accommodation may be necessary to afford a person an equal opportunity to the use and enjoyment of a dwelling.

Similarly, the ADA prohibits discrimination against persons with a disability. Under the ADA, a disability is defined in the same way that the FHA defines a handicap. Like the FHA, the ADA also does not consider an individual who is currently engaged in the illegal use of drugs to be a person with a disability. The ADA makes it unlawful for a local government to discriminate against any qualified individual with a disability, by reason of such disability.

B. Department of Justice's Investigation into Asheville's Housing Practices.

On July 7, 2011, the United States Department of Justice ("DOJ") informed the City that it opened an investigation into the zoning and land use practices of the City, pursuant to the FHA and ADA. The DOJ's investigation is focused generally on the City's treatment of residential housing for persons in recovery from substance abuse. This investigation was initiated by a complaint from the owners of 22 Brucemont Circle; who claim to be operating a "family care home." The DOJ informed the City in July 2011 that their investigation was preliminary in nature, and the DOJ has still not made any determination as to whether the City has violated the FHA or the ADA.

Between July 7, 2011, and January 24, 2013, the DOJ requested additional information from the City regarding the City's zoning practices, which the City provided. Having heard nothing from the DOJ for several years, our office contacted the DOJ to inquire about the status of the investigation last fall. This was prompted, in part, by continued complaints from neighbors related to 22 Brucemont Circle and its residents. In or around November 2014, the DOJ informed the City that, in order for the DOJ to finalize their investigation, among other things, the DOJ would like to see the City's process for disabled or handicapped persons to request a reasonable accommodation pursuant to the FHA and ADA. While the City had provisions and practices which could allow reasonable accommodations, the DOJ provided us with examples of ordinances from other jurisdictions, which it had accepted in the past. Since that time, the City Attorney's office and Development Services have had several conversations with the DOJ regarding the adoption of an ordinance which would provide the Board of Adjustment with authority to grant a reasonable accommodation and would be in keeping with other DOJ approved provisions.

C. Current Proposed UDO Amendments.

After discussions with the DOJ, and after reviewing several reasonable accommodation ordinances from municipalities throughout the country, it is our recommendation that the City adopt the proposed reasonable accommodation ordinance to allow the Board of Adjustment to hold a quasi-judicial hearing on applications for a reasonable accommodation. This process would require applicants for a reasonable accommodation to present competent, material and substantial evidence that the proposed accommodation will be used by persons defined as disabled or handicapped under federal law and is both reasonable and necessary.

Other provisions of the UDO would also need to be amended in order to adopt the reasonable accommodation ordinance. These provisions include the title to UDO Article VI, as well as, portions of Section 7-3-3, which addresses the Board of Adjustment's powers, and

Section 7-16-1(31), which addresses family care homes. We have provided copies of these proposed amendments to the DOJ, and have incorporated all of their suggested comments.

D. Planning and Zoning Commission.

On March 19, 2015, the Planning and Zoning Commission held a public hearing on the proposed UDO amendments. At the hearing, the Planning and Zoning Commission voted unanimously, on a 6-0 vote, to approve the proposed UDO amendments.

Pros:

- Provides a specific procedure for handicapped and disabled persons to obtain a reasonable accommodation from UDO provisions as required by federal law.
- Furthers completion of DOJ investigation and ensures compliance with federal law, including the FHA and ADA.

Con:

- None noted.

Adoption of the UDO Amendments specifying and setting forth a quasi-judicial procedure for qualified individuals to request and obtain a reasonable accommodation from UDO provisions, pursuant to federal law.

Mayor Manheimer opened the public hearing at 5:43 p.m., and when no one spoke, she closed the public hearing at 5:43 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve text amendments to the UDO which add Section 7-6-3, and which revise Article VI, Section 7-3-3 and Section 7-16-1(3) and find that these amendments are reasonable, in the public interest and are consistent with the Comprehensive Plan and other adopted plans because they provide a procedure to protect individuals against discrimination and to request a reasonable accommodation under federal law. This motion was seconded by Councilman Bothwell and carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-63 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO AMEND THE INTERLOCAL AGREEMENT WITH HENDERSON COUNTY AND EFFECTUATE THE SALE OF THE FERRY ROAD PROPERTY TO BUNCOMBE COUNTY

Executive Director of Planning & Multimodal Transportation Cathy Ball said that this is the consideration of a resolution authorizing the Mayor to execute any and all documents necessary to amend the Interlocal Agreement with Henderson County and effectuate the sale of the Ferry Rd. property to Buncombe County.

Beginning in late 2008, elected officials and staff of the City of Asheville and Henderson County held meetings to discuss the Regional Water Supply and Water Service Agreement between Henderson County and the Asheville Buncombe Water Authority (and its participating

members) to supply water to parts of Henderson County (herein "1995 Agreement"). Included in the 1995 Agreement was a provision for the City to transfer to Henderson County a piece of property approximately 137 acres in size. The property is located near Brevard Road, off of Ferry Road, on the west side of the French Broad River, across the entrance to the Arboretum (herein "Ferry Road Site" or the "Property"). Pursuant to a Consent Judgment entered into in Buncombe County Superior Court in 2002 (file number 01 CVS 344), the property was conveyed by the City to Henderson County by deed recorded July 15, 2002, in Book 2852, Page 775, Buncombe County Registry. Subsequently, the City and Henderson County entered into an Interlocal Agreement (approved by City Council per Resolution No. 14-83) on April 16, 2014, in order to modify certain conditions of the 1995 Agreement regarding conveyance of the property by Henderson County.

The Interlocal Agreement contained the following terms and conditions: 1) Henderson County was authorized to secure a Purchase and Sale Agreement for the Ferry Road Site Property at a purchase price not less than the fair market value; 2) the Property was to be conveyed with specific conditions on the use of the property for an economic development purpose, pursuant to NCGS 158-7.1 (Economic Development) and with the condition that an easement on the Property be granted to the City of Asheville for use as a greenway and related recreational purposes (exact location to be determined by the City); 3) Henderson County and Asheville are to divide the proceeds from the sale equally; 4) Asheville's share of the proceeds from the sale are to be paid to Buncombe County for use for public safety purposes; and 5) Henderson County is to use it's share of the proceeds from the sale for the purchase and construction of a local law enforcement training center.

At this time, Buncombe County has been working with a potential economic development partner which is considering expanding its operations into Buncombe County which requires a large tract with nearby highway access and therefore, Buncombe County has agreed to purchase the Ferry Road Property from Henderson County for the appraised fair market value price of $6,815,00 (County Commissioner Resolution 15-04-01 dated April 7, 2015) and in accordance with the other aforementioned conditions of the Interlocal Agreement. Henderson County will consider the sale of the Property at their April 15, 2015, Commission meeting. Therefore, the purpose of this resolution is to grant City Council's approval of this sale and acknowledgment that the terms of the Interlocal Agreement have been met. Additionally, Henderson County has requested that the Interlocal Agreement be amended to delete the condition that limits its use of the proceeds from the sale to the purchase and construction of a local law enforcement training center as this is no longer a need at this level of funding for the County.

Pro:

- The sale of the Property is accordance with the terms of the Interlocal Agreement and as such is at fair market value will be used for economic development purpose which in turn will is likely to benefit the City in terms of increased taxed base and potential new job creation.

Con:

- There is no negative impact.

As per the terms of the Interlocal Agreement, the City's share of the proceeds from the sale of this Property will go to Buncombe County for use for public safety purposes. However, the eventual use of the property for economic development purposes should benefit the City in terms of increased revenues from an expanded tax base.

City staff recommends adoption of the resolution authorizing the Mayor to execute any and all documents necessary to amend the Interlocal Agreement with Henderson County as described and to effectuate the sale of the Ferry Road property to Buncombe County.

Mr. Tim Harrison said that since the agreement is contingent upon the property being conveyed to Buncombe County for economic development use, he asked if that would be an ongoing provision if this potential buyer does not work out. Assistant City Attorney Jannice Ashley replied that it will be an ongoing provision, regardless of the buyer.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved to adopt Resolution No. 15-63. This motion was seconded by Councilman Davis and carried unanimously.

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B. ORDINANCE NO. 4404 - ORDINANCE ADOPTING THE FISCAL YEAR 2015-16 FEES AND CHARGES

Budget and Financial Reporting Manager Tony McDowell said that this is the consideration of an ordinance adopting fee adjustments for Fiscal Year 2015-16.

The major types of revenue available to North Carolina counties and municipalities are local taxes (including property taxes); local fees, charges and assessments; and intergovernmental and miscellaneous revenue. Local governments have increasingly looked for appropriate opportunities to implement local fees and charges because they have the advantage of aligning service provision directly with payment; therefore, the person or entity receiving the benefit of a service pays for the service. In Asheville, these fees make up about 10% of the City's General Fund revenue and 36% of city-wide revenue. These fees generally fall into three major categories: general user fees and charges; regulatory fees, and; public enterprise fees and charges.

Proposed FY 2015-16 Fee Changes:

1. ***Continuation of Planned Multi-Year Adjustments to Water and Stormwater Fees.*** Based on financial analyses completed in prior years, staff is proposing the following rate adjustments:

   a. Water Resources:
   - Single Family, Multi-Family, Small Commercial/Manufacturer: 1.5% increase
   - Large Commercial/Manufacturer (>1,000 CCF/month): 3.5% increase
   - Wholesale & Irrigation: 5.0% increase
   - Capital Improvement Fee: 1.5% increase (all meter sizes)

   b. Stormwater: 5% increase
   - Single Family properties 225-2,000 sq ft: $2.50/mo. to $2.63/mo.
   - Single Family properties 2,001-4,000 sq ft: $4.00/mo. to $4.20/mo.
   - Single Family properties >4,000 sq ft: $5.50/mo. to $5.78/mo.
   - Non-Single Family properties: $4.00/mo. to $4.20/mo.

2. ***Minor Changes to Other General Fund and Transit Services Fund Fees.*** Staff is recommending minor changes to several fees in these two funds.

The proposed FY 2015-16 fee adjustments were reviewed by the City Council Finance Committee on March 24, 2015. A full summary of the proposed fees and charges was provided to Council. The proposed Solid Waste fee adjustment, which was presented to the Finance Committee on March 24, will be discussed at a future Council budget worksession, and is

therefore not included in the fee package under consideration tonight. As staff continues preparation of the FY 2015-16 Manager's Recommended Budget, there may also be additional fee adjustments that are brought forward as part of the budget presentation in May.

Fees	FY15 Annual Cost	FY16 Annual Cost	Increase
Water - Single Family (5 CCF avg. monthly usage)	$315.24	$319.44	$4.20
Stormwater – Single Family (2,001-4,000 Sq. Ft.)	$48.00	$50.40	$2.40
Total Avg. Cost	$363.24	$369.84	$6.60

The chart below summarizes by fund the additional revenue that will be generated by the proposed FY 2015-16 fee changes:

Fund	Additional Revenue
General Fund	$450 decrease
Transit Services Fund	$200
Stormwater Services Fund	$239,600
Water Resources Fund	$465,130

City staff recommends City Council adopt fee adjustments for Fiscal Year 2015-16.

Regarding water fees, Councilman Smith said that Council years ago hired a consultant group to look at all our water charges. As a result of the study, it was discovered that residential users were paying out of proportion to commercial users. So, Council set a multi-year course to correct that inequity. What this is now is the next step in the multi-year plan.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4404. This motion was seconded by Councilwoman Wisler and carried unanimously.

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C. BOARDS & COMMISSIONS

Regarding the Civil Service Board vacancies, the following individual has applied for a vacancy on the Board: Pamela Holcombe. It was the consensus of Council to re-advertise for the vacancies on said Board.

Regarding the HUB Community Economic Development Alliance, the following individuals applied for a vacancy: Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin and Adrian Vassallo. It was the consensus of Council to interview Kendra Penland, Hunter Goosmann, Ed Manning, Adrian Vassallo and Ted Figura.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaronmonte commented about no prayer at the beginning of the City Council meetings and panhandling.

Ms. Sabrah n'haRaven said that the Transit Subcommittee reviewed recommendations to eliminate the downtown fare free zone at their last meeting, but had asked that the item be tabled until their next meeting for real public discussion. Councilman Smith said that fees and charges must be included in the budget cycle in order to adopt the budget prior to the end of the fiscal year. In response to the elimination of the downtown fare free zone, at the Finance Committee, staff responded that (1) it is difficult for the drivers to monitor when people would get on and off; and (2) there are very limited numbers of users.

Closed Session

At 6:05 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 6:57 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:57 p.m.

Magdalen Bowlesson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – April 28, 2015 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Finance Director Barbara Whitehorn provided the Council with a preliminary overview of the Fiscal Year 2015-16 Operating Budget, including the enterprise funds, and presented operating budget scenarios for balancing the Fiscal Year 2015-16 budget.

She explained the revenues come from (1) property tax; (2) sales and other taxes; (3) charges for services; (4) licenses and permits; (5) intergovernmental revenue; and (6) other review. Challenges include (1) the North Carolina General Assembly voted to disallow the Privilege License Tax effective July 1, 2015; (2) charges for services are not keeping up with costs (a) solid waste fee, $7.00/month; taxpayer subsidy of service: $2.4 Million; and (b) Nature Center subsidy at 65% of operating budget; and (3) several bills introduced in the 2015 General Assembly could significantly reduce sales tax receipts for the City; one bill could increase tax receipts.

Assumptions for 2015-16 include (1) property tax - County Tax Office predicts value increase of 1.8%; (2) sales tax (a) N.C. League of Municipalities projects growth of 4.0%; and (b) current year trend 14% over prior year; and (3) local revenue - building permits for Fiscal Year 2014-15 is trending 8.5% above budget; (4) Intergovernmental revenue - State utility tax receipts in Fiscal Year 2015 are $600,000 over prior year.

Assumptions for 2015-16 for the General Fund expenditures include (1) 2015 election costs; (2) transit operations; (3) Graffiti Program continuation; (4) maintain contribution to workers compensation and liability funds; (5) fleet maintenance and fuel; (6) enhanced Fire Inspection Program; (7) Police Department's first steps in the Strategic Operating Plan and Organizational Assessment; (8) health care; (9) other benefits; and (10) classification and compensation study. Overall, the General Fund expenditures are anticipated to increase 2.7% over Fiscal Year 2014-15. Estimated expenditures of $102 Million.

She reviewed various revenue strategies to balance the General Fund budget, recommending (1) a 1.5 cent increase per $100 valuation to offset the loss privilege license; (2) decreasing taxpayer subsidy of the Nature Center (a) new gate admission rates; and (b) membership contribution to operations; (3) decreasing taxpayer subsidy at the Aston Park Tennis Center (a) new membership rates; and (4) planned increase in solid waste fee of $3.50/month. With these recommendations, along with managed savings and re-engineering, the budget would be balanced. Staff will continue to seek and implement innovative cost savings models.

She then reviewed the enterprise funds: (1) Water Fund (a) continued stable performance; (b) minor rate adjustments based on financial model were approved on April 14; and (c) $12 Million pay-go investment in water capital improvements; (2) Transit Fund (a) continued financial pressure; (b) no service changes budgeted; and (c) General Fund support increased by $90,000; (3) Parking Fund (a) strong revenue growth; (b) no adjustments to garage or meter rates; (c) maintain $616,000 in support to Transit Fund; and (d) capital program being developed; (4) US Cellular Center Fund (a) moderate performance in Fiscal Year 2014-15 (revenue and expenses adjusted down to reflect lighter event load); (b) no increase in General Fund operating support; and (c) Thomas Wolfe acoustical study funded; and (5) Stormwater Fund

(a) 5% rate increase approved April 14; (b) additional crew added for enhanced maintenance program; and (c) continuation of service and capital investment.

Throughout Ms. Whitehorn's presentation, she responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised include where is the savings from the LED street lights in the budget; request to see how funding is being proportioned out to community programs; how are fees established for outdoor dining; what is the impact on tipping fees since there is success with residents using recycling; is the reinstatement of the leaf trucks in this budget cycle; and request to look at raising parking meter fees in certain corridors.

Ms. Whitehorn then reviewed the upcoming dates associated with adoption of the budget.

Discussion then occurred regarding the different revenue strategies recommended to balance the budget, with each Council member voicing their suggestions, and the City Manager outlining how (if Council rejects the recommended revenue strategies) the $2.5 Million impact might be absorbed.

The majority of Council supported the revenue strategies outlined by Ms. Whitehorn and directed her to move forward with them in order to present a balanced budget.

At 4:05 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 28, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY 3-9, 2015, AS "NATIONAL DRINKING WATER WEEK"

Mayor Manheimer read the proclamation proclaiming May 3-9, 2015, as "National Drinking Water Week" in the City of Asheville. She presented the proclamation to Director of Water Resources Steve Shoaf, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 14, 2015

B. RESOLUTION NO. 15-64 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 12, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO SUPPORT POLYLINKS INC.

Summary: The consideration of a resolution authorizing a public hearing to be held on May 12, 2015, to consider an economic development incentive grant for PolyLINKS Inc.

City of Asheville has been requested by Buncombe EDC for consideration of a performance based incentive grant under the City of Asheville Economic Development policy to PolyLINKS Inc. PolyLINKS Inc. is an existing precision metal working company (in the formerly owned Citizen-Times Production Plant on Sardis Road) and they have proposed expansion of their building. The company is investing $1.1 Million in building upgrades and $1.2 Million in machinery & equipment, for a total of $2.3 Million. The expansion will add 12 new jobs with an average wage of $36,000 to the existing 17 employees at the company. The City of Asheville is considering offering a performance-based grant in an amount not to exceed $31,000.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of the new incremental increase from property tax revenue generated by the project for a 5 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After 5 years, the City will henceforth receive 100% capture of new city taxes. As noted above, the City of Asheville performance-based grant amount will not exceed $31,000 in total.

City staff recommends Council approve a resolution authorizing a public hearing to be held on May 12, 2015, on an economic development incentive grant agreement to support PolyLINKS Inc.

Councilwoman Wisler asked that at the public hearing staff provide information regarding the range of wages.

RESOLUTION BOOK NO. 37 - PAGE 77

C. RESOLUTION NO. 15-65 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 12, 2015, TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT TO SUPPORT THE EXPANSION OF HI-WIRE BREWING

Summary: The consideration of a resolution authorizing a public hearing to be held on May 12, 2015, to consider an economic development incentive grant for Hi-Wire Brewing.

Hi-Wire Brewing opened its doors in June 2013 and the company was named Best New N.C. Brewery in 2013 by RateBeer and was awarded the most medals at the 2014 N.C. Brewer's Cup. The continued growth has prompted the company to invest $1.62 million over the next 3 years in a new brewing facility and equipment. Additionally, the company will create 15 new jobs

over a period of 3 years with an average wage rate of 37,400. The company provides 50% of coverage for health insurance and other benefits to employees.

The City's incentive policy would justify an incentive grant of $25,000 to the company. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, $5,000 a year, after the conditions of the performance agreement are met and the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls.

North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of property tax revenue for a five year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After five years, the City will henceforth receive 100% capture of new city taxes.

The economic development incentive grant for Hi-Wire Brewing supports the City Council's Strategic Operating Plan as it addresses multiple focus areas. Under the Job Growth and Community Development focus area, the project supports the Goal of creating more collaborative and effective working partnerships between the COA, the business community, and other key organizations to effectively manage the city's regulatory environment while accomplishing economic development goals by meeting the objective to support diversified job growth and small business development. It supports the goal of supporting a strong local economy by continuing to implement sustainable growth and development policies by promoting sustainable, high density infill development that makes efficient use of existing resources.

City staff recommends Council approve a resolution authorizing a public hearing to be held on May 12, 2015, on an economic development incentive grant agreement to support the expansion of Hi-Wire Brewing.

Councilwoman Wisler asked that at the public hearing staff provide information regarding the range of wages.

RESOLUTION BOOK NO. 37 - PAGE 78

D. RESOLUTION NO. 15-66 - RESOLUTION ACCEPTING W. SUMMIT STREET AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept West Summit Avenue as a city-maintained street.

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on November 14, 2014 asking the City to accept the subject street as a city-maintained street.

West Summit Avenue from US 25 (Hendersonville Road) to its dead-end is a developer-constructed street that has an average width of 22 feet with 24-inch curb and gutter, a length of 0.18 mile, and a variable right-of-way width of 50 to 100 feet. The original 100-foot right-of-way is recorded in Plat Book 1 Page 62 and City Council approved Resolution # 14-8 to permanently close portions of excessive right-of-way along West Summit Avenue on January 14, 2014 leaving a minimum right-of-way width of 50 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept West Summit Avenue as a city-maintained street.

RESOLUTION BOOK NO. 37 - PAGE 79

E. RESOLUTION NO. 15-67 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE EARTH FARE 5K EVENT

RESOLUTION NO. 15-68 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOWNTOWN AFTER 5 EVENTS

RESOLUTION NO. 15-69 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE SUNDAY MUSIC IN THE PARK EVENTS
RESOLUTION NO. 15-70 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL

RESOLUTION NO. 15-71 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL

RESOLUTION NO. 15-72 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE HALF MARATHON

RESOLUTION NO. 15-73 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE RACE TO THE TAPS

RESOLUTION NO. 15-74 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ORGANICFEST

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Earth Fare 5K on May 9, 2015; Downtown After 5 on May 15, June 19, July 17, August 21, and September 18, 2015; Sunday Music in the Park on May 17, May 31, June 14, June 28, and July 12, 2015; Mountain Sports Festival on May 22, May 23 and May 24, 2015; Beer City Festival on May 30, 2015; Asheville Half Marathon on June 6, 2015; Race to the Taps on August 8, 2015; and Organicfest on August 30, 2015.

- Asheville Track Club has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Earth Fare 5K and allow for consumption at this event.

  Earth Fare 5K will be held on Saturday, May 9, 2015, from 6:30 a.m. – 11:30 a.m. within the interior of the velodrome at Carrier Park, located at 220 Amboy Road as per the event area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Downtown After 5, Sunday Music in the Park and Race to the Taps – South Slope and allow for consumption at these events.

  Downtown After 5 will be held on Fridays, May 15, June 19, July 17, August 21 and September 18, 2015, from 5:00 p.m. – 10:00 p.m. on Lexington Avenue between the intersections of Hiawassee and the I-240 underpass, extending within the metered parking lot located at the I-240 underpass as per the event area limits referenced on the accompanying site map.

  Sunday Music in the Park will be held on Sundays, May 17, May 31, June 14, June 28 and July 12, 2015, from 4:00 p.m. – 6:00 p.m. at Pack Square Park's Roger McGuire Green and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

  Race to the Taps – South Slope will be held on Saturday, August 8, 2015, from 4:30 p.m. – 10:00 p.m. on Banks Avenue between the intersections of Coxe Avenue and Church Street as per the event area limits referenced on the accompanying site map.

- Mountain Sports Festival has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

  The Mountain Sports Festival will be held on Friday, May 22 from 4:00 p.m. – 10:00 p.m., Saturday, May 23 from 10:00 a.m. – 10:00 p.m., and Sunday, May 24, 2015, from 10:00 a.m. – 6:00 p.m. within the interior of the velodrome at Carrier Park, located at 220 Amboy Road as per the event area limits referenced on the accompanying site map.

- Big Brothers Big Sisters of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Beer City Festival and allow for consumption at this event.

The Beer City Festival will be held on Saturday, May 30, 2015, from 12:00 p.m. –7:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Spruce Street between the intersections of South Pack Square & College Street, and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- The Asheville Buncombe Regional Sports Commission has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the Asheville Half Marathon and allow for consumption at this event.

  The Asheville Half Marathon will be held on Saturday, June 6, 2015, from 7:00 a.m. – 12:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- Asheville Greenworks has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Organicfest and allow for consumption at this event.

  Organicfest will be held on Sunday, August 30, 2015, from 10:00 a.m. – 6:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Track Club, Asheville Downtown Association, Mountain Sports Festival, Big Brothers Big Sisters of WNC, Asheville Buncombe Regional Sports Commission, and Asheville Greenworks

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Earth Fare 5K, Downtown After 5, Sunday Music in the Park, Mountain Sports Festival, Beer City Festival, Asheville Half Marathon, Race to the Taps – South Slope, and Organicfest.

RESOLUTION NO. 15-67 - RESOLUTION BOOK NO. 37 - PAGE 81
RESOLUTION NO. 15-68 - RESOLUTION BOOK NO. 37 - PAGE 84
RESOLUTION NO. 15-69 - RESOLUTION BOOK NO. 37 - PAGE 87
RESOLUTION NO. 15-70 - RESOLUTION BOOK NO. 37 - PAGE 90
RESOLUTION NO. 15-71 - RESOLUTION BOOK NO. 37 - PAGE 93
RESOLUTION NO. 15-72 - RESOLUTION BOOK NO. 37 - PAGE 96
RESOLUTION NO. 15-73 - RESOLUTION BOOK NO. 37 - PAGE 99
RESOLUTION NO. 15-74 - RESOLUTION BOOK NO. 37 - PAGE 102

F. RESOLUTION NO. 15-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT TO DUKE ENERGY PROGRESS INC. FOR AN ELECTRIC POWER LINE ON PROPERTY LOCATED ON THOMPSON STREET

Summary: The consideration of a resolution authorizing the City Manager to convey an easement to Duke Energy Progress, Inc. over a portion of city-owned property on Thompson Street.

The City of Asheville owns real property at PIN # 9648813481 and it is currently vacant. The City plans to use the property for future greenway expansion. It contains .35 acres and there are no improvements on site. This property is directly adjacent to the Swannanoa River and the highest and best use appears to be floodplain protection and infrastructure.

Duke Energy is replacing transmission lines on Thompson Street in order to improve reliability to the East Asheville community.

The easement area being requested extends approximately 237 feet along the river side of the property. The total width of the easement is 15' on either side of the line. This is approximately 7100.28 square feet or 0.063 acres of permanent easement that is being requested. In consideration for the easement, Duke has agreed to compensate the city at the fair market value of $37,500. Additionally, Duke Energy Progress has agreed to work with the City to insure that a 10 foot greenway can be constructed on this easement at a later date and this will be reflected in the recorded easement. The Transportation Department's Greenway Planner has reviewed the easement document.

Pros:

- Granting of the easement will allow Duke Energy to upgrade power infrastructure to provide improved service to the East Asheville neighborhood.
- Granting of the easement will not affect the long range plans for greenway construction.
- Conveyance of the easement at fair market value.

Con:

- None noted.

The monetary consideration from the sale of the easement will benefit the General Fund and will be designated for future economic and community development projects.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 7,100.28 square foot easement over a portion of City-owned property at Thompson Street to Duke Energy Progress, Inc.

RESOLUTION BOOK NO. 37 - PAGE 105

G. RESOLUTION NO. 15-76 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL AGREEMENT WITH CLARK NEXSEN INC. FOR ARCHITECTURAL AND ENGINEERING DESIGN SERVICES FOR THE 200 BINGHAM ROAD PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services agreement with Clark Nexsen, Inc., for the proposed amount of $102,000 plus a 10% contingency amount of $10,200 for a total project budget in the amount of $112,200 for Architectural and Engineering Design Services for the 200 Bingham Road project.

City Council authorized the acquisition of property at 200 Bingham Road for the relocations of Water Maintenance / Meter Services. On February 19, 2015, the City acquired the property. Upon acquisition, the Water Resources Department (Department) started making plans to retrofit the building and property to better serve its needs. On February 24, 2015, City Council approved a budget amendment to transfer $3,525,000 from the Water Fund Balance to the 200 Bingham Road project. The budget transfer included funds for the final purchase price of $2,855,000 and additional funds for the architectural and engineering design services agreement along with anticipated construction expenses.

On February 9, 2015, the Department issued a Request for Qualifications (RFQ) for Architectural Services for the Water Maintenance / Meter Services Facility at 200 Bingham Road. In response to that RFQ, the department received six submittals from the following:

1. Architectural Design Studio – Asheville, NC
2. Clark Nexsen, Inc. – Asheville, NC
3. Innovative Design – Raleigh, NC
4. Mathews Architecture, PA – Asheville, NC
5. Padgett & Freeman Architects, PA – Asheville, NC
6. Sparc Design, PC – Asheville, NC

A Departmental staff team reviewed these submittals and recommended the firm of Clark Nexsen, Inc.

The scope of the project will include architectural and engineering design services for two phases. Phase I will consist of: (1) a stone shed with storage areas for sand/dirt, washed stone, and rip rap; (2) layout of the yard area for storage of the department's equipment; (3) roof membrane repair and replacement; and (4) fence/gate work. Phase II will consist of interior retrofit based on the layout to include office space, conference areas, crew quarters, equipment storage, locker rooms, HVAC, elevator repairs/replacement to provide access to the second floor, an exercise area, and a video conference area. Also included are a site survey, bidding for Phase II construction, and construction administration. While there will be a Phase III of the project, design efforts for that work are not included as part of this proposal.

Pro:

- Approval of the professional services agreement with Clark Nexsen will keep the project on schedule to relocate Water Maintenance / Meter Services in late December 2015 or early January 2016.

Con:

- If the agreement is not approved, the design and renovations will be delayed, thereby delaying the relocation date past the anticipated goal of January 2016.

The Water Resources Department currently has a $1,234,685 available budget for the 200 Bingham Road Water Maintenance Facility project. The available budget will be used for design and construction expenses.

Available Budget in 200 Bingham Road project	$1,234,685.74
Amount Needed for Clark Nexsen agreement	$ 112,200.00
Amount Remaining for Construction	$1,122,485.74

The architect has provided a preliminary construction estimate of $1 million. There will also be Information Technology needs for an added cost of approximately $80,000. Council approval of additional contracts associated with this project will be sought in accordance with the City's Procurement, Purchasing and Contracting Policy.

Staff recommends City Council approval of a resolution to enter into a professional services agreement with Clark Nexsen, Inc., for the proposed amount of $102,000 plus a 10% contingency amount of $10,200 for a total project budget in the amount of $112,200 for Architectural and Engineering Design Services for the 200 Bingham Road project.

RESOLUTION BOOK NO. 37 - PAGE 106

H. ORDINANCE NO. 4405 - ORDINANCE TO RESCIND THE ELIMINATION OF THE DOWNTOWN FARE FREE ZONE AND REFER THE ACTION TO THE

MULTIMODAL TRANSPORTATION COMMISSION FOR FURTHER DISCUSSION

Summary: The consideration of an ordinance to rescind the elimination of the Downtown Fare-Free Zone approved by Council on April 14, 2015.

On April 14, 2015, City Council adopted fees adjustments which involved the elimination of the Downtown Free-Fare Zone by Ordinance 4404.

The Transit Committee has asked staff to allow for more opportunities to discuss this change with their members, the Multimodal Transportation Commission and the public, due to the effect this measure could have on low-income residents.

After further consideration, staff is recommending City Council to consider an ordinance to rescind the elimination of the Downtown Fare-Free Zone, allowing for a 120-day review and evaluation of policy alternatives.

Pros:

- This action allows staff to review and reevaluate options for the fare-free zone.
- Eliminates the potential unintended effects on low-income residents that use the fare-free zone to access to their daily activities.

Cons:

- None.

This action has no fiscal impact.

City staff recommends that City Council consider an ordinance to rescind the elimination of the Downtown Fare-Free Zone.

Councilwoman Wisler asked that for the next budget cycle, the Transportation Department, in conjunction with the Multimodal Transportation Commission and the Transit Subcommittee, look at all transit fares and report back to Council with a recommendation on those fares.

ORDINANCE BOOK NO. 29 - PAGE 428

I. RESOLUTION NO. 15-77 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH JOHNSON PRICE SPRINKLE PA FOR THE ASHEVILLE POLICE DEPARTMENT SPEED MEASURING INSTRUMENTS AUDIT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in contract with Johnson Price Sprinkle PA to an amount not to exceed $120,000, for the Asheville Police Department (Police Department) speed measuring instruments audit.

The City of Asheville Finance Department is seeking to enter a change order for the current general services agreement with Johnson Price Sprinkle PA to complete a review of the the Police Department's speed measuring instruments and officer certifications, which will be completed in May. This contract was entered on November 7, 2014, to provide independent, external review of the Police Department's speed measuring instruments and officer certifications from January 2011 through November 2014 after concerns were raised regarding expired calibrations and certifications.

This change order is needed due to the time involved in reviewing an increased volume of information.

Pros:

- City will receive deliverable in the form of a final report of the speed measuring instruments certifications review.
- City will receive a list of suggested needed improvements.

Con:

- None.

The funding needed for this agreement is currently allocated within the Finance Department Administration Division's contracted services budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to enter a change order for the general services contract with Johnson Price Sprinkle PA for an amount not to exceed $120,000 with the understanding that funding is project-specific.

RESOLUTION BOOK NO. 37 - PAGE 107

J. ORDINANCE NO. 4406 - BUDGET AMENDMENT TO REFLECT THE COST SHARING OF A NEW VEHICLE PURCHASE WITH STREET CUT ENTERPRISE FUND

Summary: The consideration of a technical budget amendment in the amount of $13,190 in the General Capital Projects Fund, funded by debt proceeds, to reflect the cost sharing of a new vehicle purchase with Street Cut Enterprise Fund.

Certain City employees and equipment are used both to perform General Fund and Enterprise Fund activities for the citizens of Asheville. In order to properly account for the recent fixed asset vehicle purchase of a new Ford Explorer, one-half of the total expense is being transferred through a budget amendment from the Street Cut Enterprise Fund to the General Capital Projects Fund.

Pro:

- Properly accounting for the fixed asset purchase to help to ensure the City's financial reports are correct.

Con:

- None.

This transaction requires a technical budget amendment to reduce the budget in the Street Cut Utility Fund and increase the budget in the General Capital Projects Fund.

City staff recommends City Council adopt the technical budget amendment in the amount of $13,190 in the General Capital Projects Fund, funded by debt proceeds, to reflect the cost sharing of a new vehicle purchase with Street Cut Enterprise Fund.

ORDINANCE BOOK NO. 29 - PAGE 429

K. ORDINANCE NO. 4407 - BUDGET AMENDMENT TO ACCEPT THE DONATION FROM HUMANA FOR MATERIALS AND SUPPLIES FOR THE 2015 ASHEVILLE BUNCOMBE SENIOR GAMES

Summary: The consideration of a budget amendment in the General Fund in the amount of $1,000 for materials and supplies for the Asheville Buncombe Senior Games.

Each year the City of Asheville in conjunction with Buncombe County produces the Asheville Buncombe Senior Games, a sports competition for people age 50 and older under the

direction of North Carolina Senior Games through the State of North Carolina Division of Aging and Adult Services.

The 2015 Asheville Buncombe Senior Games will occur April 23 – May 8 at sport venues located throughout Buncombe County. This year the City received a $1,000 donation from Humana to support the cost of supplies and materials for the games.

Pro:
- Provide materials and supplies for the 2015 Asheville Buncombe Senior Games.

Con:
- None

The budget amendment increases the General Fund budget for materials and supplies by $1,000. These expenditures are fully funded by a donation in the amount of $1,000 that has been received; thus, there is no net fiscal impact to the City's operating budget.

Staff recommends City Council to approve a budget amendment authorizing the City Manager to accept the donation from Humana in the amount of $1,000 to support the cost of materials and supplies for the 2015 Asheville Buncombe Senior Games.

ORDINANCE BOOK NO. 29 - PAGE 431

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: County Tax Flexibility/Municipal Revenue Options; Sales Tax Fairness Act; Restrict Municipal Eminent Domain, Referendum for Certain Local Debt; and new Historic Preservation Tax Credit.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE ASHEVILLE OUTLETS SIGN PACKAGE LOCATED AT 800 BREVARD ROAD, ASHEVILLE, N.C.

ORDINANCE NO. 4408 - ORDINANCE AMENDING THE ASHEVILLE OUTLETS SIGN PACKAGE LOCATED AT 800 BREVARD ROAD, ASHEVILLE, N.C.

Urban Planner Julia Fields said that this is the consideration of an ordinance to amend the Asheville Outlets sign package located at 800 Brevard Road, Asheville, N.C. This public hearing was advertised on April 17 and 24, 2015.

On April 22, 2014, the Asheville City Council approved a master signage plan for the Asheville Outlets development located at 800 Brevard Road. The subject property at that time was comprised of approximately 60 acres.

The signage package approved by Council included provisions for:

- Freestanding Development Identification Signage (total of 5 signs)
- Attached Identification Signage (based on linear footage of the exterior façade of the center)
- Banners (on building facades [20] and parking lot light poles [20])
- Vehicular Directional Signs (total of 6 signs)
- Parking Area Location Signs
- Service Door Identity Signs

Since that time the retail center development has been expanded to include the property on which the former Belk Department Store was located (an addition of approximately nine acres to the project site). The project site is zoned Regional Business (RB). The applicant is asking that this area be added to the area covered by the signage plan.

The applicant is not proposing any additional freestanding signs or vehicular directional signs, nor is the applicant increasing the number of banners permitted. The addition of the former Belk property to the development will only affect:

- The linear footage of the exterior façade of the center which affects the amount of attached identification signage that will be allowed.
- The possible location of such attached identification signage – expanding to allow attached signage at the entrance of a building tenant who has an exterior public entrance (not just at the general public access points to the center).
- The location of permitted banners (the number permitted does not change).
- The area in which parking area location and service door identity signs could be placed.

Anything not addressed in this sign package must meet City of Asheville standards.

The stated purpose in the City's Unified Development Ordinance of allowing the consideration of a separate signage plan is as follows: *The purpose of allowing the consideration of a separate signage plan is to permit creativity in sign placement to address issues and constraints associated with topography, pedestrian-orientation, way-finding, and other conditions unique to the subject development.*

When Council reviewed the proposed signage plan in 2014, it was found that the signage proposed met this stated purpose. The amendment currently before Council does not change the main elements of the previously approved plans. The amendment expands the area for which the package applies.

Pros:

- Provides clear and recognizable signage for a major regional shopping center.
- Provides only limited expansion of the application area for the previously approved sign package.
- Promotes a coordinated unifying theme for the development.

Con:

- Exceeds existing standards found in the UDO.

City staff recommends that City Council adopt the ordinance approving the amendment to the sign package for 800 Brevard Road (Asheville Outlets) as submitted subject to the

condition that any signage not addressed in the package would have to comply with the City's sign regulations or an amendment to this sign package would have to be approved.

Mr. W. Louis Bissette, attorney representing the developer, explained what a great retail experience this project will create, noting that it will provide hundreds of new jobs.

Mayor Manheimer opened the public hearing at 5:17 p.m., and when no one spoke, she closed the public hearing at 5:17 p.m.

Councilman Bothwell felt that all businesses, large and small, should comply with the existing sign regulations. He voted against the original signage plan, and would vote against this amendment.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly moved to approve the amendment to the signage plan for the Asheville Outlets project located at 800 Brevard Road subject to the condition that any signage not addressed in the package would have to comply with the City's sign regulations or an amendment to this sign package would have to be approved. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilman Bothwell voting "no."

ORDINANCE BOOK NO. 29 – PAGE 433

B. PUBLIC HEARING TO CONSIDER ADOPTION OF THE CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN FOR 2015-19

RESOLUTION NO. 15-78 - RESOLUTION APPROVING THE 2015-2019 CONSOLIDATED STRATEGIC HOUSING AND COMMUNITY DEVELOPMENT PLAN

Assistant Community & Economic Development Director Jeff Staudinger said that this is the consideration of a public hearing and resolution approving the City's Consolidated Strategic Housing and Community Development Plan for 2015-19, which will guide Community Development Block Grant and HOME funding decisions during that time period. This public hearing was advertised on April 17 and 24, 2015.

Every five years the City of Asheville, as the Participating Jurisdiction of the Asheville Regional Housing Consortium and as a Community Development Block Grant (CDBG) Entitlement Community must prepare a plan for the use of CDBG and HOME funds for the next five years. The Plan establishes priorities for the use of these federal funds, based upon an analysis of need and impact.

The Community Development Division began preparation of the Plan in December of 2014. An extensive citizen engagement process elicited broad stakeholder participation. The Housing Needs Assessment report prepared by Bowen National Research provided essential information about existing and projected affordable housing needs. The Asheville Regional Housing Consortium Board and the City Housing and Community Development Committee, serving as the advisory boards for the plan, reviewed data and citizen comments and have recommended priorities.

The highest priority in the proposed plan is to increase housing affordable to households earning 60% or less of median income.

The final Plan, as approved by Council, will be submitted to HUD on or before May 15, 2015. Submittal is made electronically through HUD's "IDIS" system. A copy of the plan will be available on the City's web site, and distributed to all Asheville Regional Housing Consortium members.

All funding decisions for 2015 CDBG and HOME funding must be in accord with the 2015-2019 Consolidated Plan. Staff considers all funding recommendations before Council to be supported by the Plan.

Pros:

- Approval of the Consolidated Plan will ensure continued eligibility for federal CDBG and HOME funding;
- Because of the extensive research and community engagement, the Consolidated Plan is a relevant and meaningful source of information about the needs of the communities served by the Plan;
- Priorities established in the Consolidated Plan will guide applicants as they seek to develop programs and projects that meet the greatest needs in the communities served by the Plan.

Con:

- None.

The 2015-2019 Consolidated Plan guides the use of federal funds during that time period. The priorities of the Plan, by guiding the investment of federal funds for affordable housing and other eligible activities, may affect City decisions about investments in CDBG and HOME funded projects during this time frame. The submittal of the Plan and its acceptance by HUD is a requirement for the continued receipt of CDBG and HOME funds.

Staff recommends that Council approve the 2015-2019 Consolidated Plan for CDBG and HOME.

Mayor Manheimer opened the public hearing at 5:34 p.m.

Mr. Greg Borom, representing Children First of Buncombe County, thanked the Council for addressing issues surrounding affordable housing with bold and creative ideas. Investing in children is a long-term proposition for our community's viability and future and we know that the stress of homelessness as well as the stress of being in an unsafe or unstable housing can impact children's health and educational outcomes for years to come.

Mayor Manheimer closed the public hearing at 5:36 p.m.

Councilman Smith noted that the Plan does reflect the community's needs, but does not provide nearly enough money. However, he noted that several thousands of people will be helped. We have dwindling resources for growing needs.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-78. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 108

C. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2015-16 WHICH SETS

OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR THE COMING YEAR

RESOLUTION NO. 15-79 - RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2015-16 TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Community Development Manager Heather Dillashaw said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2015-16, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 17 and 24, 2015.

The City will have $1,083,621 in CDBG funds and $1,088,257 in HOME funds available for the fiscal year beginning July 1, 2015. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 18 CDBG and 8 HOME programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2015-2019.

20% of CDBG funds and 10% of HOME funds are available for administration. Funding for City management and administration is relatively flat in comparison to last year. The Community Development Division will maintain its staffing this year, but with increased federal administrative requirements program administration is an on-going challenge.

If the proposed projects receive the funding from other sources necessary to make them possible, HOME funds and CDBG funds will assist in creating 162 new affordable units, improve 16 housing units and helping an additional 100 households afford housing Consortium-wide. CDBG funds will also benefit almost 2,500 low-income City residents through homeless services, financial counseling, small business assistance, and other needed services. Our CDBG partner agencies leverage $4.82 of other funding for every $1.00 of CDBG funding. Our HOME partners will raise over $25.00 for every $1.00 of HOME funds invested in their projects.

A public hearing will be held at the Council meeting of April 28. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15.

Pros:

- Approval of the Action Plan paves the way for the receipts of over $2,170,000 of HUD funding to the City and region, which will be used to create affordable housing and create jobs.
- HUD funding will leverage approximately $34,900,000 of additional funding for these projects.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2015-16 to the U. S. Dept. of Housing and Urban Development.

Mayor Manheimer opened the public hearing at 5:41 p.m.

Ms. Kendra Penland, interim Executive Director of Green Opportunities, thanked City Council for their support.

Mayor Manheimer closed the public hearing at 5:43 p.m.

Councilman Smith thanked City staff for their assistance in evaluating the applications as it is very difficult to decide how to dispense the allowed CDBG funds and HOME funds to the very deserving applicants.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-79. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 109

D. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF A PORTION OF BRADLEY STREET

RESOLUTION NO. 15-80 - RESOLUTION TO PERMANENTLY CLOSE A PORTION OF BRADLEY STREET

Mr. Chad Bandy, Streets Manager, said that this is the consideration of a resolution to permanently close a portion of Bradley Street. This public hearing was advertised on March 27, April 3, April 10 and April 17, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, Fiano Properties, property owner on both sides of the proposed closure area, have requested the City of Asheville to permanently close a portion of Bradley Street. Other property owners in the immediate area, not abutting the proposed closure area, signed the petition and submitted affidavits to close permanently close a portion of Bradley Street. Said other property owners include Sandra Alexander of 8 Moore Avenue; Megan and John Griffin of 430 State Street; and Aaron Marmaret and B. J. Harden Jones of 147 Bradley Street. Notice of this closing was via the posting onsite of the closure.

He said that the closing is subject to Fiano Properties, dedicating a new right of way to the City of Asheville that will be of equal width to the proposed closure and will allow for a continuous right of way around the proposed closed portion. In addition, the closing is subject to the retention by the City of Asheville Water Resources Department, its successors and assigns, of a 20 foot wide permanent easement, for the operation and maintenance of a water line lying 10 feet on each side of the center line of said water line located within the portion of

Bradley Street proposed to be closed.

The Multimodal Transportation Commission met on February 13, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close a portion of Bradley Street.

Mayor Manheimer opened the public hearing at 5:48 p.m., and when no one spoke, she closed the public hearing at 5:48 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 15-80. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 110

E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR A 97-UNIT APARTMENT BUILDING LOCATED AT 128 FLORENCE STREET AND WHITE FAWN LANE KNOWN AS BEAUCATCHER FLATS

City Attorney Currin reviewed with Council the conditional use permit hearing process, which is quasi-judicial. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the Applicant.

City Attorney Currin asked if any Council member has any special knowledge associated with this project that they disclose it at this time. All Council members noted that they have had outside contact but would consider this issue with an open mind on all the matters before them without pre-judgment and that they will make their decision based solely on what is before Council at the hearing.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that this is the consideration of the issuance of a conditional use permit for a 97-unit apartment building located at 128 Florence Street and White Fawn Lane.

The site consists of two parcels with a combined area of 3.24 acre parcel located at 128 Florence Street with additional frontage on White Fawn Place (PINs 9648.46-8032 and 9648.46-8234) (Attachment to City Exhibit 3 - Aerial Map). The site is accessed from Biltmore Avenue just north of Mission Hospital, is zoned Institutional and is currently vacant. Some previous site work was done on the parcel in 2007, including the construction of retaining walls that will be incorporated into the proposal.

Adjacent zoning and uses include Institutional to the west (medical and office/institutional uses), RS-8 to the north (single-family homes); Institutional and RS-2 to the east (vacant and Helpmate); and Institutional to the south (Mission Hospital).

The developer, South Slope Partners, LLC., is proposing a 97-unit multi-family apartment building on the site with associated parking and improvements related to residential amenities - (Attachment to City Exhibit 3 - Site Plan). The structure is shown as four levels with a maximum height of 42 feet. There are 76 one-bedroom and 21 two-bedroom units proposed. Site improvements include an outdoor terrace with a pool and open space.

Access to the site is via two twenty-four foot driveways from Florence Street at either end of the parcel frontage along this public street. There is an existing 5.5 foot sidewalk on the opposite side of Florence Street and none is proposed along the project side or along White Fawn Place.

Parking is provided to the side and rear of the building and a total of 106 spaces are shown on plans, including five accessible spaces and the required bike parking. Pedestrian pathways provide access throughout the site.

Landscaping required for the project includes property line buffer buffering to the north (Type B - 30'), street trees on both frontages, vehicular use area landscaping, building impact landscaping, and tree save area and are indicated on plans. There are a number of existing and proposed retaining walls. Compliance with standards found in Section 7-10-5 of the UDO will be required for new walls.

Fifteen percent of the total lot area is required to be dedicated as open space - 21,196 square feet. A total of 25,225 square feet of open space is provided.

The site is currently zoned Institutional; the use proposed is permitted by-right and the applicant is proposing to meet the standards of the District with this development proposal. Maximum residential density was recently increased for the Institutional zoning district to 30 units per acre; this project proposes 29.9 units per acre.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015 and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on April 1, 2015. At this meeting the Commission voted unanimously (6-0) to recommend approval of the conditional use permit to the Asheville City Council.

The applicant held a neighborhood meeting on March 26, 2015, and has met separately with several neighboring property owners. Staff has heard from neighbors with concerns about increased traffic and overflow parking on Florence Street.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or

otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application.

Mayor Manheimer opened the public hearing at 5:56 p.m.

Mr. W. Louis Bissette, attorney representing Beaucatcher Flats, said that the site is zoned institutional and is permitted by right. The applicant will meet all standards of that district. The Project was approved with conditions by the Technical Review Committee and unanimously by the Planning & Zoning Commission. The applicant has held a neighborhood meeting and has met several times with two of its closest neighbors - Helpmate and Mission Health System. He read a letter from Ms. Sonya B. Greck, Sr. VP of Mission Health System expressing their support (Applicant Exhibit 1). The applicant has met with staff and Helpmate Board members on three occasions. Regarding Helpmate, the developer understands the security concerns and is committed to assist them in the following ways (which are not meant to be conditions) (1) provide Helpmate with a $10,000 contribution to assist in the acquisition of an upgraded security system; (2) consult with Helpmate in designing the project's landscaping and lighting packages; (3) not oppose a no-parking area on the lower section of Florence Street adjacent to Helpmate (understanding that is the City's prerogative); and (4) provide a discounted rental rate to a local law enforcement officer who would live in the apartment complex. This property is an infill development that utilizes existing City streets, has adequate previously installed water and sewer and retaining walls - all of which are incorporated into this proposal. He said that their application (Applicant Exhibit 2) and the testimony presents adequate factual information to support each of the required findings by the Council. He then reviewed the seven conditional use permit standards (Attachment to City Exhibit 3 - Conditional Use Permit Application Statement on Findings). The project does not contain enough residential units to require a traffic study. Rental rates are anticipated to be well under the City's current workforce housing maximum. The one-bedroom units would be $1,050/month and the 2-bedroom units would be $1,450/month. The average rent across the 97 units will be approximately $1,140/month. The property currently pays $8,646 annually in City, County and Asheville City School System taxes, and upon completion, the estimated taxes will be approximately $120,000 annually.

Mr. Matt Sprouse, landscape architect, reviewed with Council the site plan. Using a PowerPoint (Applicant Exhibit 3), he oriented the Council to the location and showed the different views of the area from the site. The site was previously much graded flat from the previous development. This is a good example of infill development, which is within one mile from Pack Square. They are designing within the existing site improvements. The project gives ample opportunity for multimodal transportation options for the residents. The traffic study was not required, however, the developer did consult with a traffic engineer to do a study. That study indicated that in terms of additional traffic, what this development would add is approximately 1 car per minute through those peak hours. Most of the traffic will go down to the stop light at Florence Street and Biltmore Avenue. Over the last five years there have been 11 incidents at that intersection and 7 were property damage car accidents.

Mr. Chris Warren, part of the development team, urged Council to support this project.

Ms. April Burgess Johnson, Executive Director of Helpmate, said that Helpmate is well aware of the critical lack of housing stock in Asheville and fully support the development of additional housing units; however, she expressed concern about the increased pedestrian and vehicular traffic in this area and the security risk it poses to their shelter. There will be increased pedestrian traffic on the very steep street leading down to Biltmore Avenue. She asked that the sidewalk be extended on Florence Street going towards Biltmore Avenue. Another main concerns is parking along Florence Street (which is in front of their domestic violence shelter), since it seems likely there will be on street parking given there are 97 units with only 106 parking

spaces. Overnight parking will make is easy for a batterer to stalk their victim which is residing in the shelter. She asked Council to designate all of Veronica Lane and the portion of Florence Street that has a direct site line of their shelter (and 100 feet beyond that site line) as a no parking zone. They are in the process of hiring a security consultant to provide them with a detailed report about where their greatest amount of security risk and exposure will be in relationship to the building of Beaucatcher Flats, with the overflow parking on the street and increased traffic and pedestrian traffic. She asked Council to continue the public hearing so they will be able to bring forward additional information about what the security risks are.

The following individuals reiterated Ms. Johnson's concerns regarding safety of the residents at Helpmate:

Ms. Bonnie Spradling, Helpmate Board Member
Mr. Joe Fishleigh, Helpmate President
Ms. Cindy Hamilton, Immediate Past President of Helpmate
Ms. Cindy Ireland, Secretary of Helpmate (Neighborhood Exhibit 1)

Mr. Chad Pierce, resident at 41 White Fawn Drive, felt that the dumpster should be moved to the south side of the property and locate it deeper into the industrial zone (Neighborhood Exhibit 2). He also requested a condition to eliminate the secondary entrance onto White Fawn Drive (or prohibit lend hand movements) so as to eliminate the traffic into the residential White Fawn neighborhood.

City Attorney Currin said that the statutes states that Council cannot consider evidence relating to traffic safety from a lay witness (someone who is not an expert). People can testify as to their concerns, but the law does not allow Council to consider that.

Mr. Sprouse responded to the relocation of the dumpster request. Using a portion of the plan (Applicant Exhibit 4), he showed the location of the dumpster which will be screened, noting that there will be 30 feet of landscape buffer, then 20 feet of right-of-way, and then an additional 30 feet to the rear of the nearest neighbor, for a total of 80 feet from the residents to the dumpster location.

Using the site plan (Applicant Exhibit 5), Mr. Sprouse explained that the developer would be willing to construct a sidewalk (approximately 200 feet) on their property (in the City's right-of-way) leading down to Biltmore Avenue. At the end of their property, there is an asphalt parking lot that goes all the way down to Biltmore Avenue.

Regarding the elimination of the second entrance, Mr. Sprouse said that the secondary entrance was a requirement from the Fire Department.

In response to Councilman Smith, Mr. Bissette said that the developer is committed to assisting Helpmate with their security concerns as outlined above; however, they did not view them as conditions. City Attorney Currin said that if they are included as conditions, the City can enforce them. Ms. Johnson said that they are not asking Council to include the four items as conditions as they have a good working relationship with the developer.

When Councilwoman Wisler asked if the developer would be willing to continue the public hearing, per Helpmate's request, Mr. Bissette said that they had not heard that request until this meeting. He said that timing of this small project is important and would not support a continuation request. Mayor Manheimer also noted that the City has a timeline within which to act after receiving the material.

In response to Councilman Davis, City Traffic Engineer Jeff Moore said that should a concern arise from excessive traffic into the White Fawn neighborhood, after study, the City could restrict left turn lanes.

In response to Councilman Davis regarding eliminating on-street parking on Florence Street, Ms. Bernstein said that as you go into the single family neighborhood to the north, most of those residents rely on on-street parking. Mr. Moore agreed with Ms. Bernstein and said that we would want to study that carefully so as not to create an unintended consequences for other area residents as generally on-street parking serves the neighbors close to that parking. City Attorney Currin said that the City Traffic Engineer can study that issue and report to Council at a later time, since it is not a condition of the conditional use permit.

Using Applicant Exhibit 6, Mr. Bissette said that he believed that Helpmate was requesting the City designate all of Veronica Lane and the portion of Florence Street that has a direct site line of their shelter (and 100 feet beyond that site line) as a no parking zone.

Mr. Sprouse said that at this time the developer has a potential fee in lieu of for the sidewalk that would be required on White Fawn Place. After speaking with the developer, he asked that instead of being conditioned to construct the approximately 200 feet of sidewalk on their property (in the City's right-of-way) leading down to Biltmore Avenue, that that fee in lieu of be transferred to the sidewalk on their property leading down to Biltmore Avenue - so they would not have to pay a fee in lieu of twice. It was the consensus of Council that the condition be that the sidewalk be constructed on the developer's property leading down to Biltmore Avenue, and that a fee in lieu of be granted for the sidewalk required on White Fawn Place.

Mayor Manheimer closed the public hearing at 7:00 p.m.

Councilman Smith briefly looked at what Mission Hospital pays their employees and many could not afford to live at this project. Council is well aware that we can't meet all the affordable housing needs and we are seeking partners to provide housing for people who want to live close to where they work.

When City Attorney Currin said that staff has recommended that the approval also be conditioned on the developer's compliance with the site plan and the Technical Review Committee conditions, Mr. Bissette said that they are agreeable to that condition.

Mayor Manheimer noted that Council is looking for a condition for the construction of the sidewalk on the developer's property leading down to Biltmore Avenue, as shown on Applicant Exhibit 5. She noted that that per the City's requirements there is already a fee in lieu of being contemplated for the sidewalk on White Fawn Place.

Councilman Smith did not want to make all our housing exclusive and understood that the conditional use permit standards do not allow him to consider affordable housing for approval. While he has concerns, he hoped that the relationship will grow with this developer.

Vice-Mayor Hunt stated that the City needs more sidewalks and he felt that where appropriate he would prefer to have sidewalks constructed rather than granting a fee in lieu of.

Councilman Davis moved to recommend approval of the conditional use permit for Beaucatcher Flats located at 128 Florence Street and White Fawn Lane, subject to (1) the developer's compliance with the site plan; (2) the Technical Review Committee conditions; and (3) the construction of the sidewalk on the developer's property leading down to Biltmore Avenue. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Currin said that on the May 26 agenda, a motion will be placed approving the Findings of Fact and Conclusions of Law for Beaucatcher Flats located at 128 Florence Street and White Fawn Lane.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. MOTION AUTHORIZING THE MAYOR TO SIGN A LETTER TO THE WNC REGIONAL AIR QUALITY BOARD TO STRENGTHEN THE PERMIT LIMIT FOR SULFUR DIOXIDE (S02) TO PROTECT OUR COMMUNITY FROM IMPACTS OF HARMFUL AIR POLLUTION

Said letter reads: "On behalf of the Asheville City Council, I am writing to express concern about the draft Title V air permit recently issued by the Western North Carolina Regional Air Quality Agency (WNCRAQA) for Duke Energy's Asheville Steam Electric Plant. Specifically, Council is concerned that the suggested permit limit for sulfur dioxide (SO2) is insufficient to protect city and county residents from harmful air pollution, and we ask that you strengthen that limit to ensure our residents can breathe healthy air.

"As you know, even short-term exposure to SO2 is linked with an array of adverse respiratory effects, including bronchoconstriction and increased asthma symptoms. Elevated concentrations of SO2 in the air leads to more emergency room visits and hospital admissions, particularly for children, the elderly, and people with asthma.

"According to a recent report that uses a model approved by the Environmental Protection Agency (EPA) for tracking SO2 pollution, emissions from the Asheville plant have been causing violations of the ambient air quality standard for SO2 established by EPA. Indeed, the report states that the pollution in residential and recreational areas is at concentrations up to 3.5 times higher than levels EPA has determined to be safe. These exceedances have occurred approximately one out of every three to four days since 2010.

"I am concerned that the newly released draft air permit maintains the same SO2 emissions limit that the plant has had for years. This limit is nearly 80 times higher than the limit necessary to attain EPA's public health-based SO2 standard, and we believe it is insufficient to protect our community from the impacts of air pollution.

"The final Title V permit should contain limits that allow ambient air in the Asheville area to meet EPA's standard. We understand that limit to be no more than 61.7 lb/hr of SO2 for each coal-burning unit, or a plant-wide average of 0.029 lb/MMBtu. We also understand that these levels are achievable if the plant's air pollution controls are run at full efficiency, as they were when they were first installed, or if the plant stops using high sulfur content coal.

"Part of our job as elected officials is to ensure the safety of our community. There seems to be a clear path to addressing this problem and ensuring healthy air for our residents, and the first step on that path is for plant's air permit to contain appropriate SO2 limits."

Ms. Emma Greenbaum, representing the Asheville Beyond Coal Campaign, thanked City Council for their support.

Councilman Bothwell moved to authorize the Mayor to sign a letter to the WNC Regional Air Quality Board to strengthen the permit limit for sulfur dioxide (S02) to protect our community from the impacts of harmful air pollution. This motion was seconded by Councilwoman Wisler and carried unanimously.

B. RESOLUTION NO. 15-81- RESOLUTION AMENDING RESOLUTION NO. 06-55 RELATING TO CLAIMS AND JUDGMENTS SOUGHT OR ENTERED AGAINST CITY OFFICERS AND EMPLOYEES

City Attorney Currin said that this is the consideration of an amendment to Resolution No. 06-55, regarding the City's policy relating to claims and judgments sought or entered against City officers and employees.

N.C. Gen. Stat. § 160A-167 authorizes the City, in its discretion, to provide for the defense of any civil or criminal action or proceeding brought against any employee or officer of the City, for an act alleged which is done in the scope and course of his or her employment. The statute also gives the City the discretion to appropriate funds for the purpose of paying all or part of any civil judgment entered against any of its employees or officers. In order for the City to defend or pay all or part of a claim or civil judgment, the statute requires the City to adopt uniform standards to determine which claims or civil judgments entered against employees the City will pay.

The City currently has a policy for defending against and paying, civil claims and judgments sought or entered against City officers and employees. In the past, the City has periodically revised this policy, to reflect City policy and to ensure that it is current and in accordance with applicable law. The last time the policy was revised was on March 14, 2006. The City Attorney's Office recently reviewed the City's defense of employees policy, and based on that review and consultation with outside council, recommends that the current policy be amended. These amendments are intended to allow the City to exercise its full authority under the statute and to aid in the administration of the policy.

Pros:

- Ensures compliance with N.C. Gen. Stat. § 160A-167.
- Defines the City's rights under N.C. Gen. Stat. § 160A-167.
- Updates the existing policy and aids in its effective administration.

Con:

- None noted.

There is no known fiscal impact associated with this amendment.

Adoption of the proposed resolution amending the City's policy relating to claims and judgments sought or entered against City officers and employees.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-81. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 114

C. RESOLUTION NO. 15-82 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Ms. Sarah Nunez has resigned from the HUB Community Economic Development Alliance, thus leaving an unexpired term until August 22, 2015. In addition, Mr. Richard Stiles has also resigned from the Alliance, thus leaving an additional unexpired term until August 22, 2015.

The following individuals have applied for a vacancy on the Board: Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin and Adrian Vassallo.

At the April 14, 2015, meeting, it was the consensus of Council to interview Kendra Penland, Ted Figura, Hunter Goosmann, Ed Manning and Adrian Vassallo. Mr. Goosmann and Mr. Manning were unavailable for an interview.

After Council spoke highly of all candidates, Kendra Penland received 5 votes; Ted Figura received one vote; Hunter Goosmann received 3 votes; Ed Manning received no votes; and Adrian Vassallo received 5 votes. Therefore, (1) Kendra Penland was appointed to serve the unexpired term of Ms. Nunez, term to expire August 22, 2015, and then a full three-year term, term to expire August 22, 2018, or until her successor has been appointed; and (2) Adrian Vassallo was appointed to serve the unexpired term of Mr. Stiles, term to expire August 22, 2015, and then a full three-year term, term to expire August 22, 2018, or until his successor has been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Proposed Duke Energy Substation to be Sited Next to Isaac Dickson Elementary School on Hill Street

Mayor Manheimer said that this is a project undertaken by Duke Power and City Council is familiar with Duke's need to site three substations in the downtown area in the next two years. City Council is aware that they have acquired from private land owners (not the City) the properties to do that. The City has a limited role in this process. The City has some ability to require screening and buffering of a substation site. We have consulted with our attorney who has looked into this and City Council does not have the ability to zone them out. The part that the City or the County could potentially play in this situation is if the City or County had land available that was suitable for an alternative site. The City has exhaustively looked to see if we do and we do not. She appreciated there is a great concern about this very serious issue and the City has tried hard to see what opportunities we have to play a part in this situation. Last week she met with the co-director of Isaac Dickson's PTO; the City Schools Superintendent; the Chair of the Asheville City Board of Education and other School Board members; several Duke representatives; the City Manager and Assistant City Manager; the City's Real Estate Manager; and some City Council members so we could understand the complexity of the issue and see what opportunities there were to address the problem. It is a very challenging issue and she felt confident that they have looked very hard at what opportunities the City has to try to see if there was any land available for an alternative site. She said that the County is also concerned about this matter as well.

Ms. Angi Everett, co-president of Isaac Dickson PTO, asked Council to oppose the Duke Energy substation to be built next to the new Isaac Dickson Elementary School. Some have questions about possible health effects of the substation and the electromagnetic fields it will produce. She hoped that Duke Energy will find an alternative location. She presented City Council with approximately 200 letters which read "As an Isaac Dickson Elementary School parent, I am very concerned about the location of a Duke Energy Power Substation next to our new school. There are potential, serious health and safety risks for our children if the substation is built close to the school. Potential risks may include electrocution (a child was electrocuted when he entered a power substation near a park in Florida just last fall) and possible increased cancer risks for our children due to electromagnetic fields (EMF). Given these potential risks, it is not prudent to move forward with the current plan to build the substation next to Dickson. Why would we risk the health and safety of our children, given that the body research about the effects of EMF on children is inconclusive? I am writing to ask that you work with the Dickson PTO and the Asheville City School Board to help Duke Energy find an alternative site for the substation and avoid potential risk to our children's health and safety. Our community is investing a great deal in building a healthy new school for our children and the location of a power substation right next to it seriously diminishes this community investment. Thank you for your consideration. I hope that

you will join us and provide leadership to move the location of the substation away from our children's school. This is the right thing to do for our children."

The following individuals reiterated Ms. Everett's concerns and asked for the City's leadership in basically protecting the health of our children by finding an alternative location for the Duke Energy Substation, or those parents that can will pull their children out of the school, thus leaving the minority and low income children to live with the possible health effects:

Katie Russell
Calvin Tomkins
Sarah Patten
Rustan Adcock
Christine Aiken
Valeria Wyder
Holly Kirschbaum
A young girl
Lisa Harkema
Carol Paulsgrove
James Shaw
Charlotte Wilkerson
Jada Bloomfield
River Harland
Will Harland
Papias Sabo

Vice-Mayor Hunt asked that City Attorney Currin share her findings with a representative of the opposition regarding the City not having zoning power authority to pre-empt the substation going in on that site.

Councilwoman Wisler suggested the parents reach out to the N.C. Utilities Commission.

Councilman Bothwell felt the parents biggest weapon against Duke is publicity and urged them to continue to fight for an alternative location.

Closed Session

At 8:18 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:07 p.m., Councilman Pelly moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:07 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – May 12, 2015 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Classification and Compensation Study

The City contracted with Segal Waters Consulting Company to complete a Classification and Compensation Study for fiscal year 2015-16 budget planning. Ms. Linda Wishard, a consultant with Segal Waters, presented (1) Segal Waters Consulting overview; (2) compensation philosophy; (3) project overview; and (4) recommendations and cost impact. After the study, she observed that our salaries are competitive. Recommendations and cost impact include (1) new pay ranges for exempt and non-exempt positions; (2) new Police and Fire pay structures were developed changing the step progressions to 2.5%; (3) remove first quartile of current Executive pay structure to reflect competitive minimums; (4) base pay adjustments to range minimum for all employees whose current base salary is below range minimum; and (5) pay adjustments based on time in position to address salary salary compression. The total cost impact would be $1,130,792.63. Additional recommendations include (1) annual funding for pay for performance for general employees and for public safety step increases; (2) review structure annually or biannually to maintain market competitiveness; and (3) continue using the systematic process for job evaluation.

HR Director Kelley Dickens then provided Council with the following staff recommendations and impact (1) across the board increase - 1% for all employees; (2) full implementation of Segal Waters at July 1, 2015 (a) new classification and pay structures; (b) compression/time in position adjustments; and (c) increases capped at mid-point of new structures; and (3) guidelines for administration and maintenance. Total General Fund budgetary impact for Fiscal Year 2015-16 - $1.6 million.

Ms. Wishard and Ms. Dickens responded to various questions from Council regarding the study and their recommendations.

Other Human Resources Topics

Ms. Dickens provided Council with a presentation in response to the temporary and seasonal living wage discussion (with staff continuing to do due diligence with future discussions with City Council), and provided an update on the City's health insurance program.

Councilman Smith asked for staff to generate an update of the cost benefit analysis of the Asheville Project, e.g., what does it contribute to our favorable health insurance cost estimate.

Capital Improvement Program

Director of Finance Barbara Whitehorn said that the Capital Improvement Program (CIP) is a rolling five-year program for general capital expenditure in the City of Asheville. The program began with the two-cent tax increase in Fiscal Year 2013-14, which added $2.2 million to the capital program. In order to use these funds most effectively, the City has entered into a long-term debt program leveraging the additional money to fund more than $150 million in projects through 2020. She then presented an overview of the CIP along with the status of the projects.

Because the CIP is at capacity, if Council would like to add a project, either a project will need to be dropped or pushed out to a further date.

After a brief discussion where Ms. Whitehorn and City Manager Jackson responded to various questions, it was the consensus of Council to provide information on (1) the cost projections for the Thomas Wolfe Auditorium and what bearing that will have on the CIP; (2) keeping the Charlotte Street improvements project moving; and accelerating investments in forming an affordable housing land bank.

The worksession was adjourned at 4:19 p.m.

Tuesday – May 12, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY STUDENTS

Mayor Manheimer eight years ago, former Mayor Terry Bellamy and the Asheville City Council envisioned a new program that would place students with meaningful summer internships with City departments and partnering organizations throughout Asheville. This program would empower its students to get involved in their communities, support them in their quest for college, and reward them with a generous scholarship. After a rigorous application process, the CAYLA students are placed in prestigious summer internships that allow them to explore careers and learn from caring adult professionals. Members of the CAYLA Class of 2015 interned with valuable community partners, including Buncombe County, the Asheville Area Chamber of Commerce, MAHEC, Habitat for Humanity, and Big Brothers Big Sisters. Each Friday during the summer, the students attended day-long leadership workshops that focused on the "Habitudes" – the habits and attitudes that lead to success. Of the graduating seniors, all have been accepted to four-year colleges – and many have earned significant merit scholarships, including the Gates Millennium Scholarship, the Dell Scholarship, the Horatio Alger Scholarship, the Bonner Scholarship, and the local Civitan and Rotary scholarships. This year, the total merit scholarship money earned by CAYLA students since 2008 surpassed $1 million. Beginning last June, the CAYLA students have completed 28 different community service projects, with organizations including MANNA Foodbank, the Salvation Army, Brother Wolf, Asheville City Schools, and Habitat for Humanity. Over the years, CAYLA students have given more than 3,200 volunteer hours to our community. In recognition of their accomplishments and the critical role they will play in Asheville's future, the City of Asheville awards each CAYLA student a scholarship in the amount of $2,000.

With that, she provided a certificate to the following 2015 CAYLA students: Candida Alas-Ortega, Kanaje Allen, Brittany Boseman, Korina Dariy, Michael Davis, Joshua Garcia-

Billings, Itzel Garcia-Ruiz, Jahni Gilliland, Raekwon Griffin, Taekwon Griffin, Ella Heldreth-Schmitt, Phoenix Keyser, Antares Lance, Mariah Lee, Josue Lomeli-Garcia, Shaunessy Lofton, Diana Marquez, Oscar Marquez, Cindy Marquez, Randesha Neely, Mikayla Ray, Jamie Rhodes, Symone' Simmons, Satorrius Uddyback and Promyss Watley.

Mayor Manheimer praised Erika Germer for her hard work on this program.

B. PROCLAMATION PROCLAIMING MAY 17-23, 2015, AS "NATIONAL PUBLIC WORKS WEEK"

Councilman Pelly read the proclamation proclaiming May 17-23, 2015, as "National Public Works Week" in the City of Asheville. He presented the proclamation to Greg Shuler, representing Public Works; Mark Allen, representing Utility Street Cuts; Tim Bayless, representing Stormwater; Antonio Green, representing Sanitation; Vicky Haskell, representing Graffiti; and Walter Ear, representing Capital Projects Management.

C. PROCLAMATION PROCLAIMING MAY, 2015, AS "MOTORCYCLE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming May, 2015, as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Mr. Steve Ensley who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING MAY 15-22, 2015, AS "STRIVE NOT TO DRIVE WEEK"

Councilwoman Wisler read the proclamation proclaiming May 15-22, 2015, as "Strive Not To Drive Week" in the City of Asheville. She presented the proclamation to Ms. Julie Mayfield, who briefed City Council on some activities taking place during the week.

E. PROCLAMATION PROCLAIMING MAY 30, 2015, AS "RELAY FOR LIFE DAY"

Vice-Mayor Hunt read the proclamation proclaiming May 30, 2015, as "Relay for Life Day" in the City of Asheville. He presented the proclamation to Ms. Laura Clark, Event Leader accepting on behalf of Relay For Life Leadership Team; and Ms. Sandra Dennison, Community Manager for American Cancer Society, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 28, 2015

B. RESOLUTION NO. 15-83 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A CONTRACT WITH CHERRY BEKAERT & HOLLAND FOR AUDITING SERVICES FOR FISCAL YEAR 2014-2015

Summary: The consideration of a resolution authorizing the Mayor to execute a contract with Cherry Bekaert & Holland (hereinafter referred to as Cherry Bekaert) for auditing services for Fiscal Year 2014 - 2015.

North Carolina General Statute 159-34 requires that local governments audit its accounts each fiscal year and submit a copy of the audit to the Local Government Commission. In response to the aforementioned general statute, staff recommends retaining the services of

Cherry Bekaert to conduct the audit of the city's accounts for the fiscal year ending June 30, 2015. The estimated fee for fiscal year 2014-2015 audit and financial statement preparation is $85,500.

As part of the engagement, Cherry Bekaert will provide a document required by the Auditing Standards Board that provides a framework for the auditor's communication with the Mayor and City Council and identifies some specific matters to be communicated. Pursuant to the Auditing Standards Board requirement, Cherry Bekaert will communicate timely and directly with the Mayor and City Council on matters related to the financial statement audit that are, in the auditor's professional judgment, significant and relevant to the responsibilities of those charged with governance in overseeing the financial reporting process. Additionally, Cherry Bekaert will provide an audit schedule with milestones and timetables in an effort to improve audit planning and ensure that the audit report is delivered timely to the Local Government Commission.

Execution of this contract complies with City Council's Strategic Operating Plan of operating the City of Asheville's organization to the highest fiscal responsibility, as well as the Audit Policy portion of City Council's Financial Policies which states that the City "shall enter into multiyear agreements of not more than five years in duration through a series of single-year contracts as consistent with applicable legal requirements." This will be the third consecutive year of contracting Cherry Bekaert to perform the City's audit. No competitive bid process was conducted this year.

Pro:

- Contracting with Cherry Bekaert aligns with City Council's financial policy, and will help ensure the timely and successful completion of the annual audit.

Con:

- None noted.

A fee of $85,500 has been proposed for the audit and is included in the Finance Department's portion of the annual operating budget.

Staff recommends adoption of the resolution authorizing the Mayor to execute a contract with Cherry Bekaert & Holland in the amount of $85,500 for auditing services for Fiscal Year 2014-2015.

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C. MOTION TO APPROVE THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR FLORENCE STREET APARTMENTS LOCATED AT 128 AND 99999 FLORENCE STREET

D. ORDINANCE NO. 4409 - BUDGET AMENDMENT FOR THE SOUTH LEXINGTON UTILITY RELOCATION PROJECT

Summary: The consideration of a budget amendment, in the amount of $30,000, from debt proceeds to provide adequate funding for the projected expenses for the South Lexington Utility Relocation Project.

This project is part of a public private partnership which will bring much needed workforce housing to the Central Business District. The utility relocation involves the undergrounding of overhead utilities along S. Lexington Ave. from the intersection of Aston St. and S. Lexington to a point approximately 300 feet south of said intersection. Utility providers along this corridor include Duke Energy, AT&T, Charter, and ERC Broadband. Contractual agreements for this project with said utility providers are as follow:

Duke Energy	$232,936.00
Charter Communication	$ 30,000.00
AT&T	$ 4,476.00

Pros:

- Community Investment
- Increase property tax revenues

Con:

- Project management and contract administration will consume staff time.

The project budget will be $280,000. The budget amount consists of $250,000.00 that was originally budgeted in the City's Capital Improvement Program plus the additional $30,000.00 that will be funded with debt proceeds.

City staff recommends the City Council adopt the associated budget amendment in the amount of $30,000.

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E. RESOLUTION NO. 15-84 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MOTOROLA SOLUTIONS FOR A REPLACEMENT OF THE PUBLIC SAFETY RADIO SYSTEM AND SUPPORTING SYSTEMS

Summary: The consideration of the City Manager awarding and entering into a contract with Motorola Solutions for a replacement of the City of Asheville's radio system and supporting systems.

The City's public safety radio system and many of its supporting components have reached the end of supported life. End of life means that parts are no longer available, that commercial support is "best effort," with no service guarantee, and that protracted service interruptions are possible. To proactively plan for the replacement of the system and the supporting components, staff previously researched replacement costs and included a $6MM replacement budget in the City's Capital Improvement Program.

A structured Request For Proposal (RFP) process for a replacement system, which included an assessment of Asheville Fire and Police departments' current operational requirements, was undertaken last year. A project team, which included representatives from the City's Police, Fire, Finance, Information Technologies Department, evaluated four proposals received from interested vendors in response to the RFP. The team also communicated and interfaced with Buncombe County during the process, since interoperability was a primary goal of the project.

Based on coverage and operational requirements, expert guidance from Trott Communications Group, and scoring from the City's project team, the team recommends moving forward with the most responsive proposal as detailed below.

The proposal that was deemed by the City project team to be the most responsive was received from Motorola Solutions (Motorola). The proposal, which scored 89/100 on the RFP scoring matrix, includes specifics as to interoperability, coverage, and quality of service. A "best and final offer" has been obtained from Motorola. Although other support items (such as connectivity components) will be purchased through other mechanisms (such as state contract), this competitive RFP represents the bulk of the radio system replacement. The contract offers

various system options to be selected during deployment; the maximum total of the contract will be $4,397,762.

Pros:

- Enables the City to move forward with replacement of a critical communication system that has reached the end of its supported lifecycle
- Addresses needs identified by Asheville Fire and Asheville Police departments
- Maximizes system coverage
- This standards-based system (P25) allows for better interoperability with both state and local agencies

Con:

- None noted

This procurement is funded via the City of Asheville's Capital Improvement Budget

City staff recommends entering into a contract with Motorola Solutions for a replacement of the City of Asheville's radio system and supporting systems.

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F. RESOLUTION NO. 15-85 - RESOLUTION AUTHORIZING ACCEPTANCE OF THE ASHEVILLE-BUNCOMBE CONTINUUM OF CARE HOMELESS MANAGEMENT SYSTEM GRANT

Summary: This is the consideration of a resolution authorizing acceptance of the Asheville-Buncombe Continuum of Care Homeless Management Information System Grant.

Participation in the Homeless Management Information System (HMIS) is required for each HUD-designated Continuum of Care (CoC). The Asheville-Buncombe CoC has participated in the North Carolina HMIS implementation since 2005. Participation and user fees for this system have historically been paid directly to the Lead HMIS Agency. The statewide system is being transitioned to a new HMIS Lead Agency May 1, 2015, and a new model of participation and implementation will be used. In the new model, each CoC can be the grant recipient for CoC HMIS grants, allowing more funds to stay at the local level for system support for the CoC Lead (the City of Asheville) and the provider agencies using the system.

We have been informed by the regional HUD office in Greensboro that the City of Asheville can be the grant recipient for the NC-501 HMIS Grant. This will be effective for the current HMIS grant that expires December 31, 2015, as well as the renewal grant already in process to begin January 1, 2016.

Grant award amount on an annual basis: $67,500. The current grant, January 1, 2015 – December 31, 2015, will be prorated based on final expenses from the current HMIS Lead Agency whose contract will terminate April 30, 2015.

These awards are conditional on providing to HUD additional information needed and/or assurances that must be provided. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds can be provided by partner agencies.

The HMIS is utilized to capture real-time data on homelessness services and housing for homeless programs, directly supporting individuals and families experiencing homelessness to access an appropriate affordable housing.

Pros:

- Approval of the HMIS Grant acceptance supports on-going efforts to reduce and end homelessness through strong data collection and analysis, supporting City staff and partner agencies of the Homeless Initiative.
- Reflects the recommendations of the City's Homeless Initiative Advisory Committee to transition to a new Lead Agency to administer the statewide Homeless Management Information System.

Con:

- Federal funding for homelessness programs, including Continuum of Care funds, is at the discretion of Congress on an annual basis.

The HMIS Grant is fully funded from federal Continuum of Care funds. Staff costs to administer the program are also fully paid from federal sources. Partner agencies' matching funds are sufficient to cover the federal match requirement with no fiscal impact on the City of Asheville.

Staff recommends approval of the resolution authorizing acceptance of the NC-501 HMIS Grant for the current grant that expires December 31, 2015, and the renewal grant to begin January 1, 2016.

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G. RESOLUTION NO. 15-86 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 26, 2015, TO CONSIDER A LAND USE INCENTIVE GRANT AGREEMENT FOR 300 MILL RIVER DRIVE (MILL RIVER LOFTS LLC)

Summary: The consideration of a resolution setting a public hearing on May 26, 2015, for a land use incentive grant agreement for 300 Mill River Drive (Mill River Lofts LLC).

The developer of River Mill Lofts has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on August 26, 2014.

River Mill Lofts LLC, led by Pace Burt, seeks to develop the 9.52 acre site at 300 Mill River Drive The site is located at the intersection of Thompson Street and Stoner Street, east of Biltmore Village. The developer estimates a total development cost of $25 million. The project consists of:

- 254 residential rental apartments (248 two-bedroom apartments and 6 three-bedroom apartments), in two buildings;
- 8,000 square feet of commercial space, with 4,000 square feet located in each building.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developer indicates he will contribute at least 20% equity to the project.
- Energy Star Certification: The developer indicates the project will achieve Energy Star certification.
- Residential development: The development consists of at least two residential units.
- Location: The project is located within the City of Asheville city limits.

The project is not located within 1/4 of a mile of a designated major transportation corridor (Biltmore Avenue/Hendersonville Road). The project is located .4 mile from Biltmore Avenue. The developer requests a waiver of this policy eligibility requirement.

Public Benefit: The project proposes the following Public Benefit Elements:

- Green Building/Energy: Energy Star certified, 5 points.
- Affordable Housing: 18 units, which is 7% of the total units. The developer requests 10 points.
- Workforce Housing units: 216 units, which is 85% of total units. The developer requests 15 points.
- Mixed Use Development/Sustainability/Brownfield: The developer requests 20 points. The developer does not qualify for these points based upon existing policy. The develop asks for consideration of the following:
    1. The project is a mixed-use development that will be a pioneer for "early adapter mixed-use project."
    2. The project meets City-goals of sustainability- it requires no new utility infrastructure; it is served adequately by the existing traffic systems; it will use "best management practices (BMPs) in treatment of storm water runoff; it will enhance public access to the Swannanoa River.

The developer has scored the project with 50 points, and requests a 5 year Land Use Incentive Grant.

According to LUIP Policy, the project qualifies for 25 points:

- Green Building/Energy: Energy Star certified, 5 points
- Affordable Housing: 18 units, which is 7% of the total units. 5 points.
- Workforce Housing units: 216 units, which is 85% of total units. 15 points.

This assumes that the project is deemed eligible by Council. As mentioned above, the project is .4 miles from a major commercial corridor named in the policy (Biltmore Avenue/Hendersonville Road). Rationale for waiver of the policy includes:

- The development and others proposed for that area have the potential to create significant new transit demand. Over 500 units are now being planned for this area. Three transit routes are with .4 mile of the site.
- A multi-modal route, via the Wilma Dykeman Riverway, is master-planned contiguous to the site.
- Therefore, the location of the project meets the goals of the program, and a waiver of the eligibility requirement is justifiable.

The project meets the following 2014-15 Strategic Plan Goals: (1) *Economic Growth and Financial Sustainability:* The project Invests and leverages investment in community infrastructure; and creates economic development and community investment opportunities through partnerships, planning and incentives. (2*) Affordability and Economic Mobility:* The project expands Asheville's supply of quality, affordable homes for current and future residents.

This proposal is aligned with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to bike paths. Infill development along transit corridors is also highlighted but this site is a little over 2,000 feet to three routes that cross in Biltmore Village. The plan also supports projects that design landscapes to absorb stormwater using bio-swales and natural stormwater filters.

Affordable housing options are highlighted throughout the Plan as a strong community need.

The area is included in the planning for the Wilma Dykeman Riverway Master Plan and infill development, recreation amenities and roadway improvements are a part of that proposal. Planning for roadways has occurred in the River Arts District area but has not proceeded to this

section of the river at this time. The proposed development though seems to fit in with the intent of the Dykeman plan with the inclusion of the river yard and the wide sidewalk along Thompson Street.

Pros:

- The proposed development will provide 18 units of housing affordable for ten years, and 216 units of workforce housing.
- The proposed development is located close to jobs and services.
- The proposed development is located within the Wilma Dykeman Riverway corridor, and proposes public benefit through alignment with planned multi-modal transportation ways.

Cons:

- The development does not meet with minimum policy requirement to be located with .25 miles of a named transportation corridor.
- The development is not currently connected by sidewalk or pathway to Biltmore Avenue.
- The proposal creates 18 units of affordable housing, 7 units short of the 25 units that would yield a 10% affordable composition.

Estimated maximum value of Land Use Incentive: The current assessed value of the property is $705,000 (land only). The developer's estimate of completed project taxable value is $25,000,000. The current annual city tax, based on current assessed value, is $3,243. The annual estimated city tax post completion, based on the developer's estimate of value is $115,000. Thus, the estimated annual Land Use Incentive Grant would be $111,757, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be $558,785. If approved for three years, the amount would be $335,271.

300 Mill River Drive	
Current Value	$ 705,000
Current Tax	$ 3,243
Est Value	$ 25,000,000
Minus current value	$ 24,295,000
Est Tax	$ 111,757
Value of LUIG for 5 years	$ 558,785
Value of LUIG for 3 years	$ 335,271

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $50,000. The value of each 10% of the fee rebate would be $5,000. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $25,000; at a three year level, $15,000.

The Housing and Community Development Committee reviewed the proposal and discussed it with Pace Burt at their January 20, 2015 meeting. Both the Committee and developer agreed at that meeting to take no action. The developer has since requested that the proposal as described above be moved forward to Council.

Staff recommends that Council set the public hearing on May 26, 2015, for the consideration of the Land Use Incentive Grant for 300 Mill River Drive (Mill River Lofts LLC).

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H. RESOLUTION NO. 15-87 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 26, 2014, FOR A LAND USE INCENTIVE GRANT AGREEMENT FOR 146 ROBERTS STREET (RAD LOFTS)

Summary: The consideration of a resolution setting a public hearing on May 26, 2015, for a land use incentive grant agreement for 146 Roberts Street (RAD Lofts).

The owners/developers of RAD Lofts seek to amend their Land Use Incentive Grant per the policy adopted by Council, and amended on August 26, 2014.

On August 26, 2014, City Council approved a Land use Incentive Grant (LUIG) for the RAD Lofts development. In summary, the RAD Lofts LLC proposed a 209 unit residential, 38,500 square foot commercial development on the 2.88 acre site formerly home to the Dave Steel Company, located at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The developer estimated a total development cost of $52 million. The project consisted of 209 residential rental apartments, a two story parking deck with 356 parking spaces, and street front retail spaces, live work spaces and second floor office space.

Council approved a five-year (50 points) LUIG, based on the following:

Eligibility Requirements:

- Equity: A 20% equity contribution is required. The project developers indicate they will meet this requirement;
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

Public Benefit: Council awarded 50 Public Benefit Elements points, as follows:

- Affordable Housing units: 10 points for providing 5% (11 units) affordable residential units;
- Workforce Housing units: 20 points for providing 95% (231 units), workforce residential units.
- Green Building/Energy: *Energy Star certified*, 5 points.
- 20% non-residential, 5 points.
- Within the Sustainability Bonus area, 5 points.
- Brownfield Redevelopment, 5 point)

The developer has slightly altered the composition of the project, and needs an amended Land Use Incentive Grant approval from City Council. The proposed development now consists of 243 residential units, an increase of 34 units. The developer will continue to provide 5% affordable units, which increases the number of affordable units by one unit, to 12 units. The percentage of workforce units does not change, while the number of workforce units increases to 231.

Concurrently, the developer proposes to reduce the commercial square footage by approximately 20,000 square feet, reducing the total square footage to approximately 34,000 square feet. This reduces the total commercial space to 16% of the total development.

The developer requests that the Land Use Incentive Grant, as awarded by City Council, remain unchanged.

The project meets the following 2014-15 Strategic Plan Goals: (1) *Economic Growth and Sustainability:* The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District. (2*) Affordability and Economic Mobility*: the project creates locationally efficient affordable and workforce housing;

The project meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Estimated maximum value of Land Use Incentive: The current assessed value of the property is $501,800 (land only). The developer's estimate of completed project taxable value is $40,000,000, and has estimated the value on which the LUIG is made at 80% of that ($32,000,000). The current annual city tax, based on current assessed value, is $2,308. The annual estimated city tax post completion, based on the developer's estimate of value is $184,000. Thus, the estimated annual Land Use Incentive Grant would be $144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be $724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $81,806.40. The value of each 10% of the fee rebate would be $8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $40,903.20.

The project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately $823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over the five year period, as opposed to equal payments over the requested five-year period. This would result in a grant disbursement that would increase annually over the five year term; and may lead to an extension of the grant period until the total maximum grant amount is paid.

Staff recommends that Council set a public hearing date on May 26, 2015, for a land use incentive grant agreement for 146 Roberts Street (RAD Lofts).

RESOLUTION BOOK NO. 37 - PAGE 121

I. **RESOLUTION NO. 15-88 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE WESTOVER DRIVE STORM DRAINAGE IMPROVEMENTS CONSTRUCTION PROJECT**

ORDINANCE NO. 4410 - BUDGET AMENDMENT FOR THE WESTOVER DRIVE STORM DRAINAGE IMPROVEMENTS CONSTRUCTION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter a contract with Patton Construction Group, Inc. for the construction services necessary to complete the Westover Drive Storm Drainage Improvements; and the consideration of a budget amendment in the amount of $250,289 from the Stormwater Operating Fund to fund the contract and a 15% contingency.

Currently there is not an existing storm drainage system along Westover Drive. Citizens in this area have been experiencing issues during heavy rainfall events with water over-toping an existing asphalt curb.

Within the scope of the project, Patton Construction Group will install approximately 1100 linear feet of new storm drainage infrastructure and install approximately 670 feet of curb. The area will be resurfaced following the installation of the new infrastructure.

The project was posted for bid on April 2, 2015. A mandatory pre-bid meeting was held with a moderate turnout on April 8, 2015. The bids were scheduled to be opened on April 16, 2015. Two bidders were all that showed up to the bid opening and the bids were not opened and returned to the contractors. Follcwing the re-bid process, the bids were opened on April 29, 2015, and the following were the results:

Patton Construction Group, Inc.	565 Long Shoals Road, Suite 101, Arden, NC	$385,675
NHM Constructors, LLC	PO Box 6385, Asheville NC	$512,496.50

The City received bids from qualified contractors to perform the construction activity outlined in the approved documents for the Westover Drive Storm Drainage Improvement Project and the City of Asheville determined that Patton Construction Group, Inc and their bid of $385,675 as the low responsive and responsible bidder.

Pros:

- Installation of a new storm drainage system in this area will prevent future roadway maintenance issues.
- Provides safe access for the citizens that visit this area.
- Moves forward with the goals of the Stormwater Utility program to make capital investments through projects.

Con:

- Construction will be disruptive to the area for approximately 3 months.

The total amount of the contract is $385,675. Adding in a 15% contingency ($57,851) brings the total required budget to $443,526. A budget of $200,000 was approved for this project in FY 2013-14 in the Stormwater Capital Project Fund, and some initial engineering work was charged to the project in that year. There is currently a balance of $193,237 remaining in the project. In order to fund the construction contract and the 15% contingency, a budget amendment is required in the amount of $250,289. Funding for the budget amendment will come from the existing Stormwater Operating Fund budget (pay-go transfer). The FY 2014-15 Stormwater Operating Fund budget includes approximately $575,000 for planned contracted construction projects. The $250,289 in additional funding for Westover Drive part of that budget amount and is included in the year-end expenditure estimates for the Stormwater Fund.

City staff recommends City Council approve a resolution authorizing the City Manager to enter a contract with Patton Construction Group, Inc for the construction services necessary to complete the Westover Drive Storm Drainage Improvements for $385,675 and to enter into change orders to this contract not to exceed an additional 15% of the original contract or $57,851; and a budget amendment in the amount of $250,289 from the Stormwater Operating Fund to fund the contract and a 15% contingency.

RESOLUTION BOOK NO. 37 - PAGE 122
ORDINANCE BOOK NO. 29 - PAGE 461

J. RESOLUTION NO. 15-89 - RESOLUTION RE-AFFIRMING THE AUTHORIZATION OF THE EXECUTION OF A LICENSE AGREEMENT FOR AN ENCROACHMENT IN NORTH FORK WATERSHED

Summary: The consideration of a resolution re-affirming the authorization of the execution of a license agreement for an encroachment in North Fork Watershed.

In 2001 City Council adopted Resolution No. 01-10, authorizing the City Manager to execute a license agreement for encroachment on real property owned by the City. Leigh and Katherine Kimmel own real property adjacent to, but downstream from the North Fork reservoir spillway. A fence separates the two properties. The Kimmels property line stops far short of the fence, indicating either that (a) the fence is set back within the City's property line or (b) that there is a gap in the two properties. Without a survey of the City's property, there is no definitive answer.

Ms. Kimmel desires to list her property with a Real Estate Agency and has been informed that in order to do so, a copy of the executed license is needed. According to Ms. Kimmel, neither she nor her attorney has a copy of the executed license agreement. Based upon a thorough search of City files, an executed license agreement could not be located. It is believed that due to oversight, the license agreement was never executed.

The City's Water Resources Director, Real Estate Manager and City Attorney are in concurrence that a resolution re-affirming the authorization of the execution of a license agreement for an encroachment in the North Fork Watershed is appropriate.

City staff recommends City Council adopt a resolution re-affirming the authorization of the execution of a license agreement for an encroachment in North Fork Watershed.

RESOLUTION BOOK NO. 37 - PAGE 123

K. RESOLUTION NO. 15-90 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE-FREE DAY DURING THE STRIVE NOT TO DRIVE WEEK FOR FISCAL YEAR 2015 AND FISCAL YEAR 2016

Summary: The consideration of a resolution authorizing the City Manager to implement a fare-free day to promote transit during the Strive Not To Drive Week in Fiscal Year 2015 and Fiscal Year 2016.

Twenty-five years ago Bike to Work Day was launched in Asheville. Over the years this event evolved into Strive Not To Drive (SNTD) Week focusing more broadly on a variety of transportation alternatives to the single-occupant car, including carpooling, walking, and public transit.

SNTD Week is an annual event encouraging people to avoid driving their car for a day or part of a day in order to experience the benefits and opportunities of walking, bicycling, riding the bus, carpooling, telecommuting, etc. The SNTD week occurs usually during the month of May.

Every year the Transit Subcommittee of the SNTD Committee offers commuters a Riders Appreciation Day, which includes breakfast at the Transit Station and free fare for the day.

This action has been endorsed by the Transit Subcommittee and the Multimodal Transportation Commission.

Pros:

- The fare-free day would help promote the Strive Not To Drive activities.

- Fare-free day during the SNTD week would show appreciation for transit system's core riders.
- The free fare would potentially attract new riders.

Con:

- The system would lose about $2,200 in revenue per year.

The system would lose about $2,200/year in revenue from current riders.

Staff recommends a resolution authorizing the City Manager to implement a fare-free day for Fiscal Year 2015 and Fiscal Year 2016 as part of the Strive Not To Drive activities to promote transit use and reward core riders.

At Councilman Smith's suggestions, it was the consensus of Council that in Fiscal Year 2016 staff investigate a fare free month.

RESOLUTION BOOK NO. 37 - PAGE 124

L. RESOLUTION NO. 15-91 - RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO DISPOSE OF SURPLUS CITY-OWNED PERSONAL PROPERTY (JOHN DEERE 450J BULLDOZER) VALUED AT $30,000 OR MORE

Summary: The consideration of a resolution authorizing the sale of one (1) John Deere 450J Bulldozer deemed surplus City personal property.

The City's Water Resources Department, Division of Maintenance, identified a John Deere 450J Bulldozer, as surplus personal property, with no anticipation of utilization by the City. Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at $30,000 or more must be approved by City Council. The City's Purchasing Manager has authority to dispose of personal property valued at less than $30,000 by private negotiation and sale. The estimated blue book value of the John Deere 405J Bulldozer is listed at $35,000. Bids were solicited and received from several potential purchasers. The final bid amount at the close of the Auction on Sunday, April 19, 2015, was $55,400.00. City Council is being asked to approve the sale of the Bulldozer for $55,400.00.

Pros:

- Promotes City of Asheville fiscal responsibility of disposing of surplus property which generates revenue.
- Space utilization eliminates the need to store large, unused equipment.
- Competitive process yielded market price, statute contemplates.

Con:

- None

The bulldozer is fully depreciated and the Water Resources Fund will recognize the entire $55,400 as revenue from the sale of assets.

City staff recommends City Council adopt a resolution approving the sale of the John Deere 405J Bulldozer to the prospective purchaser for the amount of $55,400.

RESOLUTION BOOK NO. 37 - PAGE 125

M. ORDINANCE NO. 4411 - BUDGET AMENDMENT TO BUDGET PROCEEDS RECEIVED FROM THE SALE OF THE FERRY ROAD PROPERTY AND THE

SUBSEQUENT PAYMENT OF THE CITY'S PROCEEDS TO BUNCOMBE COUNTY

Summary: The consideration of a technical budget amendment in the General Fund in the amount of $3,407,477 to budget proceeds received from the sale of the Ferry Road property and the subsequent payment of the City's proceeds to Buncombe County.

At its April 14, 2015, meeting, City Council approved a resolution authorizing the Mayor to execute any and all documents necessary to amend the Interlocal Agreement with Henderson County and to effectuate the sale of property on Ferry Road to Buncombe County. As per the terms of the Interlocal Agreement, the City's share of the proceeds from the sale of the property, which totaled $3,407,477, were wired to Buncombe County on May 4, 2015.

Accounting and financial reporting best practices and fiscal transparency dictate that the incoming and outgoing funds be recorded on the books as revenue and expense. The budget amendment will provide the necessary budget authorization for the transaction.

Pros:

- Provides budget authorization for the transfer of land sale proceeds to Buncombe County.
- Conforms the City's financial records with generally accepted accounting and reporting standards.

Con:

- None.

This amendment will increase the FY 2014-15 revenue and expense budget in the General Fund by $3,407,477; however there is no net fiscal impact to the budget.

City staff recommends City Council adopt the technical budget amendment in the General Fund in the amount of $3,407,477 to budget proceeds received from the sale of the Ferry Road property and the subsequent payment of the City's proceeds to Buncombe County.

ORDINANCE BOOK NO. 29 - PAGE 463

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: Sales Tax Redistribution; Stormwater Management to Private Property; Privilege License Tax; Historic Preservation Tax Credit; and Revisions to Outdoor Advertising Laws.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A MULTI-FAMILY APARTMENT DEVELOPMENT, WITH CONDITIONS REGARDING ACCESS AND LOT FRONTAGE

ORDINANCE NO. 4412 - ORDINANCE TO CONDITIONALLY ZONE GREYMONT VILLAGE APARTMENTS LOCATED ON SARDIS ROAD FROM INDUSTRIAL DISTRICT AND COMMERCIAL INDUSTRIAL DISTRICT TO RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A MULTI-FAMILY APARTMENT DEVELOPMENT, WITH CONDITIONS REGARDING ACCESS AND LOT FRONTAGE

Urban Planner Jessica Bernstein said that the applicant is requesting conditional zoning for a portion of a single parcel from Industrial (IND) to Residential Multi-family High Density Conditional Zoning District (RM-16 CZ), in accordance with Section 7-7-8 of the UDO with conditions regarding access and lot frontage. The conditional zoning request is for the construction of a multi-family apartment complex. This is a revision to the earlier proposal, which was heard by City Council on September 9, 2014, but no action was taken at that time. This public hearing was advertised on February 13 and 20, 2015. She explained that this project came before City Council on September 9, 2014, at which time the public hearing was continued. On February 4, 2015, the project went before the Planning & Zoning Commission. The revised public hearing notice was advertised on February 27 and March 6, 2015. On March 10, 2015, the applicant requested the public hearing be continued until this date.

She said that the amended proposal for the Greymont Village Apartments is nearly identical to the original submittal reviewed by City Council on September 9, 2014. Details such as number of buildings, number of units, etc. have not changed.

The revision:

- Reduces the size of the proposed area for development from 11.8 acres down to 9.3 acres.
- The amount of open space and tree save area required subsequently decreases.
- The remaining 2.5 acres of the current parcel are proposed to be recombined with the adjacent land fronting on Sardis Road (Industries for the Blind - IFB) and remain zoned Commercial Industrial and Industrial.
- The area eliminated from the original conditional application is primarily the "flag pole" of the parcel, which provides the only lot frontage for the project area. The requested zoning district, RM-16, requires a minimum of 50 feet of frontage on a public street or private street built to City standards – neither of which are provided by Greymont Lane.
- The proposal's future recombination results in a "land-locked parcel" which would require a condition by City Council. Lot frontage along a public street is required in order to maintain safe access to residential properties.
- The flag pole portion of the lot is encumbered by a Progress Energy transmission line easement and that frontage along Sardis Road was never shown as an access point into the project in the previous submittal, so the proposed amendment is not different in terms of access nor does it reduce access to the site. The single point of egress and ingress remains from Greymont Lane.
- Should this project be approved, staff recommends that a dedicated right-of-way or easement be established along Greymont Lane to ensure access by the public and residents to the portion of the development within the City limits (similar to the provisions

for access to non-residential uses on lots without frontage found in Section 7-11-2(k) of the UDO). The Planning & Zoning Commission included this condition in their recommendation. Additional standards and details recommended by staff regarding this condition are included in the staff report and suggested conditions of approval.

- The amendment leaves more land for future expansion of the IFB site. Previously, significant area would have to be reserved for property line buffers along the pole and to the rear of the building. This amendment has the potential to benefit future industrial expansion.
- The applicant has added an addendum to their purchase agreement with IFB regarding potentially reserving and upfitting residential units for employees, providing those units at a reduced rate and possibly providing an walking trail between the two uses. While these commitments are positive and beneficial to the IFB employees, they are not directly aligned with the City's goals and objectives towards affordability and are not securable or able to be monitored by the City.

Because of the reasons stated further in the staff report, based on preserving Industrially-zoned land and locating residential uses in areas with residentially-supportive infrastructure, staff maintains a recommendation not to support this requested conditional zoning.

As described above, the current proposal is essentially the same as the previous plan with the exception that only a portion of the parent parcel is now considered in the rezoning application, which reduces the overall project size and results in a project site lacking frontage on a public road or a road built to City standards (see section on conditions in this staff report for more detail).

The overall project location straddles the City of Asheville / Buncombe County line and consists of a total of approximately 38.6 acres (*previously 41.1 acres*). The extent of the project proposed within the City limits is a portion of a single parcel (PIN 9617.90-3637), approximately 9.3 acres in size. The original submittal, heard by Council in 2014, included the entire parcel rather than just a portion of the parcel as in the current revision. The parent parcel is split-zoned with a small part Commercial Industrial and the bulk (including the entire project area) zoned Industrial. The parent parcel (11.8 acres) is a "flag lot" with approximately 123 feet of frontage along Sardis Road; the "pole" (zoned CI) contains a 70 foot wide Progress Energy transmission line easement and will not be included.

Adjacent zoning includes CI to the north, IND to the east and County zoning to the west (EMP) and south (R3). The (City) site is currently owned by Industries for the Blind, with their use adjacent, located on Sardis Road. Other nearby uses include multiple car dealerships and light industrial uses (metal roofing, plastic manufacturing), the forestry service offices/garage and a truck rental business.

The multi-family apartment complex development proposes a total of 356 units in 14 residential buildings and one community building with 676 parking spaces throughout the site. The City and County portions are divided by a stream running through the site (with existing wetlands and a required 30 foot buffer area).

Buncombe County approved the project as a Conditional Use Permit in 2008; however those approvals lapsed. The proposal was re-approved by Buncombe County in 2014.

Within the City of Asheville jurisdiction, the project includes four buildings containing 108 units: one building is 3-stories and three buildings are a ¾ split configuration and all have a maximum height of 30.5 feet (44'3" to the top of the roof peak). Plans propose a mix of 1-bedroom (24 units), 2-bedroom (60 units) and 3-bedroom (24 units) layouts.

Vehicles access the site from Greymont Lane, which is within the Buncombe County jurisdiction and is proposed to be improved to 20 feet of pavement. No secondary access point is

proposed. Greymont Lane does not have an associated right-of-way.

Greymont Lane circles through the site and into the COA portion of the project, terminating in a parking area with a total of approximately 192 parking spaces, including six accessible spaces. Also, 10 bike parking spaces are provided, distributed among the buildings.

There are no sidewalks shown along the access road (Greymont Lane). There are internal walkways within the site, linking the parking area and buildings.

Landscaping is required for this project and includes parking lot landscaping, building impact landscaping and tree save area. There is a significant area of the site that will not be disturbed due to a required stream buffer and existing vegetation within this area may be used to satisfy some landscaping requirements if needed.

Fifteen percent of the total lot area is required to be dedicated as open space, which would be approximately 60,517 square feet (*previously 76,909 square feet*) for this site.

There are two retaining walls on the City's portion of the site, showing a maximum height of 17 feet. Aesthetic treatment or landscaping is required for all walls over eight feet in height, according to Section 7-10-5 of the UDO.

Conditions:

- Lot Frontage and Access – Section 7-8-7 of the UDO requires that all lots in the RM-16 zoning district have a minimum of 50 feet of road frontage along a City street or a street built to City standards. In the previous proposal, the "flag pole" portion of the parent parcel provided the necessary lot frontage along Sardis Road (although no access was proposed from Sardis Road). The amendment seeks to eliminate that portion of the lot from the project and would thereby eliminate the lot frontage once a recombination is undertaken.

  Also, section 7-11-2(j)(1)a. contains the same statement requiring residential lots to have frontage on a public street or approved private street built to City standards for access. Staff has recommended that if approved, the project should include a dedicated 45 foot easement or right-of-way following Greymont Lane as shown on plans. The easement or right-of-way must consist of 20 feet of pavement, containing curb and gutter and conform to all other specifications as required by the City Transportation, Public Works and Fire Departments. The easement or right-of-way must specifically allow ingress and egress to and from the project site within the City's jurisdiction by residents, the public and all emergency and service vehicles, across the property located in the County's jurisdiction and as indicated on plans. If these requirements are met, the project would not be required to directly abut a City street or private street built to City standards.

The previous proposal was approved with conditions by the Technical Review Committee on July 21, 2014, by the Planning & Zoning Commission on August 6th and initially reviewed by City Council on September 9, 2014, but continued at that meeting after some discussion. No vote was taken.

When the project was amended to reduce the size of the area considered in the conditional zoning, this request returned to the Planning & Zoning Commission on February 4, 2015. The Commission voted to support the application by a vote of 5-2 and included a condition that the applicant provide a 45-foot easement or right-of-way (along Greymont Lane) to satisfy access and frontage concerns. The applicant agreed to the general condition of a 45-foot easement but the specifics suggested above and in the staff recommended conditions have not been agreed to by the applicant as of the writing of this report.

Staff has received contact from a representative of the other business that depends on Greymont Lane for access (PolyLINKS). Their comments were not in support of this project due to the significant traffic increase on a small access road (Greymont Lane) and a preference to have complementary industrial neighbors to their industrial use, to support and sustain the employment and production efforts for the region.

The proposal requires a change in zoning due to the fact that the maximum residential density in the Industrial district is only 2 units per acre and would result in only approximately 24 units allowed on the City portion of the site. The current proposal for 108 units on 9.3 acres is approximately 11.6 units per acre.

Reducing the project size leaves more land for potential future expansion of the Industries for the Blind (IFB) site. With the previous proposal to rezone the entire flag lot, significant area would have to be reserved for required property line buffers along the flag pole and to the rear of the IFB site which would greatly reduce the area available for expansion. This amendment has the potential to benefit future industrial expansion along Sardis Road.

However, it is not permitted by-right to create a lot non-conforming due to access and frontage standards for residential development, which this project would seek to do with the eventual subdivision of land and recombination of the remainder with the IFB parcel. Lot frontage along a public street is required in order to maintain safe access to residential properties.

The applicant contends that the site is not suited to an industrial use due to the access and constraints on the buildable area due to stream buffers. Staff finds that a parcel of this size, access and topography is not unsuitable for uses allowed in the Industrial zoning district, based on an analysis of existing industrial parks throughout the City and Buncombe County. There are a variety of sizes of sites currently active with industrial uses across the region, ranging from less than one acre up to 19 acres, with varying topography and with similar access on two and three-lane roads. Also, "industrial" uses are constantly changing and are not only the typical, historical manufacturing operations often thought of with the term "industrial zoning." There is a wide breadth of lower impact manufacturing and technologically industrial uses that could be well suited for this location.

The most applicable zoning actions related to this project are not necessarily geographically-related but more so of a similar zoning nature. However, notable projects in the area include the Franklin School of Innovation (Level I); the Buncombe County Intermediate School and the larger piece of this residential development within the County.

Relating to zoning, most recently City Council approved a conditional rezoning from IND to RM-16 for the development of a multi-family apartment complex on Sweeten Creek Road (The Avalon; 5-2 vote, February 2014). While this request was ultimately approved by City Council, it was not without considerable discussion regarding balancing the loss of industrially-zoned land and the need for projects to meet City goals on residential density and affordability.

Zoning and uses adjacent to this site include CI to the north (vacant parcel, metal roof manufacturing, heating and cooling contractor); IND to the east (Industries for the Blind); Buncombe County R3 to the south (vacant, proposed extension of this residential development) and Buncombe County EMP to the west (Progress Energy sub-station). Along the northwest property line is a 70 foot wide high power transmission line easement. The current uses in the immediate vicinity are not definitively incompatible with a residential development; however the context is generally thought of as having a low level of compatibility. The character of the area is largely commercial and industrial.

The proposed development is located back off of Sardis Road behind and among industrial and manufacturing uses and bordered by the transmission line mentioned previously. There are no sidewalks proposed along Greymont Lane and no sidewalks existing along Sardis

Road either as well as no transit options either. When staff is evaluating the suitability of an area for a new use, the analysis includes examining factors such as whether or not there is residential infrastructure or amenities that would be found in a typical residential area and the answer is no, not at this time. Outside of the immediate area there are neighborhoods and residentially-supported community uses (library over a mile away, proposed intermediate school approximately 0.5 mile away, Buncombe County Sports park over two miles away) however the lack of sidewalks or transit is not conducive to safe pedestrian or bike access to these uses.

Ultimately, because of the existing non-residential nature of the immediate vicinity, the proposed use is not considered to be compatible with the location. Even with the construction of the County-portion of the project, staff does not believe that this is an appropriate and harmonious location for a residential development at this time.

One of the smart growth principles in the Asheville City Development Plan 2025 highlights the importance of [infill] development where infrastructure can be easily provided. Also there are comments within the Plan relating to schools as "places of...important neighborhood and community centers." There are two new schools proposed in close proximity to this site. However, the Plan does stress the importance of linking residential neighborhoods, schools and residential amenities with safe pedestrian and bike access and this location is lacking in that regard.

Also in the Plan is a recommendation for residential projects to have a higher density, especially able to support transit and the future expansion possibilities of the Asheville Regional Transit system (currently no City transit routes run along Sardis Road). This proposal is at just around 11 units per acre for the site which is at the low end of the minimum density determined as necessary for optimum transit performance and doesn't maximize the density potential for the site.

Affordable housing options are highlighted throughout the Plan as a strong community need; and as of the writing of this report, no dedicated affordable or workforce rents are proposed. The addendum provided by the applicant indicates an intent to provide units at a reduced rate for employees of the IFB, however there is no clear and stated information on rates or duration of dedication provided and this is not securable or able to be monitored by the City. Additionally, the applicant has indicated that the rents will be lower than the workforce rates determined by the City; however, they remain unwilling to dedicate units as such.

One of the City of Asheville's adopted Smart Growth Land Use policies noted in the Plan states that Industrially zoned land should be reserved for industrial purposes and not lost to lower density development. The proposed conditional rezoning does not comply with this policy. Additionally, the Sustainable Economic Development Strategic Plan (2000) notes that the shortage of industrial sites within the City as an area of potential concern, stating that the City should seek to ensure the availability of suitable sites will meet the business needs of the City into the future. Staff's analysis is that the size, access and slopes/encumbrances on this site are comparable to other industrial areas and do not impede its suitability for industrial uses.

City Council's adopted goals for 2014-2015 stress expanding Asheville supply of affordable housing and maintaining a high quality of life for residents. This project does not offer any dedicated affordable units and there is some question as to whether locating residential uses in an area surrounded by non-residential and industrial uses is the most ideal location to enhance quality of life. City Council has a goal on expanding the supply of housing and this proposal does not maximize the residential density in the proposed zoning district. Additionally, one of Council's strategic goals is to support economic growth and this rezoning would be a loss of scarcely available industrial land; a loss of land on which to locate a business that has the zoning in place to attract private investment and create jobs.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff does not find this request to be reasonable, consistent with the comprehensive plan or within the best public interest.

Considerations:

- The Comprehensive Plan, as well as the Sustainable Economic Development Strategic Plan, includes a stated policy to preserve Industrially-zoned land for industrial uses and ensure the availability of sites for future business needs. Staff's analysis has found that the size of and access to the site is not inconsistent with other industrial sites through the City and that industrially-zoned land should be retained as the nature of "industrial uses" changes over time.
- The application does not propose to dedicate any units as affordable, which is a clearly stated goal for the City. The addendum information provided by the applicant is not measurable or securable by the City in terms of affordability.
- Staff has concern regarding locating a residential development in an area lacking in transit, pedestrian and bike access or other typical residential area amenities.
- The amended proposal will continue with a subdivision to create a lot that is non-conforming due to frontage which is typically not permitted for a residential use. If the applicant agrees to the specific conditions regarding the access along Greymont Lane, the concern would be mitigated.
- The project preserves sensitive environmental area through the stream buffer.
- The amended proposal reserves additional land for the IFB site, improving their potential to expand in the future.
- There are two new schools proposed in the vicinity and residential amenities nearby, which this proposal could support *(however there is not safe pedestrian or bike access along Sardis Road nor transit).*
- The larger portion of the overall project has been approved by the County, which would bring residential into this industrial area regardless of City support.

Based on policies stated in the Comprehensive Plan and other plans, as well as direction provided by City Council in recent policy discussions, staff cannot recommend support of the proposed rezoning. With the concern over the loss of Industrially-zoned land for a proposal that does not substantially align with City Council's adopted strategic plan goals, the basis for support is low.

However, both the Planning and Zoning Commission and City Council have supported similar rezoning actions in the past. The Commission and City Council may consider this rezoning independent of the existing policies. While staff still does not support approval, should the Commission and Council decide otherwise, staff strongly recommends that the *affordable component be revised to align with the City's measurable processes*; that *a specific number of units are reserved and dedicated for visually-impaired residents*; that the applicant provide a *suitable walking path for the visually-impaired residents between the development and the IFB*; that *the buildings on the City portion meet sprinkler requirements in NFPA 13*; and that a *dedicated right-of-way or easement for access by emergency and service vehicles, the public and residents of the development be secured along Greymont Lane (as described in the condition earlier in this report)* in order to allow the application to further some important City policies and the public interest.

The applicant has agreed to the following additional conditions (1) that all units will be offered at the workforce maximum or lower for a minimum period of five years. The workforce rent limits are according to income standards determined by the City of Asheville Community Development Department; (2) that access will be by a 45-foot easement or right-of-way constructed to City standards, including 20 feet of pavement, the installation of curb and gutter, and all other specifications as required by the City Transportation and Public Works Departments;

and (3) the owner shall offer rental of units to employees of the Industries for the Blind at a discount of 5% from otherwise applicable rates, for a period of five years.

During discussion, Ms. Bernstein responded to various questions/comments from Council, some being, but are not limited to: why are they rezoning only part of the property; what will happen to the flag lot property; how much of the area can be built on for an industrial use; and who would be the first responder in the case of a fire - the City or Enka-Candler Fire Department.

In response to Councilman Bothwell, Fire Chief Scott Burnette explained the difference between the NFPA 13-R vs. NFPA 13 standards for sprinklers. He said a project of this type would normally require a 13-R (which is one level of sprinkler protection) if it has two means of access/egress. Since this project only has one access/egress, the Code requirement is to have a 13. The Code allows the Fire Code Official to grant only one means of access/egress if there is a higher level of fire protection. What he is recommending is a NFPA 13 (higher level of sprinkler protection). He feels comfortable with only one access/egress if there is a higher level of sprinkler protection. He further explained that the two means of access/egress is for first responders to get in quickly and not be bottlenecked up with residents trying to get out from the emergency.

Mr. W. Louis Bissette, attorney representing the developer, explained that they have reduced the size of the proposed area for development from 11.8 acres down to 9.3 acres and of that, there is only 5.05 acres that is buildable. He explained why didn't feel that it would be economically feasible for a small industrial site. He said the remaining 2.5 acres of the current parcel are proposed to be recombined with the Winston-Salem Industries for the Blind (IFB) property. He reiterated that the developer and IFB have signed an addendum to agreement for purchase and sale of real property stating that (1) Buyer shall reserve at completion, an unlimited number of units in the proposed Greymont Apartment Complex for employees of the Asheville, North Carolina, location; (2) these units shall be upfitted by Buyer at Buyer's expense to "blind and visually impaired friendly" status, as mutually agreed to by Buyer and Seller; (3) all units properly reserved shall be leased at a five percent discount from Buyer's standard rental rate; and (4) Buyer shall construct at Buyer's expense a mutually acceptable walking trail from the Greymont Apartment Complex to the IFB-Asheville plant, provided that at least five units are leased by IFB-Asheville. This project meets one of the City's goals to provide affordable and accessible housing or special needs households. The County's portion of this project has already been approved by the Buncombe County Commissioners with the NFPA 13-R rating. To provide NFPA 13 rating to the buildings on the City's portion will add a tremendous cost to the project. He stressed that this area needs multi-family housing and asked for City Council's support.

Mr. Patrick Bradshaw, representing Civil Design Concepts, explained that they will be upgrading Greymont Lane to City standards. He felt the life safety aspects of NFPA 13 vs. 13-R are not different. All occupied spaces are just as sprinklered. The context of construction is an almost brick exterior which is a very low fire hazard. The County Fire Marshal recognizes that NFPA 13-R is amenable to the County, who has the predominance of the units.

Councilman Bothwell felt that since several units will be rented to blind people that the developer would want a high safety factor. He felt that Fire Chief Burnette's suggestion for NFPA 13 standards is reasonable.

Mr. Randy Buckner, Director of Operations for IFB, explained that blind people are very mobile during evacuation periods. He supported the project in that (1) they have currently over 20 employees that would be interested in living at the Greymont Apartments; (2) savings for those employees of transportation costs and commute time; (3) it will save the City and County money on subsidizing the transportation costs through Mountain Mobility for IFB employees; (4) the developer will give the employees a 5% discount on the rent; (5) the property will probably not be sold for many years if it remains industrially zoned; and (6) IFB has retained enough property for

future expansion. He felt this will help fill some of the rental property needs in Asheville and asked Council to support the project.

Given the average salary of IFB employees, Councilman Pelly questioned if employees will be able to live in the apartments.

There was a brief discussion regarding an e-mail from Mr. Ben Teague, Vice-President of Economic Development for the Chamber of Commerce, who said that this property is totally non-competitive and supported the rezoning. Mr. Buckner said sale of the property will allow them to finish their work on their capital campaign projects to improve the quality of life for their employees.

In response to Councilwoman Wisler, Mayor Manheimer felt, and it was the consensus of Council, that the City didn't need to include conditions that were already in the Addendum to the Agreement between the developer and IFB.

Mayor Manheimer opened the public hearing at 6:20 p.m.

Ms. Betty Ford, employee of IFB, supported this proposal because she and her husband would like to live in one of the apartments to save on their transportation costs which range from $200-240 a month.

The Controller at PolyLINKS said that her company and these proposed apartments will both access Greymont Lane. Their concerns range from an increase of traffic on Greymont Lane to their preference to have complementary industrial neighbors to their industrial use, to support and sustain the employment and production efforts for the region. A separation of residential and industrial is generally preferred by both parties. Often residents will complain about noise, lighting, smell, etc. from industrial. The company runs three full-time shifts, but not on Sunday.

Mayor Manheimer closed the public hearing at 6:25 p.m.

Councilman Smith felt there may be some opportunities for this industrial site that have not been explored and holding onto industrial sites is going to be important. He totally supported IFB, but felt that offering rental units at a discount for a period of five years is not meaningful.

Vice-Mayor Hunt felt that if the parcel had been divided prior to assigning zoning districts in the Unified Development Ordinance, the subject parcel might not be zoned institutional. If the property remains industrial, it might be years before the IFB could realize any proceeds on the property they do not intend to use. Regarding affordability, most developers need a bottom line rate of return out of their development and if they blend in 10% of the units as affordable, the likely affect is the other 90% of the units have rent rates increased to offset the 10% affordable. In this case where all units are workforce, if we condition 10% affordable, he felt the workforce units would be slightly less affordable. The way a project impacts our need for affordable housing across the community is very complex and he felt that adding the 108 units at workforce level for five years is a plus for affordable housing in this community. He was, however, concerned about the fire protection aspect.

Councilman Bothwell felt we are (1) granting an exemption on the lot frontage; (2) not taking the Fire Chief's suggestion regarding fire protection; (3) introducing residential into an area surrounded by industrial uses; and (4) not taking into account the nearest neighbor with reasonable objections to the project. He felt that if the property is developable as a residential pad then it is developable as an industrial pad.

Vice-Mayor Hunt moved to approve the conditional zoning request for Greymont Village Apartments on Sardis Road from Industrial to Residential Multi-family High Density-CZ based on the site plan and conditions agreed upon by the applicant, and find that the request is reasonable,

is in the public interest and is consistent with the Comprehensive Plan and other adopted plans, in the following ways: (1) the project adds needed residential rental units in the City; (2) the project will preserve a sensitive environmental area through the stream buffer; and (3) the project supports affordability of housing in the community. This motion was seconded by Councilman Davis and carried on a 4-3 vote, with Councilman Bothwell, Councilman Pelly and Councilman Smith voting "no".

ORDINANCE BOOK NO. 29 – PAGE 465

B. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR POLYLINKS

RESOLUTION NO. 15-92 - RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR POLYLINKS

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution to approve a $31,000 economic development incentive grant for PolyLinks. This public hearing was advertised on May 1, 2015.

This is the consideration of an economic incentive grant under the City of Asheville Economic Development Incentive policy. PolyLINKS Inc. is an existing precision metal working company (in the formerly owned Citizen-Times Production Plant on Sardis Road) and they have proposed expansion of their building. The company is investing $1.1 Million in building upgrades and $1.2 Million in machinery & equipment, for a total of $2.3 Million.

The expansion will add 12 new jobs with an average annual wage of $42,557 to the existing 17 employees at the company. These jobs range in hourly salaries from $10.00/hour to $26.00/hour (average hourly salary is $20.46/hour) with only one job at the $10/hour range. All employees are provided health benefits by the company.

PolyLINKS Inc. has requested consideration of a performance-based incentive grant under the City of Asheville Economic Development Incentive policy. The performance based grant for PolyLINKS Inc. for this project is an amount not to exceed $31,000, to be paid in annual installments for a period of up to five years; subject to compliance with an Economic Development Performance Agreement between the City and PolyLINKS. Payments begin after the investment is made, taxes are paid and verified, and the company requests payment.

The City will fund the payments from the general fund. The grant supports the decision by PolyLINKS Inc. to expand in Asheville with the creation of 12 new jobs.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;
- Supports regional and state cooperation in the project.

Con:

- None

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After 5 years, the City will henceforth receive 100% capture of new city taxes. As noted above, the City of Asheville performance-based grant amount will not exceed $31,000 in total.

City staff recommends Council approve a resolution authorizing an economic development incentive grant for PolyLINKS Inc. not to exceed $31,000.

Mayor Manheimer opened the public hearing at 6:40 p.m. and when no one spoke, she closed the public hearing at 6:40 p.m.

Councilman Smith felt that in the future we need to support grants that provide greater than average wages.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 15-92. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 126

C. PUBLIC HEARING TO CONSIDER AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR HI-WIRE BREWING

RESOLUTION NO. 15-93 - RESOLUTION APPROVING AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR HI-WIRE BREWING

Economic Development Specialist Brenda Mills said that this is the consideration of a resolution to approve a $25,000 economic development incentive grant for Hi-Wire Brewing. This public hearing was advertised on May 1, 2015.

This is the consideration of an economic incentive grant under the City of Asheville Economic Development Incentive policy. Hi-Wire Brewing is an existing craft brewery which began in 2013. Their continued growth has prompted the company to invest $1.62 million over the next 3 years in a new 26,000 square foot brewing facility and equipment in the historic Biltmore Village area.

The company will create 15 new jobs over a period of 3 years with an average wage per year is $34,000. These jobs range in annual salaries from $28,000 to $37,000. The company provides 50% of coverage for health insurance and other benefits to employees.

The City's incentive policy would justify an incentive grant of $25,000 to the company. The grant would be subject to a performance agreement with the City, and would be paid in five annual installments, $5,000 a year. Payments begin after the conditions of the performance agreement are met, the annual property taxes are paid by the company and verified by the City that company has made the required investment and that investment goes on the tax rolls and the company requests payment.

The City will fund the payments from the general fund. The grant supports the decision by Hi-Wire Brewing to expand in Asheville with the creation of 15 new jobs.

Pros:

- Performance driven grant that is distributed after job and investment is achieved;
- Supports job creation and capital investment in existing industry in Asheville;
- Supports development of an identified economic cluster in the City; and,
- Supports regional and state cooperation in the project.

Con:

- None

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive a portion of the new incremental property tax revenues from the project. After five years, the City will henceforth receive 100% capture of new city taxes.

City staff recommends Council approve a resolution authorizing an economic development incentive grant for Hi-Wire Brewing not to exceed $25,000.

Mayor Manheimer opened the public hearing at 6:44 p.m.

Mr. Adam Charnack, representing Hi-Wire Brewing, said they have already hired 10 new employees and thanked City Council for their support.

The Controller from PolyLINKS spoke in support of Hi-Wire Brewing and their work with charities.

Mayor Manheimer closed the public hearing at 6:47 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-93. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 36 – PAGE 127

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 53 LOGAN CIRCLE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 16 TOWNHOME UNITS, WITH CONDITIONS REGARDING SETBACKS, SIDEWALKS AND INFRASTRUCTURE IMPROVEMENTS

Mayor Manheimer announced that this item has been removed from consideration at this meeting and will be rescheduled.

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM URBAN PLACE DISTRICT/CONDITIONAL ZONING TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO AMEND A PREVIOUSLY APPROVED MIXED-USE DEVELOPMENT PROJECT LOCATED AT 146 AND 99999 ROBERTS STREET

Councilwoman Wisler moved to continue this public hearing until May 26, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. POLICY GUIDANCE REGARDING SHORT TERM RENTALS AND HOMESTAYS

Executive Director of Planning & Multimodal Transportation Cathy Ball said that staff is requesting direction from City Council on revising the Unified Development Ordinance (UDO) to address concerns with short-term rental and homestays. After receiving feedback from City

Council, staff will, pursuant to Council's direction, prepare and request wording amendments for presentation to the Planning and Zoning Commission. Following the Planning and Zoning Commission action, City Council will take final action on the wording amendment. Currently, the UDO allows homestays and rentals of dwelling units for less than 30 days in some zoning districts, but not others..

As with most tourist cities, the City of Asheville is experiencing a high demand for visitors that want to stay in homes during their vacation. This trend has created concerns for both citizens that want to rent their homes and neighbors that feel the impact of more transient population is causing adverse impacts.

Ms. Ball then reviewed the timeline of the times the action has been before the Planning & Economic Development (PED) Committee and the Planning & Zoning Commission. City Council held a public forum on March 25, 2015, to hear from the community on this issue.

At the PED Committee, there was (1) review of current regulations; (2) a February 18, 2014, update which included research from other communities; and (3) a recommendation to move forward with changes to homestays regulations and defer consideration of Short Term Rentals until more research was complete on the impact to affordable housing.

From the Planning & Zoning Commission (1) staff recommended revising homestays to reduce the size from 2500 square feet to 1200 square feet and remove the requirement for a meal to be served; and (2) request was unanimously denied (only 4 of 7 present at the meeting) for the following reasons (1) lacked clear purpose and focus; (b) lacked enforcement mechanisms; and (c) should look holistically at all types of rental uses.

A December 2014 Short Term Rental Report, which was contracted with Urban Planning Analytics, LLC, addressed the following issues regarding short term rentals (1) impact on affordable housing; (2) strategies for reducing impacts on neighborhoods; and (2) balancing inequities between short term rentals, hotels and Bed & Breakfasts.

At the March 25, 2015, community forum, over 150 people were in attendance and the unofficial results from people who commented were: 13 people wanted no change except to increase enforcement, 18 people wanted to expand options for homestays, and 13 people supported short term rentals.

Staff is requesting direction from City Council on regulations for homestays and short-term rentals.

Director of Development Services Shannon Tuch and City Attorney Currin responded to various questions/comments from Council.

Regarding short term rentals, Mayor and Council voiced their opinions resulting in:

Councilwoman Wisler supported keeping the current regulations, with increased enforcement
Councilman Smith supported prohibiting short term rentals in all zones, with increased in fines and proactive enforcement plan
Councilman Bothwell supported keeping the current regulations
Councilman Pelly was open to considering short term rentals in a range of districts with strict guidelines
Vice-Mayor Hunt supporting keeping the current regulations, with increased enforcement and increase in fines
Councilman Davis supported keeping the current regulations
Mayor Manheimer supported keeping the current regulations with proactive enforcement plan and increase in fines

Regarding homestays, Mayor and Council voiced their opinions resulting in:

Mayor Manheimer supported no size of structure requirement; supported a long-term tenant (not only the owner of the property) be allowed to be the operator of the homestay; supported no separation requirement; did not support the accessory structure requirement

Vice-Mayor Hunt supported no size of structure requirement; supported a long-term tenant (not only the owner of the property) be allowed to be the operator of the homestay; support for the long-term tenant or owner of the property be required to stay overnight in the unit; supported proof of liability insurance for the use; supported an occupancy tax collected by Buncombe County; and supported an increase in fines; did not support the accessory structure requirement

Councilman Smith supported no size of structure requirement; no maximum of 25% Gross Floor Area of structure use; supported no parking requirement; supported cost recovery for enforcement; supported proof of liability insurance for the use

Councilwoman Wisler supported no size of structure requirement; supported no separation requirement

It was the consensus of Council to have staff prepare a brochure or flow cart for the public to understand the process for permitting homestays and/or short term rentals.

Mayor Manheimer said that staff will prepare an ordinance amendment based on Council's direction which will be reviewed by the Planning & Zoning Commission by a public hearing at their July 16, 2015, meeting, with the City Council public hearing on the matter on August 11, 2015.

VI. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE STANDARDIZATION PURCHASE OF THE TASER AVON FLEX THROUGH FISCAL YEAR 2019 FOR CONSISTENCY IN OPERATION AND FUNCTIONALITY

This item has been withdrawn from consideration at this time to be rescheduled after further development of the administrative policies regarding the usage of the footage.

B. BOARDS & COMMISSIONS

Regarding the Civil Service Board, the following individuals applied for a vacancy: Pam Holcombe, Mychal Bacoate, John P. Miall Jr. Thomas R. Duckett, Alan Escovitz, Kevin West and Carol Goins. Mr. West has not been separated from City of Asheville employment long enough, and is, therefore, not eligible for appointment. It was the consensus of City Council to interview Pam Holcombe, Mychal Bacoate, Thomas R. Duckett, Alan Escovitz and Carol Goins.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Lauren Noto provided Council with research she performed on the transit system pertaining to low income ridership.

Ms. Wendi Diamond, President of the Property Owners Association of the Oak Forest neighborhood, presented Council with a petition requesting the City to repave the streets in their neighborhood.

Mr. P. Acebo and a young girl spoke against the proposed location of the Duke Energy Substation and urged City Council to establish a moratorium on placement of substations and

direct City staff to set standards to prohibit substations to be relocated to places that may be inappropriate.

Mr. Timothy Sadler thanked Homeward Bound for their work on rental units for veterans; and supported additional funding opportunities for the City of Asheville Youth Leadership Academy Program.

Mr. Larry Merrell thanked City Council for their openness regarding discussions on the short term rentals and homestays.

Councilman Davis said that the ABC Board sent Council a commemorative ABC lapel pin and coasters from their Drink Responsibly campaign. He noted they are on target for a record distribution of revenue to the City.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:22 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – May 26, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE PRESIDENT DR. DENNIS KING

Mayor Manheimer was pleased to recognize Dr. Dennis King who became the 6th President of Asheville-Buncombe Technical Community College on August 1, 2014. Dr. King spoke about the work of the College ad thanked City Council for their support.

B. RECOGNITION OF THE USS ASHEVILLE SSN 758

Mayor Manheimer said that carrying on a significant tradition for the City of Asheville, a fourth U. S. Navy ship named after the city was commissioned on September 28, 1991, and continues on active and commendatory service to our country. The USS ASHEVILLE SSN 758 and her crew maintain the legacy of the three previous U. S. Navy ships named after this city and continue a strong bond with the citizens of the City of Asheville. That connection with the City of Asheville is manifested in the current visit to the city by the Commanding Officer, Commander Paul R. Pampuro, Chief of the Boat Machinist Mate Chief Robert Campbell, Logistics Specialist 2nd Class Torey Walker and Machinist Mate 2nd Class Dalton Moore. The Asheville City Council, in session on this the 26th day of May, 2015 warmly welcomes and recognizes the Commanding Officer of the USS ASHEVILLE SSN 758 and his three crew members to the City of Asheville. In their continuing deployments in service to our country, we wish the entire crew of the USS ASHEVILLE much success and "Fair Winds and Following Seas".

She thanked Mr. Ken Vasilik for his work with the USS Asheville. They then exchanged gifts.

C. PROCLAMATION PROCLAIMING JUNE 1-7, 2015, AS "HEMP HISTORY WEEK"

Mayor Manheimer read the proclamation proclaiming June 1-7, 2015, as "Hemp History Week" in the City of Asheville. She presented the proclamation to Mr. Timothy Sadler, and others, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 12, 2015

B. ORDINANCE NO. 4413 - ORDINANCE TO ENACT SPEED LIMIT CHANGES ON SUNSET DRIVE, GLENDALE AVENUE, LIBERTY STREET AND PINECROFT ROAD

Summary: The consideration of an ordinance to enact a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North; and a 25 mph speed limit on (1) Glendale Avenue from Dogwood Road to Fairview Road, (2) Liberty Street from Fairview Road to Merchant Street, and (3) Pinecroft Road from Beaverdam Road to the end of City Maintenance.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North, and a 25 mph speed limit on Glendale Avenue from Dogwood Road to Fairview Road, Liberty Street from Fairview Road to Merchant Street, and Pinecroft Road from Beaverdam Road to the end of City Maintenance would be reasonable and safe.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $500.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $500.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 20 mph speed limit on Sunset Drive from Baird Street to Griffing Boulevard-North, and a 25 mph speed limit on Glendale Avenue from Dogwood Road to Fairview Road, Liberty Street from Fairview Road to Merchant Street, and Pinecroft Road from Beaverdam Road to the End of City Maintenance.

ORDINANCE BOOK NO. 29 - PAGE 478

C. RESOLUTION NO. 15-94 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR THE 2015 TOURISM PRODUCT DEVELOPMENT FUNDS TO SUPPORT RIVERFRONT DESTINATION DEVELOPMENT

Summary: The consideration of a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority (TDA) for the Tourism Product Development Funding (TDPF) to support riverfront destination development.

The Buncombe County TDA's 2015 grant cycle for the TDPF opens in June of this year. TDPF grants support construction of brick and mortar projects that will add new or increase existing room nights in Buncombe County lodging facilities. The City of Asheville (City) intends to submit a Phase I preliminary application on June 3, 2015. The grantor will review applications to determine eligibility and will invite potential grantees to submit a more extensive Phase II application. Phase I applicants will receive notification of eligibility on June 24, 2015. If the City receives an invitation to continue with the grant process, a more extensive Phase II application is due on August 26, 2015. The Buncombe County TDA will announce grant awardees and amounts on October 28, 2015.

For Phase I, staff recommends applying for $2.5 million in grant funds that will support Capital Improvement Project construction costs of over $5.4 million. The City submitted a successful application in 2014 and was awarded $1.8 million for riverfront redevelopment projects. The projects proposed for the 2015 application are a continuation of that effort.

The City's application proposal is to construct a comprehensive set of brick and mortar projects that will help transform the River Arts District and its gateways from a place that has scattered and hard to find attractions, into a fully developed destination where points of interest and experiences are easy to find, attentive to visitor needs, and easily accessed.

The recommended application would include the following project elements:

1) River to Ridge Greenway Trail Connection ($1 Million)
   Beaucatcher Greenway – construction of a greenway trail from historic Helen's Bridge trailhead to recreational facilities at McCormick Field and Memorial Stadium

2) French Broad River Greenway Network ($1 Million)
   French Broad River Greenway West Bank connection -- This one-and-a-half mile multi-use path will connect the city's most beautiful riverfront park and the three miles of existing riverfront greenways and parks beyond it with the production and visitor's facilities and tasting room for the United States third largest craft brewery (New Belgium Brewing Asheville).

3) Improvements to connect visitors to riverfront recreation ($500,000)
   - Velodrome rebuild – park and track improvements to the existing Carrier Park velodrome, including complete resurfacing of the track
   - Crosswalk and river access – development of improved safety features across Amboy Rd. into Carrier Park, as well as construction of a river access point

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city.
- The TPDF is a significant funding opportunity that would leverage the City's investment to move forward on these investments.
- The City has already shown a commitment to implementing these projects as part of the Economic Development Capital Improvement Program.

Con:

- If awarded, the City is required to partner on marketing efforts for the French Broad riverfront as a destination, which may require shifting of current priorities or addition of resources not provided by this grant fund.

The Buncombe County TDA may choose to not award, partially award, or fully award the grant request of $2.5 million. If any award is offered and accepted, the city would experience a positive impact to the budget. Any award is contingent upon the availability of matching funds. These funds have been identified by staff.

An announcement of an award would begin the process of the City developing a grant agreement with Buncombe County TDA that further defines the specific funding amounts and project elements included in the partnership effort. Through proposed partnerships like these, staff continues to develop diverse funding sources for riverfront redevelopment capital investments that will increase the City's fiscal sustainability and the anticipated economic impact of the plan.

Staff recommends that the City Council adopt a resolution authorizing the City Manager to submit a grant application to the Buncombe County Tourism Development Authority for the Tourism Product Development Fund.

RESOLUTION BOOK NO. 37 - PAGE 128

D. RESOLUTION NO. 15-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A 0.947 ACRE EASEMENT LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO THE N.C. DEPT. OF TRANSPORTATION FOR RIGHT-OF-WAY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey a 0.947 acre easement located at the Asheville Regional Airport to the N.C. Dept. of Transportation for right-of-way purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey real property at this location, the City of Asheville must execute the deeds of conveyance. Because the property was acquired with FAA financial assistance, and has been held for use by the Airport, all financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale of an easement must be utilized for airport capital projects.

In this instance, the N.C. Dept. of Transportation (NCDOT) has requested an easement on the southernmost property boundary of the airport. The roadway project involves the realignment of Old Fanning Bridge Road and the development of Ferncliff Park Drive. Overall, the project is substantially completed, with finalization of right-of-way acquisition underway. At this time, NCDOT has requested to purchase right-of-way and associated property rights at the Asheville Regional Airport, as follows.

Property Right	Area	Value
Permanent Right-of-way (easement)	0.947 acres	$93,000

The total offer is $93,000 for the real property needs of NCDOT. This value is based on an independent MAI fair market appraisal. The Airport is amenable to the transaction and will seek approval from the FAA for this conveyance.

Pro:

- The sale of property will support NCDOT's plans to improve traffic efficiency and safety.

Con:

- None.

All financial proceeds associated with the real property disposition are subject to FAA regulations governing the allocation of these proceeds; specifically, the proceeds of sale of an easement must be utilized for airport capital projects.

Economic Development staff recommends adoption of the resolution to convey real property at the Asheville Regional Airport to the NCDOT.

RESOLUTION BOOK NO. 37 - PAGE 129

E. RESOLUTION NO. 15-96 - RESOLUTION AUTHORIZING THE PURCHASING MANAGER TO DISPOSE OF SURPLUS CITY-OWNED PERSONAL PROPERTY (2004 JOHN DEERE 410G BACKHOE) VALUED AT $30,000 OR MORE

Summary: The consideration of a resolution authorizing the sale of one John Deere 410G Backhoe deemed surplus City personal property.

The City's Water Resources Department, Division of Maintenance, identified a John Deere 410G Backhoe, as surplus personal property, with no anticipation of utilization by the City. Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at $30,000 or more must be approved by City Council. The City's Purchasing Manager has authority to dispose of personal property valued at less than $30,000 by private negotiation and sale. The estimated blue book value of the John Deere 410G Backhoe is listed at $5,000. Bids were solicited and received from several potential purchasers. The final bid amount at the close of the Auction on Monday, May 11, 2015, was $34,100. City Council is being asked to approve the sale of the Backhoe for $34,100.

Pros:

- Promotes City of Asheville fiscal responsibility of disposing of surplus property which generates revenue.
- Space utilization eliminates the need to store large, unused equipment.
- Competitive process yielded market price, statute contemplates.

Cons:

- None

The backhoe is fully depreciated and the Water Resources Fund will recognize the entire $34,100 as revenue from the sale of assets.

City staff recommends City Council adopt a resolution approving the sale of the John Deere 410G Backhoe to the perspective purchaser for the amount of $34,100.

RESOLUTION BOOK NO. 37 - PAGE 130

F. RESOLUTION NO. 15-97 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A SPECIAL MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO ALLOW PUBLIC PARKING UNDER A SECTION OF BRIDGE #322 AND #323 ON THE EAST SIDE OF THE FRENCH BROAD RIVER IN THE RIVER ARTS DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to execute a special maintenance agreement between the North Carolina Department of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 on the east side of the French Broad River in the River Arts District.

Bridge # 322 and # 323 are known as the Capt. Jeffrey Bowen Bridges and they provide access for I-26, I-240, US 19-23, and US 74-A across the French Broad River. In addition, the bridges provide a critical connection between downtown Asheville and West Asheville. As a part of the overall improvements in the River Arts District, public parking will be needed and the identified areas will help to satisfy that need.

The City and the North Carolina Department of Transportation have similar agreements at other locations including the public parking under the I-240 bridge adjacent to North Lexington Avenue, the public parking under the US 25 (McDowell Street) bridge adjacent to SR 3556 (Meadow Road), the public parking under the SR 3548 (Haywood Road) bridge adjacent to Riverside Drive, the public parking under the subject bridges on the west side of the French Broad River (approved by City Council on January 14, 2014 via Resolution # 14-2), and the public parking adjacent to Cherry Street.

Pros:

- Increases the parking supply in the River Arts District.
- Establishes parking in an area that is not currently being used.

Cons:

- The City is responsible for all maintenance and liability responsibilities including security measures.
- The City is required to return the area to its previous condition upon termination of the agreement by either party.

There will be no immediate fiscal impact because an actual parking area has not been designed. Staff is considering adding this work to the ongoing design of the RADTIP project.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a special maintenance agreement between the North Carolina Department of Transportation and the City of Asheville to allow public parking under a section of bridge # 322 and # 323 on the east side of the French Broad River in the River Arts District.

RESOLUTION BOOK NO. 37 - PAGE 131

G. RESOLUTION NO. 15-98 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A FOUR-YEAR LEASE AGREEMENT WITH JOHN DEERE CREDIT FOR MOWING AND BALL FIELD MAINTENANCE EQUIPMENT

Summary: The consideration of a resolution authorizing the City Manager to enter into a four-year lease agreement with John Deere Credit for mowing and ball field maintenance equipment.

The lease with John Deere Credit, which includes two commercial mowers, two utility vehicles, four ball field groomers, and maintenance and equipment replacement, will cost $98,528.72 for the four-year term of the lease, or $24,632.18 per year.

Although not required by North Carolina General Statute for leasing, two competitive quotes were solicited from two commercial equipment companies, John Deere Credit and Toro. John Deere was higher than Toro by $60 annually. Due to the nominal difference in pricing, staff would opt to contract with John Deere Credit due to existing equipment, supplies, and staff's previous experience operating John Deere equipment providing substantial cost savings and efficiency to the city operations.

Pros:

- Investment to maintain and care for city-owned park facilities.
- Provide quality service for ongoing, core facility maintenance services.
- Fulfill commitment for maintenance of the park system.

Con:

- None

The four-year equipment lease, maintenance and equipment replacement cost will be $98,528.72 or $24,632.18 per year. The $24,632.18 per year to support the lease agreement is budgeted in the operating budget in the Parks and Recreation Department.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into a four-year lease agreement with John Deere Credit for park maintenance equipment not to exceed $98,528.72.

RESOLUTION BOOK NO. 37 - PAGE 132

H. RESOLUTION NO. 15-99 - RESOLUTION ACCEPTING GRATITUDE DRIVE AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept Gratitude Drive as a city-maintained street

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. The developer submitted a written request via e-mail message on August 1, 2014 asking the City to accept the subject street as a city-maintained street.

Gratitude Drive from Burk Street/Grinnell Street to a point 0.03 mile east of Burk Street/Grinnell Street is a developer-constructed street that has an average width of 20 feet with grass shoulders, a length of 0.03 mile, and a right-of-way width of 25 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual. In addition, the engineer of record has certified that the street has been constructed to current standards via a letter dated March 30, 2015.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Gratitude Drive as a city-maintained street.

RESOLUTION BOOK NO. 37 - PAGE 133

I. RESOLUTION NO. 15-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT FOR THE ASHEVILLE REGIONAL AIRPORT FOR RUNWAY CONSTRUCTION, PHASE 2

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of $12,560,480

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of $12,560,480 is for construction runway (Phase 2 Construction - Temporary Runway 16/34 Paving, Lighting and NAVIDs).

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-45-2015.

RESOLUTION BOOK NO. 37 - PAGE 135

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Hunt moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. PRESENTATION OF THE 2015-16 ANNUAL OPERATING BUDGET

Director of Finance Barbara Whitehorn provided an overview of the Fiscal Year 2015-16 Operating and Capital Budget. She reviewed the revenue strategies to a balanced budget, recommending (1) a 1.5 cent increase per $100 valuation to offset the loss of privilege license; (2) decreasing taxpayer subsidy of programs and services (a) Nature Center Changes to include new gate admission rates, and membership contribution to operations; (b) Aston Park Tennis Center new membership rates; and (3) decreasing taxpayer subsidy of programs and services - planned increase in solid waste fee of $3.50/month to a monthly charge of $10.50.

General Fund expenditures include (1) investment in human capital of (a) Classification and Compensation Study; (b) living wage evaluation; (c) Health Care; (d) planned increase in City contribution to OPED; and (e) maintain current level transfer from General Fund to Workers Compensation/Liability Fund. Expenditure strategies consist of (1) managed savings; and (2) reengineering and saving. Overall, the General Fund expenditures are anticipated to increase 3.6% over Fiscal Year 2014-15. Long term options include (1) evaluation of City property, departmental needs and possible efficiencies; and (2) inter-departmental shared services. City staff will continue to seek and implement innovative cost savings models.

Enterprise Funds include (1) Water Fund (a) continued stable performance; (b) minor rate adjustments based on financial model were approved on April 14, 2015; and (c) $12 Million pay-go investment in water capital improvements; (2) Transit Fund (a) continued financial pressure (4% increase in operating costs); (b) no service changes budgeted; and (c) General Fund support increased by $90,000; (3) Parking Fund (a) strong revenue growth; (b) no adjustment to garage or meter rates; (c) maintain $616,000 in support to Transit Fund; and (d) capital program being developed; (4) US Cellular Center Fund (a) moderate performance in Fiscal Year 2014-15 - revenue and expenses adjusted down to reflect lighter event load; (b) no increase in General Fund operating support; and (c) Thomas Wolfe acoustic study funded; and (5) Stormwater Fund (a) 5% rate increase approved April 14, 2015; (b) additional crew added for enhanced maintenance program; and (c) continuation of service and capital investment.

Current CIP includes the following for Fiscal Year 2016 (1) Affordable Housing - $5,502.748; Public Safety - $6,083,424; Multi-Modal Transportation - $6,008.147; Economic Development - $400,000; Quality of Life - $2,171,863; and Infrastructure & Maintenance - $7,111.651.

CIP funding project totals for Fiscal Years 2014-2020 include (1) Affordable Housing - $9,868,787; Public Safety - $12,505,794; Multi-Modal Transportation - $30,158,850; Economic Development - $7,445,170; Quality of Life - $8,738,865; and Infrastructure & Maintenance - $38,771,912.

Water System Refunding Bonds include (1) refunding 2005 and 2007 Revenue Bonds; and (2) Green Bonds. CIP Water projects for Fiscal Year 2015-16 total $11,985,500.

Vice-Mayor Hunt confirmed that the living wage evaluation of $250,000 is currently included in the budget and will be complete within the next several weeks.

Councilman Smith said that when Council implemented Sunday transit service, the idea was to look at that for a year, look at demand, and then re-evaluate what that level of service might need to be. It doesn't appear that there is any money budgeted should Council decide an expansion of that service would be warranted. He hoped there was flexibility in the budget mid-year since this Council has been steadfast in maintaining the transit budget.

In response to Councilman Smith, Director of Transportation Ken Putnam said that there has been a positive response to the Sunday transit service and that since the six months it has been implemented, the ridership has been solid.

In response to Councilwoman Wisler, Mr. Putnam said that over the past 4-5 years, we are hovering around 1.5 million riders a year. For the 10 months this Fiscal Year, we are running 2.3% higher than last year at the same time. He predicted that we will finish out this Fiscal Year with an increase in ridership.

Councilman Bothwell asked to see a breakdown of the community programs budget for this Fiscal Year.

In response to Councilwoman Wisler, City Manager Jackson said that for the budget presentation for 2016-17, the budget documents will include a column where we compare not only the projected budget to last year's budget, but also a column to show our estimate on where we think we will finish the year.

In response to Councilman Smith, Ms. Whitehorn explained the affordable housing funding with regard to the Housing Trust Fund and the Economic Development Capital Improvement Program (EDCIP). City Manager Jackson also said that staff will analyze the current estimate of the EDCIP (Parks Maintenance Relocation Project) to see if there is some leeway to reduce the EDCIP dollars, which will allow the reprogramming of those funds to either the Housing Trust Fund or other housing projects. He said that he would provide that information to Council at their June 9 meeting.

City Manager Jackson also said that staff will provide Council with further detail on the Fund Balance regarding the 5-10 year trend and what the City presented to the bond rating agencies.

Mayor Manheimer said that the public hearing will be held on June 9, 2015, with final budget adoption on June 23, 2015.

B. FINANCIAL REPORT

The following third quarter of 2014-15 Quarterly Financial Report was provided to Council by Budget Manager Tony McDowell:

"The following financial information reflects the City's overall financial position for the fiscal year through March, 2015.

Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of $99,547,954 along with eleven budget amendments approved by City Council. A summary of the budget amendments is presented below. The budget amendments that involved an appropriation from fund balance are noted with an asterisk.

Adopted Budget	99,547,954
Budget Amendments:	
Parks & Recreation Grants/Donations	53,795
WNC Diversity Engagement Coalition Support*	10,000
Energy Efficient Lighting Community Centers*	48,500
Traffic Signal Pole Replacement	16,590
City Workforce Investments	500,000
Energy Assessment US Cellular Center*	55,000
Thomas Wolfe Auditorium Roof Repairs*	60,000
Senior Center and Harvest House Grants	7,786
Parks Equipment	73,000
Document Imaging	32,750
Civil Service Legal Fees*	45,018
3/31/2015 Budget	$100,450,393

* Fund Balance Appropriation

Revenues. Through March 31, 2015, the City has collected $83,671,068 in General Fund revenue, which represents approximately 85% of the total General Fund revenue budget. Revenue collections through the first three quarters of this fiscal year are very similar to where they were one year ago in terms of budget versus actual. The City has received eight months of sales tax revenue, and collections are up 14.3% compared to the prior year. Sales tax revenue growth has far exceeded budget projections to date, and as a result, staff is projecting that sales tax revenue will come in over budget by $600,000. In the intergovernmental category, utility tax revenue is projected to exceed budget by $500,000 due to changes in the formula the state uses to distribute that revenue. Development Services Department (DSD) revenue continues to perform well; as of the end of March, DSD revenues were at 84% of budget. With the bulk of property tax revenue received in December and January, that revenue source is now at 95% of budget. Overall, staff is currently projecting that ***FY 2014-15 General Fund revenue will exceed budget by $1.1 million or 1.1%.***

Expenditures. General Fund expenditures through March 31, 2015 total $69,104,784 or 69% of the budget, which is slightly ahead of where expenditures were last fiscal year after three quarters. Personnel expenses, the largest component of the General Fund budget, are slightly under budget through the first three quarters. Expenditures for fuel, fleet maintenance, health care, and utilities continue to perform better than budget through the first three quarters. ***Based on current trends, staff is projecting that expenditures will finish the year under budget by approximately $1.1 million (98% of budget).***

Fund Balance. The City ended FY 2013-14 with $17.0 million in unassigned fund balance. The adopted FY 2014-15 budget included a $2.0 million fund balance appropriation, which brought that total down to $15.0 million. Since the start of the fiscal year, an additional

$218,518 has been appropriated from fund balance. Based on the positive revenue and expenditure trends observed through the first three quarters, staff is projecting that instead of decreasing, fund balance will actually increase slightly this fiscal year. ***Current revenue and expenditure projections for FY 2014-15 indicate that unassigned fund balance at June 30, 2015 will be $17.7 million or 18.0% of estimated expenditures.***"

Ms. Whitehorn responded to Councilman Pelly as it related to Fund Balance and the 1.5 cent staff recommended property tax increase.

C. NATIONAL CITIZEN SURVEY RESULTS

Community & Public Engagement Director Dawa Hitch said that in the High Quality of Life focus area, City Council outlined 5 goals. One of those goals was to continue to develop City Council communications and partnerships with citizens, community leaders, the media and elected officials. Administering a citizen's survey was one of the actions steps identified to achieve that goal.

The National Research Center Inc. (NRC) was chosen because it allowed comparisons with the responses given in the 2008 survey. The NRC also maintains a large database of cities for benchmarking.

The survey was mailed to 1200 homes within the city limits and responses were accepted both online and through return mail. All surveys were completed in English although a Spanish language survey was made available online. The sampling method was designed to closely mirror the overall housing unit density, including oversampling of multi-family housing units as residents of this type of housing typically respond to surveys at a lower rate than residents of single-family homes. A total of 337 surveys were received, yielding a 29% response rate. Response rates for citizen surveys are typically in the 25-40% range. She explained that 95% confidence interval means in most cases the true answers is within +/- 5 points around a given percentage. As we move into the results you will see that % positive response is what is reported.

While this presentation does not go into the subgroup comparisons, she thought it was worth mentioning for those in the community that want to dig further into the data. Zip codes were used to define geographic areas. Demographic information included number of years in Asheville; rent or own; annual household income; and age.

Of the 17 questions presented in the 2015 survey, 13 were benchmarked against other cities. Benchmark cities included 540 cities in the NRC database. As another benchmark comparison, Asheville responses were compared to a narrower subset of other destination/resort communities with populations less than 175,000. There were 42 cities in this subset.

Finally, the sampling method was designed to closely mirror the overall housing density, including oversampling of multi-family housing units since the survey administrators have found residents of multi-family housing typically respond to surveys at a lower rate than residents of single family homes.

The NRC captured resident's opinions within three pillars of community. The first is Community Characteristics. In other words, what makes a community livable, attractive and a place where people want to be? In responding to Asheville as a place to live, there was an 89% positive response. (similar to benchmark cities across the county.) The information in the chart digs a little deeper into the data and shows how Asheville compares against other benchmark cities.

The second pillar is Governance. This pillar relates to how well government meets the needs and expectations of its residents. In responding to overall quality of city services, 63% of

responses were positive. (similar to benchmark cities across the county.) Over 30 individual services were evaluated.

In summary, governance trends from 2008 to 2015 show (1) bus or transit services decreased from 2008 to 2015 from 45% to 33% (lower to benchmark cities across the county); (2) street repairs decreased from 2008 to 2015 from 27% to 20% (lower to benchmark cities across the county); (3) traffic enforcement decreased from 2008 to 2015 from 58% to 47% (lower to benchmark cities across the county); (4) emergency preparedness increased from 2008 to 2015 from 41% to 60% (similar to benchmark cities across the county); (5) natural area preservation increased from 2008 to 2015 from 20% to 47% (similar to benchmark cities across the county); and land use, planning and zoning increased from 2008 to 2015 from 16% to 31% (lower to benchmark cities across the county).

We couldn't cover all of them here and chose the following based on the greatest percent change in responses from 2008 to 2015.

The third pillar is Participation. Survey questions under this pillar relate to residents and their connections to the community and each other. 66% of residents responded positively when responding to feeling a sense of community (similar to benchmark cities across the county).

In addition to the standard questions in NRC's database. The City of Asheville opted to ask a few open ended questions.. She reviewed the summary of the responses for a question that asked respondents to rank the importance of the city investments. Eight facets of Community included: Mobility, Safety, Natural Environment, Economy, Built Environment, Recreation and Wellness, Education and Enrichment, and Community Engagement. Natural Environment and Economy were identified as priorities.

Many of the areas identified with favorable responses below national benchmarks and/or those areas trending down in favorable responses from 2008 and 2015 are areas where actions are being taken as demonstrated in the City of Asheville 2-year work plan. This includes areas in which City Council has current strategic goals as well as projects addressed in the operations section of the work plan. Staff will share this information with boards and commissions. Finally, in the realm of management strategies, she said that some items addressed in the City Manager's proposed budget.

D. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: film tax credit; tiered historic preservation tax credit; renewable energy tax credit extension; funding for JDIG; no language on sales tax distribution; and graffiti vandalism punishment increase. She noted that the City's water lawsuit is pending with oral arguments next week.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM URBAN PLACE DISTRICT/CONDITIONAL ZONING TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO AMEND A PREVIOUSLY APPROVED MIXED-USE DEVELOPMENT PROJECT LOCATED AT 146 AND 99999 ROBERTS STREET

ORDINANCE NO. 4414 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM URBAN PLACE DISTRICT/CONDITIONAL ZONING TO URBAN PLACE DISTRICT/CONDITIONAL ZONING TO AMEND A PREVIOUSLY APPROVED

MIXED-USE DEVELOPMENT PROJECT LOCATED AT 146 AND 99999 ROBERTS STREET

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning from Urban Place District/Conditional Zoning to Urban Place District/Conditional Zoning to amend a previously approved mixed-use development project located at 146 and 99999 Roberts Street. This public hearing was advertised on May 1 and 8, 2015. On May 12, 2015, this public hearing was continued to this date.

Ms. Bernstein said that, RAD Lofts, LLC, is requesting review of a conditional zoning request from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ), in accordance with Section 7-7-8 of the UDO, to amend a previously approved mixed-use development project. This is a revision to the earlier proposal, which was approved by City Council on October 22, 2013, under Ordinance No. 4241.

The project site at 146 Roberts Street consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and the second parcel (0.379 acres) is located across Roberts Street to the south (PINs 9648.07-2183 & 9648.06-1953). The parcels (previously zoned CI and River) were conditionally rezoned to Urban Place by City Council in 2013.

The project area is currently vacant but was most recently the site of Dave Steel. All remaining structures (railroad tracks, walls and a small building) are to be removed.

Summary of Changes:

The applicant is proposing an amendment to the previous approval. The project is for the construction of a mixed-use development including residential, retail and office spaces and parking, both structured within the development as well as a separate surface lot.

- **Residential:** Plans indicate a total of 243 residential units with 146 1-bedroom and 97 2-bedroom units. This is an addition of 34 units or an approximately 16% increase. The previous approval was for 209 units.
- **Retail:** The retail component has decreased to 19,378 SF from 36,974 SF (a 55% reduction). The previous approval included retail spaces along both street frontages but now this use is only along Roberts Street.
- **Office**: The office component has decreased to 8,578 SF from 11,656 SF (26% reduction).
- **Access**: same as previous – 2-way driveway on each façade
- **Height**: similar – 5 levels with 2 parking below
- **Building Size**: The previous plan visually functioned as seven buildings above ground; the revision is just one building on the site.
- **Parking**: There is an increase from 338 spaces to 343 spaces (parking is proposed in the structured garage, surface lot across street & on-street spaces)
- **Pedestrian Activity:** The interior pedestrian promenade has been eliminated and streetscape activity is greatly decreased on Clingman Avenue Extension.

The design has been changed to one large building on the base of structured parking (rather than what previously appeared as seven buildings and two large pedestrian areas through the site). There are two levels of parking and five levels of retail/office/residential spaces but with the existing grade change on site, the overall height varies. The building is 60' on Clingman and 68' from Roberts Street.

The access is mostly unchanged from the previous proposal - there are two access

points into the site, one two-way driveway from Roberts Street and the other two-way driveway from Clingman Avenue. The parking lot has two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street (6.5' on the parking side and 10' minimum on the building side) as well as the project frontage on Clingman Avenue and range from 7.5 to 12 feet in width. Additionally, the project has been designed to incorporate areas of pedestrian amenities both at the corner of Clingman and Roberts; however the public pedestrian promenade through the site has been eliminated.

This project incorporates parking in several locations; there is a 343-space parking structure within the development *(previously 338 spaces)*; the separate parcel across Roberts Street to the south is shown as a standalone parking lot with 24 spaces (2 HC accessible) and approximately 8 on-street spaces will be delineated through streetscape enhancements *(previously 15)*. Bike parking is also included throughout the site. The increase in residential units balances out with the decrease in retail and office space to result in approximately 83 hourly spaces available to the public in the deck (not counting public spaces in the lot or on-street).

Landscaping is required on the site and includes street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area. There is a requested condition related to landscaping.

Urban Place zoning includes specifics for building design and includes well-defined operable entrances at regular intervals, fenestration requirements for the ground and upper levels and treatments to break up long façades. The project design requires two conditions related to design and operational standards as detailed below.

Conditions: The current proposal includes the following conditions requested by the applicant that will need to be approved by City Council:

1. **Density** - The maximum density allowed by right in Urban Place is 64 units per acre, or 209 units for this site. The applicant is requesting an additional 34 units (a 16% increase - up to approximately 75 units per acre). Five percent of the units will be designated as affordable by the City's standards.

2. **Building Size –** For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000. The proposed footprint of the building is 82,531 SF (an increase of 65%) and the gross floor area is 421,489 SF (an increase of 111%). Similarly with the previous proposal, this condition is a result of building upon a base of structured parking.

3. **Sidewalks** - Sidewalks in the Urban Place District are required to be a minimum of 10' in width. Sidewalks are shown down to 6.5' along the surface parking on Roberts Street and between 7.5' - 12' along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue which will remain.

4. **Landscaping** – The applicant is requesting to greatly reduce parking deck landscaping requirements based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting.

5. **Setback** on Roberts Street - The maximum front setback is 15' and there is an area along Roberts Street that exceeds this standard.

6. **Fenestration/Windows and Entrances** - The plans do not comply with requirements in the design and operational standards section of the code relating to entrances (to be placed at regular intervals not exceeding 60') along both frontages as well as the requirement for windows to be evenly distributed at the pedestrian level across the length

of the facade on the first floor of the building and make up at least 40% of the first floor area along Clingman (due to the parking structure and "brownstone" style access).

	UDO Requirement	Applicant Request	Condition
Distance between entrances	Well defined operable entrances required at intervals not exceeding 60 feet apart	Roberts Street: one instance of 85 feet between entrances Clingman Ext: 102'7.5" from end of building to door; 153' 3.5" from door to driveway opening heading north; two residential stair intervals spaced 64'1.5"	Roberts Street: requesting 25 feet additional distance Clingman Ext: requesting up to 93' 3.5" additional distance between entrances
Even distribution of windows and percent of fenestration	Windows required to be evenly distributed across the length of the façade and to make up 40% of the street facing façade	Clingman only: 22% provided from Roberts Street corner to parking entrance; 23% provided from parking entrance to northern end of building	Clingman only: requesting a reduction of up to 18% less of the fenestration requirement

The Urban Place zoning district was created to foster "higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities... [and] intended in areas where the appearance of the built environment is important to the vitality of the area." Additionally, the zoning district was created with areas along the French Broad River in mind. Staff believes that this location in the River Arts District is ideal for Urban Place zoning. The proposed amendment is increasing residential density and decreasing commercial area, which are acceptable under the district and goals for the area; however, the design has greatly lessened the level of pedestrian interaction and activity along Clingman Avenue Extension which is concerning to staff.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015; recommended for approval by the Planning & Design Review Committee on March 11, 2015, and approved for design by the Asheville Area Riverfront Redevelopment Commission on March 12th. The Planning & Zoning Commission reviewed this proposal at their meeting on April 1, 2015, and voted unanimously to support this request, including the requested conditions as noted above, as well as with a condition that the sidewalk on the building side of Roberts Street be widened to 10 feet. The applicant agreed to make this revision and the current plans reflect the change.

Staff has received comment from representatives of the River Arts District Business Association regarding the need and high demand for parking in the general area, both on-street spaces as well as in surface lots and structures. There have been ongoing discussions regarding the potential to make Roberts Street and/or Clingman Avenue Extension one-way, which could result in more on-street parking spaces.

A Level II project was recently approved in the vicinity (95 Roberts Street, BP 14-16524).

This type of mixed-use, high density development is ideal (and intended) for areas such as the River Arts District and is expected to complement the adjacent shops, studios and uses and add to the fabric of the District in a valuable way. Streetscape improvements will greatly improve the pedestrian experience along Roberts Street and Clingman Avenue and the addition of parking in several locations will be a benefit to the area. While the building is taller and significantly larger than most in the immediate area, the scale of the building is mitigated through façade planes, roof line differentiation and changes in materials.

This site was previously developed and has a +/- 35 foot grade change from Park Avenue down to the Roberts Street / Clingman Avenue intersection with a steep bank along the northern end. The proposal focuses development activity (retail spaces, pedestrian plaza, parking garage entrances) down towards the previously graded areas and leaves the rear bank intact, more or less, functioning as the "back" of the site. Working with the grade changes on the parcel, the structured parking is only "exposed" along the rear of the site where there is no public interaction, integrating the design into the natural and topographic features on the parcel.

The design standards in Urban Place zoning are crafted to promote activity along the ground level and this amendment has a greatly reduced level of activity along the Clingman Avenue Extension façade. The applicant has indicated that they will create an active pedestrian feel along this corridor by the inclusion of street furniture, public art attached to the building, interpretive signage regarding the history of the area and creative screening on the parking deck openings.

This proposal is aligned with numerous aspects of the *City Development Plan 2025* including smart growth policies such as mixed-use buildings; higher density infill development; promoting a sustainable pattern (parking structured underneath building) and strengthening neighborhoods close to downtown (pg. 31). Land use and site planning goals stress encouraging "the mixing of residential and commercial development to increase walkability and reduce automobile dependence" and siting uses close to public transit and bicycle paths. The streetscape improvements will aid in safety for pedestrians in this highly-trafficked area and the additional parking in the deck, on-street and the small surface lot will be helpful. Lastly, the *Plan* addresses quality of life as an economic development incentive and the River Arts District is certainly a target area for enhancing cultural, residential and commercial activity for residents as well as tourists.

The WECAN Master Plan (2008) recommends infill development within the River Arts District, specifically for a mix of uses along Roberts Street with retail at the ground level and residential above.

Based on the above findings and the analysis provided in the staff report and as stated in the recommendation below, staff finds this request to be reasonable, consistent with the comprehensive plan and within the best public interest.

Considerations:

- The requested conditions exceed otherwise applicable structure size, density and setback maximums and reduce standards for sidewalk width, fenestration and landscaping.
- City goals support mixed-use, infill development, especially providing residential uses in a walkable location proximate to transit and the Central Business District.
- Streetscape improvements will enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- Urban Place zoning sets forth specific design and operational standards to ensure a development that will relate to and enhance activity at the street level. The amendment is problematic with meeting these goals along the Clingman Avenue Extension façade, however design elements proposed by the applicant should mitigate this somewhat.

243 residential units, an increase of 34 units. The developer will continue to provide 5% affordable units, which increases the number of affordable units by one unit, to 12 units. The percentage of workforce units does not change, while the number of workforce units increases to 231. He did note that in the conditional zoning, the amended condition provided that five percent of the units will be designated as affordable by the City's standards; and the remaining 95% of the units will be leased at or below the City's rates for workforce housing for the first full year of operation and following the first year, rental rates can be increased in an amount not to exceed 3% per year as indicated, per unit, for a period of ten years. At the end of the ten year period, this Condition will no longer apply.

Concurrently, the developer proposes to reduce the commercial square footage by approximately 20,000 square feet, reducing the total square footage to approximately 30,000 square feet. This reduces the total commercial space to 16% of the total development.

The developer requests that the Land Use Incentive Grant, as awarded by City Council, remain unchanged.

The project meets the following 2014-15 Strategic Plan Goals as follows: (1) *Economic Growth and Sustainability:* The project contributes significantly to the objective of supporting a mixed use neighborhoods in the River Arts District; and (2*) Affordability and Economic Mobility*: the project creates locationally efficient affordable and workforce housing. The project also meets applicable Master Plans in the following ways: (1) The project supports the goals of the *2009 City Transit Master Plan* by its location "along major transit corridors..." ; and (2) The project supports the goals of the *2009 Sustainability Management Plan*, which calls for the City to encourage Transit Oriented Development.

Exemption Request:

Fiscal Impact: Estimated maximum value of Land Use Incentive: The current assessed value of the property is $501,800 (land only). The developer's estimate of completed project taxable value is $40,000,000, and has estimated the value on which the LUIG is made at 80% of that ($32,000,000). The current annual city tax, based on current assessed value, is $2,308. The annual estimated city tax post completion, based on the developer's estimate of value is $184,000. Thus, the estimated annual Land Use Incentive Grant would be $144,891.72, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 5 years, the estimated Grant would be $724,458.60.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $81,806.40. The value of each 10% of the fee rebate would be $8,181. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $40,903.20.

The project is also eligible for a State Brownfield Grant, which would provide a five year sliding grant equal to approximately $823,000. This grant is also calculated from the taxes owed by the project, and is applicable to both state and county taxes. The developer requests that the City's LUIG be applied to the amount not covered by the Brownfield Grant over its five year period, as opposed to equal payments for the requested five-year grant. This would result in a grant disbursement that would increase annually over the five year term and may lead to an extension of the grant period until the total maximum grant amount is paid. The total payout period is estimate to be eight years. However, the amount of the grant would not change, only the time frame for payment of it.

Staff recommend that Council approve an amendment to the Land Use Incentive Grant, as requested, and approve a five-year grant and a 50% fee rebate Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

In response to Councilwoman Wisler, Mr. Staudinger said that the total land use incentive grant for $144,891 will not change, since the estimate of the project value is the same.

Councilman Bothwell noted that the original land use incentive grant varied from the policy of 35 public benefit points.

In response to Councilman Smith, Mr. Staudinger said that as of today, the project has 35 public benefit points as follows: 5 points for 5% of affordable housing; 15 points for greater than 75% workforce housing; and 20 points for the energy star, the 20% non-residential, Sustainability Bonus area, and the brownfield redevelopment. But, because the total commercial space was decreased to 16%, there is a reduction of 5 points for a total of 35 points. He did note that the project does meet all of the eligibility requirements of the policy.

City Attorney Currin said that Council does have the flexibility under the policy to award more or less points, depending on the project.

Councilman Smith acknowledged that Council agrees that the land use incentive policy is not perfect and that staff will be bringing forward a revised policy in the near future for more predictability in the process.

Mayor Manheimer felt we need to allocate more points for affordability housing. As a Council and community we have learned that we value affordable housing more than the ratio that is reflected in this policy. This is an important policy for the transformation of the River Arts District. We need to welcome this kind of growth and this is the kind of project we were hoping to see incentivized through our land use incentive policy.

Councilman Bothwell felt it was best to be predictable when dealing with developers and he felt we need to adhere to the rules that are currently in place. He acknowledged that the policy might need to be revised, but Council should not be deviating from it over and over. Since the current policy would result in 35 points, he would not be able to support any points above that.

Mayor Manheimer opened the public hearing at 6:58 p.m. and when no one spoke, she closed the public hearing at 6:58 p.m.

Because Council agrees that the policy needs to be revisited and because he felt 35 points is an arbitrary number, Councilman Davis moved to approve an amendment to the Land Use Incentive Grant, with 50 points, and approve a five-year grant and a 50% fee rebate Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

Councilwoman Wisler and Councilman Smith both supported awarding 35 points.

Councilman Davis withdrew his motion.

Councilman Pelly then moved to approve an amendment to the Land Use Incentive Grant with 40 points, for four years, for a total of $579,653. This motion was seconded by Vice-Mayor Hunt and carried on a 5-2 vote, with Councilman Bothwell and Councilman Smith voting "no."

RESOLUTION BOOK NO. 37 – PAGE 136

C. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR RIVER MILLS LOFT LOCATED AT 300 MILL RIVER DRIVE

Staff recommends approval of the proposed conditional zoning request to amend a previously approved project for the construction of a mixed-use development, including the conditions as proposed by the applicant as detailed above. Staff recommends the inclusion of conditions as suggested by the River District Design Review Committee to better activate the blank section of brick façade along the street level of Clingman Avenue Extension (included in Exhibit B.1, No. 14).

Mr. W. Louis Bissette, attorney for the applicant, said that this will be a key to the redevelopment of the River Arts District. The developer has agreed to all conditions, with one exception - the developer agreed to 5% of the units being designated as affordable by the City standards, but because of their financing, the developer has requested an allowance of up to a 3% increase in the workforce housing allocation rents per year.

There was considerable discussion regarding the 3% increase in the workforce housing allocation rents per year. Assistant Community & Economic Development Director Jeff Staudinger felt that giving the developer the potential to increase those rents to meet rising costs within the workforce category is a reasonable approach to looking this pro forma in this project. He said it's not to say that the developer would increase those rents 3% on an annual basis, but the ability to do so is an essential element of obtaining the financing for the project.

In response to Councilman Smith, Mr. Staudinger said that workforce rents for a one-bedroom unit, including utilities - $1,344/month; and for a two-bedroom unit, including utilities - $1,513/month. He said that the developer's rents in the pro formas he has seen were below those workforce rents upon initiation.

After Mr. Harry Pilos, developer, explained his need for the potential 3% increase, Mr. Bissette said that the workforce housing for year one (95% of the units) will be at or below the City's standards for workforce housing, and then beginning in year two, the developer is asking for the potential 3% increase each year for the workforce units up to 10 years, after which time the condition will no longer be applicable.

Mayor Manheimer opened the public hearing at 6:42 p.m. and when no one spoke, she closed the public hearing at 6:42 p.m.

Councilman Smith said that this is an ambitious project and there is a lot to support, especially with the brownfield site, but regarding the incentive numbers, when it comes down to the affordability piece, we are talking about going over and above maximum density with 12 affordable units. We have approved over the past years thousands of apartment units in the City with fewer than a 100 of those mixed-income developments having meaningful affordable units.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Hunt moved to recommend approval of the conditional zoning request for RAD Lofts, LLC for property located at 146 Roberts Street from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ) including the requested conditions and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that (1) The proposal supports the strategies found in the City's comprehensive plan on encouraging mixed-use development, especially in areas walkable to downtown and proximate to transit; (2) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; (3) The design and uses create a pedestrian-oriented streetscape along Roberts Street and part of Clingman Avenue Extension; and (4) an amendment to the Condition No. 8 providing that five percent of the units will be designated as affordable by the City's standards; and the remaining 95% of the units will be leased at or below the City's rates for workforce housing for the first full year of operation and following the first year, rental rates can be increased in an amount not to

exceed 3% per year as indicated, per unit, for a period of ten years. At the end of the ten year period, this Condition will no longer apply. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 479

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

RESOLUTION NO. 15-101 - RESOLUTION APPROVING AN AMENDMENT TO THE LAND USE INCENTIVE GRANT FOR 146 ROBERTS STREET (RAD LOFTS)

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution to amend the land use incentive grant for 146 Roberts Street (RAD Lofts) for a five-year grant and a 50% fee rebate. This public hearing was advertised on May 15, 2015.

The owners/developers of RAD Lofts have applied for an amendment to their Land Use Incentive Grant for 146 Roberts Street (RAD Lofts).

On August 26, 2014, City Council approved a Land use Incentive Grant (LUIG) for the RAD Lofts development. In summary, the RAD Lofts LLC proposed a 209 unit residential, 48,500 square foot commercial development on the 2.88 acre site formerly home to the Dave Steel Company, located at the intersection of Roberts Street and Clingman Extension in the River Arts District of Asheville. The developer estimated a total development cost of $52 million. The project consisted of 209 residential rental apartments, a two story parking deck with 356 parking spaces, and street front retail spaces, live work spaces and second floor office space.

Council approved a five-year (50 points) LUIG, based on the following:

Eligibility Requirements:

- Equity: A 20% equity contribution is required. The project developers indicate they will meet this requirement;
- Energy Star Certification: The developers indicate the project will achieve Energy Star certification.
- Location: The project is located within 1/8 of a mile of a designated major transportation corridor (Riverside Drive).

Public Benefit:

Council awarded 50 Public Benefit Elements points, as follows:

- Affordable Housing units: 10 points for providing 5% (11 units) affordable residential units;
- Workforce Housing units: 20 points for providing 95% (231 units), workforce residential units.
- Green Building/Energy: *Energy Star certified*, 5 points.
- 20% non-residential, 5 points.
- Within the Sustainability Bonus area, 5 points.
- Brownfield Redevelopment, 5 point.

The developer has slightly altered the composition of the project, and needs an amended Land Use Incentive Grant approval from City Council. The proposed development now consists of

RESOLUTION NO. 15-102 - RESOLUTION WAIVING THE LOCATION ELIGIBILITY REQUIREMENTS AND APPROVING A LAND USE INCENTIVE GRANT FOR RIVER MILLS LOFT LOCATE DAT 300 MILL RIVER DRIVE

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution to waive the location eligibility requirements and approve a land use incentive grant for River Mills Lofts, located at 300 Mill River Drive. This public hearing was advertised on May 15, 2015.

River Mill Lofts LLC, led by Pace Burt, seeks to develop the 9.52 acre site at 300 Mill River Drive The site is located at the intersection of Thompson Street and Stoner Street, east of Biltmore Village. The developer estimates a total development cost of $25 million. The project consists of (1) 254 residential rental apartments (248 two-bedroom apartments and 6 three-bedroom apartments), in two buildings; and (2) 8,000 square feet of commercial space, with 4,000 square feet located in each building.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- Equity: A 20% equity contribution is required. The project developer indicates he will contribute at least 20% equity to the project.
- Energy Star Certification: The developer indicates the project will achieve Energy Star certification.
- Residential development: The development consists of at least two residential units.
- Location: The project is located within the City of Asheville city limits.

The project is not located within 1/4 of a mile of a designated major transportation corridor (Biltmore Avenue/Hendersonville Road). The project is located .4 mile from Biltmore Avenue. The developer requests a waiver of this policy eligibility requirement.

Public Benefit: The project proposes the following Public Benefit Elements:

- Green Building/Energy: Energy Star certified, 5 points.
- Affordable Housing: 18 units, which is 7% of the total units. The developer requests 10 points.
- Workforce Housing units: 216 units, which is 85% of total units. The developer requests 15 points.
- Mixed Use Development/Sustainability/Brownfield: The developer requests 20 points. The developer does not qualify for these points based upon existing policy. The develop asks for consideration of the following:
    1. The project is a mixed-use development that will be a pioneer for "early adapter mixed-use project."
    2. The project meets City-goals of sustainability- it requires no new utility infrastructure; it is served adequately by the existing traffic systems; it will use "best management practices (BMPs) in treatment of storm water runoff; it will enhance public access to the Swannanoa River.

The developer has scored the project with 50 points, and requests a 5 year Land Use Incentive Grant.

According to LUIP Policy, the project qualifies for 25 points:

- Green Building/Energy: Energy Star certified, 5 points
- Affordable Housing: 18 units, which is 7% of the total units. 5 points.
- Workforce Housing units: 216 units, which is 85% of total units. 15 points.

This assumes that the project is deemed eligible by Council. A waiver of the eligibility requirements has been requested by the developer. As mentioned above, the project is .4 miles from a major commercial corridor named in the policy (Biltmore Avenue/Hendersonville Road). Rationale for waiver of the policy includes:

- The development and others proposed for that area have the potential to create significant new transit demand. Over 500 units are now being planned for this area. Three transit routes are with .4 mile of the site.
- A multi-model route, via the Wilma Dykeman Riverway, is master-planned contiguous to the site.
- Therefore, the location of the project meets the goals of the program, and a waiver of the eligibility requirement is justifiable.

The project meets the following 2014-15 Strategic Plan Goals as follows: (1) *Economic Growth and Financial Sustainability:* The project Invests and leverages investment in community infrastructure; and creates economic development and community investment opportunities through partnerships, planning and incentives. (2*) Affordability and Economic Mobility:* The project expands Asheville's supply of quality, affordable homes for current and future residents. This proposal also aligns with the *Asheville City Development Plan 2025* in several areas. Smart Growth policies encourage mixed-use developments and higher-density residential infill with an emphasis on locating projects in an area walkable to amenities and proximate to bike paths. Infill development along transit corridors is also highlighted but this site is a little over 2,000 feet to three routes that cross in Biltmore Village. The plan also supports projects that design landscapes to absorb stormwater using bio-swales and natural stormwater filters. Affordable housing options are highlighted throughout the Plan as a strong community need.

The area is included in the planning for the Wilma Dykeman Riverway Master Plan and infill development, recreation amenities and roadway improvements are a part of that proposal. Planning for roadways has occurred in the River Arts District area but has not proceeded to this section of the river at this time. The proposed development though seems to fit in with the intent of the Dykeman plan with the inclusion of the river yard and the wide sidewalk along Thompson Street.

Pros:

- The proposed development will provide 18 units of housing affordable for ten years, and 216 units of workforce housing.
- The proposed development is located close to jobs and services.
- The proposed development is located within the Wilma Dykeman Riverway corridor, and proposes public benefit through alignment with planned multi-modal transportation ways.

Cons:

- The development does not meet with minimum policy requirement to be located with .25 miles of a named transportation corridor.
- The development is not currently connected by sidewalk or pathway to Biltmore Avenue.
- The proposal creates 18 units of affordable housing, 7 units short of the 25 units that would yield a 10% affordable composition.

Estimated maximum value of Land Use Incentive: The current assessed value of the property is $705,000 (land only). The developer's estimate of completed project taxable value is $25,000,000. The current annual city tax, based on current assessed value, is $3,243. The annual estimated city tax post completion, based on the developer's estimate of value is $115,000. Thus, the estimated annual Land Use Incentive Grant would be $111,757, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed

value of the development upon completion. If approved for 5 years, the estimated Grant would be $558,785. If approved for three years, the amount would be $335,271.

300 Mill River Drive	
Current Value	$ 705,000
Current Tax	$ 3,243
Est Value	$ 25,000,000
Minus current value	$ 24,295,000
Est Tax	$ 111,757
Value of LUIG for 5 years	$ 558,785
Value of LUIG for 3 years	$ 335,271

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $50,000. The value of each 10% of the fee rebate would be $5,000. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 50 point level, the fee rebate would be $25,000; at a three year level, $15,000.

The Housing and Community Development Committee reviewed the proposal and discussed it with Pace Burt at their January 20, 2015, meeting. Both the Committee and developer agreed at that meeting to take no action. The developer has since requested that the proposal as described above be moved forward to Council. The Housing and Community Development Committee again reviewed the proposal at their May 18, 2015, meeting and decided to move the proposal forward to City Council without a recommendation regarding either the waiver of the location eligibility requirement or approval of the grant.

Staff recommends that Council approve a waiver of the location eligibility requirements, and approve a three-year Land Use Incentive Grant for the River Mill Lofts development.

Vice-Mayor Hunt noted that a future greenway along Swannanoa River Road is on the draft N.C. Dept. of Transportation Improvement Plan. That would be the opportunity the community has to make sure that bikeability and walkability is included. There is not a lot of room to squeeze a greenway in, so it would have to be integrated with the State's project.

Councilman Bothwell said that he would have to oppose this grant because it is an exception to our land use incentive grant policy.

Councilman Smith said that at the Housing & Community Development Committee meeting there was discussion on whether or not to waive the eligibility requirement. He would lean towards waiving that because there are so many options nearby and because of the future transportation plan in that area. Regarding the points, he felt that he could support 25 points.

When Vice-Mayor Hunt asked when staff would be bringing forward a revised policy on the land use incentive grant, City Attorney Currin said that a re-write could be as soon as two months. Mr. Staudinger also noted that their plan is to bring it to the Housing & Community Development Committee and the Planning & Economic Development Committee in June for review prior to City Council consideration.

Mr. Clay Mooney, landscape architect representing the developer, explained how they arrived at the points for the public benefit elements. He asked for their support of the waiver of the eligibility requirements as they are at the mercy of transportation, noting they are only 800 feet from a major commercial corridor. He said this is a pioneer development in the area. He

said the developer is working diligently to accommodate affordable and workforce housing in the project, but financing is a reality all developers must face. He clarified and explained their request as follows: (1) Workforce Housing units - The developer is requesting 20 points, not 15 as noted by Mr. Staudinger; and (2) Mixed Use Development/Sustainability/ Brownfield - The developer is requesting 15 points, not 20 as noted by Mr. Staudinger. The developer feels that the 50 points requested is the only means which he could provide the affordable and workforce housing. He said that if through the re-working of the land use incentive grant policy that it becomes such that they might be able to achieve the 50 points, they are willing to voluntarily come back (within a limited timeframe) and try to work something out. He noted that one of the conditions in the conditional use permit process was to proceed through the land use incentive grant process. He said that part of the land use incentive grant guidelines is that no project that has pulled its building permit would be able to apply. He hoped to get started as soon as all permits were in hand, but from the building permit standpoint they may be 4 months away.

In response to Councilman Bothwell, City Attorney Currin said that the policy reads that unless granted an exemption from City Council, no grant will be allowed under this policy for projects which have received building permits.

Mayor Manheimer opened the public hearing at 7:27 p.m., and when no one spoke, she closed the public hearing at 7:27 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Wisler moved to approve a waiver of the location eligibility requirements, and approve 30 points (three-year Land Use Incentive Grant) in the amount of $335,271, for the River Mill Lofts development, for the following reasons: (1) The proposed development will provide 18 units of housing affordable for ten years, and 216 units of workforce housing; (2) The proposed development is located close to jobs and services; and (3) The proposed development is located within the Wilma Dykeman Riverway corridor, and proposes public benefit through alignment with planned multi-modal transportation ways. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Bothwell voting "no."

RESOLUTION BOOK NO. 37 – PAGE 139

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 53 LOGAN CIRCLE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 16 TOWNHOME UNITS, WITH CONDITIONS REGARDING SETBACKS, SIDEWALKS AND INFRASTRUCTURE IMPROVEMENTS

ORDINANCE NO. 4415 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 53 LOGAN CIRCLE FROM RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 16 TOWNHOME UNITS, WITH CONDITIONS REGARDING SETBACKS, SIDEWALKS AND INFRASTRUCTURE IMPROVEMENTS

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 53 Logan Circle from RM-8 Residential Multi-Family Medium Density District to RM-16/CZ Residential Multi-Family High Density District/Conditional Zoning for the construction of 16 townhome units, with conditions regarding to setbacks,

sidewalks and infrastructure improvements. This public hearing was advertised on May 15 and 22, 2015.

She said the applicant is requesting conditional zoning from RM-8 (Residential Multi-Family Medium Density) to RM-16 CZ (Residential Multi-Family High Density Conditional Zoning District) for a single parcel located at 53 Logan Circle to allow for the construction of 16 townhomes. The proposal includes conditions relating to setbacks, sidewalks and infrastructure improvements.

The site is a 1.054 acre site (PIN 9638.87-3150) on Craven Street and is bordered to the west by Georgia Street and is across the street from the New Belgium Brewery. There is a grade change on the site with a steep hill toward the middle of the site that curves parallel to the streets. The upper portion of the site fronts on Logan Circle and includes 53 Logan Circle. Adjacent parcels are zoned RM-8 to the East, West and South. Across Craven Street to the North, New Belgium Brewery property is zoned River.

Currently there is one house occupied by the owners/applicants on the site, and one block and frame building on the corner of Craven and Georgia Streets.

The applicants/owners, Wanda and Joel Wingerter, are proposing the construction of 16 townhomes on just over 1 acre of land across the street from the New Belgium Brewery. There are two clusters of four units facing Craven Street, all with 2 bedrooms each. Along Georgia Street there are four units in one cluster, all with 2 bedrooms each. From Logan Circle, there are two clusters of two units, with 3 bedrooms each. All of the units are 3 stories tall with a maximum height of 37 feet above ground level. This height meets the standard for all residential districts.

In the middle of the site is a woodland garden used as a common area with landscaping and a 4 foot mulched path. There are several retaining walls on the site, the tallest being 16 feet high and located on the northeast corner of the site. The majority of the steep areas of the site are left as undisturbed open space.

Vehicular access to the site is proposed via all three street frontages. A driveway on Logan Circle accesses the upper four townhomes; townhomes on Georgia Street are proposed with individual driveways and garages, and the eight townhomes on Craven Street have pedestrian access on Craven Street, and parking areas to the rear and side.

The proposed project meets parking requirements with 1 space per 2 bedroom unit supplied either to the side, rear or in front garages. The 3 bedroom units have 1 space in a front garage and a second space in a parking area to the side. The project proposes to have 7 on-street parallel spaces on Craven Street.

The project will improve Georgia Street to be a 20 foot paved surface and a six-foot sidewalk will be provided along Georgia and Craven Streets. Staff is working with the applicants to coordinate Craven Street improvements with improvements needed for this project. . The applicants have proposed to rename Georgia Street to Brewery River Row, which will be handled either through Final TRC or a separate process.

Landscaping is required for this project and includes street trees, building impact and retaining wall landscaping and tree save areas. Street trees are provided along Georgia and Craven Streets in bulbouts and in front of the townhome units.

The proposal meets and exceeds open space requirements. Plans show 9185 sf of open space that has less than a 25% slope, and an additional 2812 sf of open space that has a slope greater than 25%. The total requirement for this development is 8000 sf.

This proposal was approved with conditions by the Technical Review Committee on March 16, 2015, and requires review by the City Council and Final TRC prior to zoning approval. Many of the TRC comments have been addressed in the plans that are before City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on April 1, 2015. At this meeting, the commission voted unanimously (6-0) to recommend approval of this conditional zoning to Asheville City Council with the conditions as presented (Exhibit B-1).

The applicant met with neighbors at the March 13, 2015 meeting of the East West Asheville Neighborhood Association (EWANA). At this time, staff has received two comments from neighbors on Logan Circle that they are concerned about townhomes on the Logan Circle side, but not other concerns from neighbors. The owner recently met with one of these neighbors and showed them revised architectural elevations for the Logan Circle townhomes, and the neighbor was pleased with the changes.

The applicant is proposing to conditionally rezone the site from RM-8 to RM-16 in order to achieve a higher density on the site. The parcel is outside of the River Design review area.

Current zoning to the east, west and south of the site is currently RM-8. The property is directly across from the New Belgium Brewery project on Craven Street. Staff anticipates increased visitors to the area, and Craven Street is currently being rebuilt with improved widths, bike lanes and sidewalks. Development with higher density is more appropriate along this corridor than single family detached housing. Adjacent property owners on Craven Street to the west have indicated that they are interested in a more dense development as well.

Townhomes are a suitable use in the zoning district as well as in this location. The requested conditions for reduced setbacks are evaluated on a case-by-case basis and while they may not be appropriate for the portion of the site deeper within the neighborhood, they are less objectionable given the context of this location.

On the Logan Circle portion of the site, the properties to either side all contain single-family houses that are two and three story structures. The townhomes will be set somewhat back with an access driveway, and their height will be compatible with these adjacent structures. The setback and greenspace in front will keep the new buildings from overwhelming the other houses on Logan Circle. The architecture of these townhomes has been revised to be more compatible with the neighboring homes.

The proposal supports strategies found in the *City Development Plan 2025* of allowing more intense infill development where appropriate and enhancing the pedestrian-environment. The project will provide sidewalk along Craven and Georgia Streets.

The proposal supports strategies found in the *City Development Plan 2025* of infill development occurring in areas with existing infrastructure, and where alternative transportation routes are available. The project is within a quarter mile of Haywood Road (Transit line) and will be very close to the greenway system that will run along the west side of the French Broad River.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Infill development furthers the goals and objectives of the comprehensive plan.
- Besides the requested setbacks, the proposal is meeting the requirements of the RM-16 zoning district.
- Public investment in the Craven Street infrastructure and nearby greenways anticipate an increased urbanization of this corridor, and this higher density project will be compatible with the area.

- The applicant is working with the City to ensure that the Craven Street project is compatible with their plans.

Staff recommends approval of the proposed conditional zoning to allow for the construction of the 16 townhomes.

Mr. Gerald Green, representing the project team, stated how the developer worked hard to blend the townhouse development into the neighborhood, noting that the project developers currently live on the site, and will live on the site after completion. He noted Ms. Vrtunski showed images on Logan Street where they changed to a craftsman-style design to blend in with that community, and a more modern industrial style along Craven and George Streets to blend in with the brewery. He hoped that staff will look at possible ordinance amendments to allow townhome developments along certain streets in those areas that are appropriate. They will benefit the community by providing housing and contributions to the public infrastructure. Regarding costs, these units will be market rates. They are excited to be a part of the improvements in the River Arts District.

Councilman Smith said that townhome developments are an efficient use of space.

Mayor Manheimer opened the public hearing at 7:40 p.m.

An area resident on Logan Avenue is concerned that the top part of Logan Avenue is a single family neighborhood and this development will radically change that footprint.

Mayor Manheimer closed the public hearing at 7:42 p.m.

Councilman Pelly understood the concern of the houses off Logan Avenue, but felt this will be a relatively small change from the overall character of the neighborhood.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the conditional zoning request of Asheville Property, Inc. for property located at 53 Logan Circle from RM-8 (Residential Multi-Family Medium Density District) to RM-16 CZ (Residential Multi-Family High Density District Conditional Zoning) including the requested reduced setbacks on Georgia and Craven Streets, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; and (2) The proposal supports the goal found in the City's comprehensive plan of infill development that takes advantage of existing infrastructure and is close to transit and alternative transportation options. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 487

E. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 29 OAK HILL DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 72 RESIDENTIAL UNITS IN THREE BUILDINGS WITH ASSOCIATED INFRASTRUCTURE, AND CONDITIONS FOR REDUCED BUILDING SETBACKS, REDUCED PARKING COUNTS, AND INCREASE IN RESIDENTIAL DENSITY

At the request of City staff, and concurrence by the developer, Councilman Pelly moved to continue this public hearing until June 9, 2015. This motion was seconded by Councilwoman Wisler and carried unanimously.

F. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ARTICLE 13 TO EXPAND OPTIONS FOR REAL ESTATE AND CONSTRUCTION SIGNAGE

ORDINANCE NO. 4416- ORDINANCE TO AMEND ARTICLE 13 THE UNIFIED DEVELOPMENT ORDINANCE TO EXPAND OPTIONS FOR REAL ESTATE AND CONSTRUCTION SIGNAGE

Development Services Process Manager Chris Collins said that this is the consideration of an ordinance to amend Article 13 of the Unified Development Ordinance to increase the current allowances for real estate and construction signage. This public hearing was advertised on May 15 and 22, 2015.

In December of 2014, City Zoning Enforcement staff served a notice of violation (NOV) to the City Centre and Hilton Garden Inn projects for construction signage in excess of that allowed by Section 7-13-2(d)(7) at 301 and 309 College Street. The NOV was generated due to the fact that the above listed construction projects are currently displaying construction signage that is in violation of the UDO allowance of two (2) signs with a maximum of 32 square feet in area per sign face with a required ten (10) foot setback from the right-of-way.

In response to the serving of this NOV, the developer met with City staff and subsequently submitted a formal request for a wording amendment to Section 7-13-2(d)(7) to increase the allowed number of and size of construction signs when attached to construction fence screening materials. The request noted the following benefits of allowing further construction signage when attached to screening materials:

- Screening attached to construction fencing makes for a much better appearance to the public; and
- This type of signage assists in vendor and delivery identification for construction sites; and
- The ability to advertise on construction screening helps mitigate the cost to developers of installing the screening material itself.

In receipt of this request which is centered on an active construction site within the Central Business District (CBD) zoning district, staff prepared a report and proposed wording amendment for presentation to the City's Downtown Commission. On February 13, 2015, staff presented the option of allowing unlimited 32 square foot sign panels on construction fencing screening materials when said panels were spaced at least 50 linear feet apart and eliminated the requirement of a 10 foot setback for this type of signage within the CBD. The majority of the Downtown Commission members demonstrated support for increasing the allowance for the construction signage. Several members identified the possibility of allowing a greater size and quantity than that identified in the staff report.

On March 4, 2015, the City's Planning & Zoning Commission unanimously adopted a motion to recommend approval of an amended and less restrictive ordinance allowing unlimited sign faces that are no more than 50 square feet in area and no closer than 20 linear feet to the next sign face.

On March 24, the request and Planning & Zoning Commission recommendation were heard by the Mayor and City Council. The council stated differing positions ranging from support for the recommended ordinance change to support for exempting this type of signage from regulation. The end result was a unanimous vote for denial of the text amendment as presented

and recommended. In response to this, the original applicant for this amendment has submitted a revised request to allow both freestanding construction signage and construction screening signage to exist simultaneously on the same site and exempt construction screening signage from regulations as to size and quantity.

Research by City Staff has found that many other cities have a regulation in place mirror our current 32 square foot requirements. Research has also indicated that this type of construction screening materials is often not regulated nor enforced by other cities. Larger jurisdictions such as the City of Atlanta (where a prevalence of urban projects creates a high incidence of this type of screening and signage) regulate the time of placement and content of the signage rather than the area of the sign. The use of construction screening material on construction fencing is not required by City ordinance.

During the May 6 meeting of the Planning & Zoning Commission, the revised request and staff recommendation were presented. The Planning & Zoning Commission unanimously approved the wording amendment presented in and recommended by this text.

Currently, the text of Section 7-13-2(d) (7) reads as follows:

7) *Construction Signs.* Construction signs shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. Construction signs shall not be erected prior to the issuance of a building permit and shall be removed within seven days of the issuance of a certificate of compliance. A minimum setback of ten feet is required.

This proposed UDO text amendment adds one new definition to Section 7-2-5. These definitions are as follows:

Construction Screening. Temporary and opaque material attached to a perimeter fence or barrier surrounding an active construction site for the purpose of minimizing the visual nuisance and safety issues of the subject site.

Additionally, the proposed text amendment revising the wording of Section 7-13-2(d)(7) as follows (additions are underlined):

7) *Construction Signs.*

a. *Freestanding Construction Signs:* Shall be allowed provided such signs do not exceed one sign per street frontage with a maximum of two signs per construction site. Such signs shall not exceed four square feet in area per display face, two faces per sign for single-family or duplex residential construction or 32 square feet in area per display face for multi-family residential or non-residential construction, and a maximum of ten feet in height. ~~Construction signs shall not be erected prior to the issuance of a building grading permit and shall be removed within seven days of the issuance of a certificate of compliance.~~ A minimum setback of ten feet is required.

b. *Construction Signs Attached to Construction Screening:* When used in lieu of a Freestanding Construction Sign, construction signage may be attached to construction screening materials. Signs may only show the following:

i. Images and/or renderings of the project as it is to be constructed;

ii. Approved site and / or landscaping plans;
iii. The name and contact information of developer(s), contractors and/or financiers engaged in work on the site.

c. Construction signs shall not be erected prior to the issuance of a ~~building~~ grading permit and shall be removed within seven days of the issuance of a certificate of compliance.

Considerations:

- Provides a specific definition for *Construction Screening* within the UDO.
- Incentivizes the use of construction screening material thereby assisting with the aesthetics of active construction sites and reducing the risk of an attractive nuisance.
- Signage affixed to screening materials eliminates the more commonly used free-standing signs which may contribute to visual clutter.
- Higher allowances may improve project recognition within the community and communicate valuable information.
- Benchmarking from the standards of other jurisdictions has produced mixed results. The large majority of those surveyed enforce a similar standard to that currently found in the UDO. However, many of those surveyed noted that signage affixed to screening is not commonly regulated.

City staff recommends approval of the revised wording of Section 7-13-2(d)(7) to increase the allowed number of and size of construction signs when attached to construction fence screening materials.

Councilman Smith understood the aesthetic and safety pros of the screening, but felt essentially this would allow a series of billboards along a street.

Councilman Bothwell felt that a developer could put up a white or green cloth over the fencing and it would be cheaper than the $20,000 cost claimed for the screening at the City Centre. He was opposed to changing an ordinance to make one project legal.

Mayor Manheimer opened the public hearing at 7:54 p.m.

Mr. Brian Walker, representing Vannoy Construction, said that they want to keep a clean, presentable and safe site as much as possible during the construction process. Screening becomes expensive, so in order to help mitigate that cost, it is helpful to create opportunities for advertising and branding for the people involved with the construction process. They also want to incentivize other contractors to screen their areas. For their project along Long Shoals Road for a medical building they used this same screening process and was surprised when they found out they were in violation at this site. He said the $20,000 cost does include printing of the images. Their intent is not to clutter, but to provide images to the public of the project. He asked for City Council's support.

Mayor Manheimer closed the public hearing at 8:00 p.m.

Councilman Smith said that there are many prospectives on what signs should look like, but ultimately feels it is an incentive to provide screening for aesthetic improvement.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve proposed wording amendment to Sections 7-2-5 and 7-13-2(d)(7) of the UDO of the City of Asheville; and find that this request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, and is reasonable and in the

public interest in that it provides for a method of project identification while protecting pedestrians and motorist from visual distraction and public safety concerns presented by an active construction site. This motion was seconded by Councilman Davis and carried on a 6-1 vote, with Councilman Bothwell voting "no".

ORDINANCE BOOK NO. 29 – PAGE 492

G. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-8-1 TO ALLOW REPLACEMENTS OF TELECOMMUNICATION TOWERS AND SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

ORDINANCE NO. 4417 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-8-1 TO ALLOW REPLACEMENTS OF TELECOMMUNICATION TOWERS AND SUPPORT STRUCTURES IN ALL ZONING DISTRICTS

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance for Section 7-8-1 to allow replacements of telecommunication towers and support structures in all zoning districts. This public hearing was advertised on May 15 and 22, 2015.

Currently, the definition for Section 7-2-5 of the UDO provides the following definition:

"Telecommunication tower/ support structure- Replacement tower- means a telecommunication tower intended to replace an existing approved tower where such replacement is (1) at or within 100 yards of the existing tower base, and (2) no higher than the existing tower."

Although this definition is provided in the UDO, there is not a corresponding use provision in the Table of Permitted Uses (7-8-1(d)) showing where this replacement tower is allowed. This may have been the result of an accidental omission during a prior amendment but no conclusive documentation has been discovered. This ordinance amendment then, would specify replacement towers as a use for all districts since the specific cell towers are located where they were originally permitted.

Replacing cell towers has become more of a burden since revisions for replacing cell towers was amended in the building code. Cell towers must now comply with higher wind loads and structural standards for the tower base. This is affecting both private carriers and the City of Asheville.

Providing cell towers at a new location is generally a *conditional use permit* that has a large number of requirements that need to be met and must be approved by City Council through a quasi-judicial process. Replacing these previously approved towers should be reviewed through submittal of new building permits but need not follow the extensive public hearing process required when the original towers were permitted.

Therefore, this ordinance amendment clarifies that cell towers may be replaced where they are located provided they meet the UDO definition for replacement. The Table of Uses under '*other use types*' will be changed to reflect this.

The proposed amendment in not directly addressed in the Asheville City Development Plan 2025. But telecommunications towers may be interpreted to be a part of the basic needed infrastructure of the community that supports economic development, public safety and other basic city services and is something that everyone has come to expect.

The proposed amendment most closely complies with Focus Area 1: *Economic Growth and Sustainability* - since the replacement of aging cell towers will encourage maintaining emergency communications infrastructure and reinvestment in basic community infrastructure which is stated as the second goal in the plan.

At their meeting on May 6, 2015, the Planning and Zoning Commission voted unanimously to recommend approval.

Staff recommends approval of this proposed amendment because it aligns the Table of Permitted Uses with the existing definition for replacement towers and clarifies where these are permitted.

Mayor Manheimer opened the public hearing at 8:04 p.m. and when no one spoke, she closed it at 8:04 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the proposed amendment to Section 7-8-1(d) as outlined in this report and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, because it allows for community infrastructure to be maintained, enhances public safety and encourages economic growth and investment. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 29 – PAGE 494

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-103 - RESOLUTION APPOINTING MEMBERS TO THE CIVIL SERVICE BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Ms. Carolyn Worthington and Ms. Lynn Moffa, members on the Civil Service Board, expire on May 21, 2015.

The following individuals have applied for a vacancy on the Board: Pam Holcombe, Mychal Bacoate, John P. Miall Jr. Thomas R. Duckett, Alan Escovitz, Kevin West and Carol Goins. Mr. West has not been separated from City of Asheville employment long enough, and is, therefore, not eligible for appointment. Ms. Holcombe and Mr. Bacoate were unavailable for the interview time and date.

After speaking highly of all candidates, Pam Holcombe received no votes; Mychal Bacoate received no votes, Thomas Duckett received no votes, Alan Escovitz received 7 votes; and Carol Goins received 7 votes. Therefore, (1) Alan Escovitz and Carol Goins were appointed as members of the Civil Service Board to each serve a two-year term respective, terms to expire May 21, 2017, or until their successors have been appointed.

RESOLUTION BOOK NO. 37 – PAGE 140

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Rowdy Keelor, co-founder of a cigarette recycling organization called Friends Against Butts, offered to recycle the City's cigarette butts, collected at the recycling cans, at no cost to the

City. Mayor Manheimer suggested Mr. Keelor meet with City Manager Jackson to discuss his recycling request.

Mr. Jonathan Robert spoke to Council about the need to provide a living wage to all City employees.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:12 p.m.

Magdalen Bledsoe
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 9, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF UNIVERSITY OF NORTH CAROLINA AT ASHEVILLE CHANCELLOR MARY K. GRANT

Mayor Manheimer was pleased to recognize the University of North Carolina at Asheville's 7th Chancellor Mary K. Grant who began her new post on January 5, 2015. Dr. Grant thanked City Council for their support and looked forward to being a good partner with the City.

B. RECOGNITION OF THE AC REYNOLDS GIRL SOCCER TEAM AS STATE CHAMPIONS

On behalf of City Council, Mayor Manheimer recognized Principal Doris Sellers, Coach Patrick Gladys and the AC Reynolds Girl Soccer Team as achieving the first-ever public school state championship in girls soccer for Buncombe County.

C. PROCLAMATION PROCLAIMING JUNE 11-21, 2015, AS "POLLINATION CELEBRATION WEEK"

Mayor Manheimer read the proclamation proclaiming June 11-21, 2015, as "Pollination Celebration Week" in the City of Asheville. She presented the proclamation to Ms. Phyllis Stiles, who briefed City Council on some activities taking place during the week.

D. PROCLAMATION PROCLAIMING JUNE 25, 2015, AS "KOREAN WAR DAY"

Mayor Manheimer read the proclamation proclaiming June 25, 2015, as "Korean War Day" in the City of Asheville. She presented the proclamation to Mr. Bill Lack, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

Mayor Manheimer announced that Consent Agenda Item "M" has been removed from consideration.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 26, 2015

B. RESOLUTION NO. 15-104- RESOLUTION APPROVING THE ISSUANCE OF BONDS BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FOR FOR SPRUCE HILL APARTMENTS

Summary: The consideration of a resolution approving the issuance of bonds by the Housing Authority of the City of Asheville for the Spruce Hill Apartments.

SP Affordable Housing Group III LLC (SP) has requested that the Asheville Housing Authority issue up to $10,000,000 in multi-family revenue bonds for the acquisition and renovation of Spruce Hill Apartments, consisting of 174 affordable apartments, located off Old Haw Creek Road in East Asheville. SP is seeking to keep these units affordable, using a combination of 4% Low Income Housing Tax Credits and bond debt.

Spruce Hill Apartments was constructed in 1975/1976 through the Federal Housing Administration ("FHA") 236 program, which provided the project with below-market rate financing in exchange for 104 rent-restricted units (60% of project units). This mortgage and its interest reduction payment subsidy are scheduled to expire in October 2017. The proposed prepayment of the 236 mortgage serves two purposes. First, it allows for a recapitalization of the Property with LIHTC equity and attractive long-term debt that will allow for a beneficial capital injection. Second, it triggers the issuance of HUD tenant protection vouchers to all qualifying residents. These vouchers act as a safety net for residents who might otherwise be rent burdened as existing subsidies expire.

The remaining 70 units (40% of project units) are supported by a project-based Section 8 Housing Assistance Payment ("HAP") contract. This contract will be extended for a 20-year term as part of the proposed recapitalization plan.

The Housing Authority approved a bond inducement resolution in August of 2014, and the North Carolina Housing Finance Agency approved the 4% LIHTC financing in February of this year.

On August 27, 2014, the Board of Commissioners of the Housing Authority of the City of Asheville ("HACA") approved a bond inducement resolution to issue multifamily revenue bonds in an amount up to $10,000,000 for the acquisition and renovation Spruce Hill Apartments. On February 2, 2015, the North Carolina Housing Finance Agency ("NCHFA") offered its approval of the financing proposal, issuing a 42(m) tax credit commitment letter. All units at Spruce Hill will be affordable to households earning no more than 60% of Area Median Income for 30 years. 18 units will be affordable to households at 50% of Area Median Income.

The resident-in-place renovation will address a variety of project needs ranging from deferred maintenance items to project upgrades that will let Spruce Hill compete favorable with market rate product. The proposed scope of work includes new siding and insulation; new design elements including entryway canopies; full kitchen and bathroom renovations including energy efficient appliances and fixtures throughout; new durable flooring; new kitchen countertops; fire alarm and electrical upgrades; new HVAC systems and energy-efficient hot water tanks; ADA-accessible play structures; and improved landscaping and signage.

At present, there are no ADA compliant units at Spruce Hill. As part of the renovation, nine (9) units will receive ADA upgrades, as will all common areas, including the basketball court and new play structures, will be made accessible. These capital improvements will extend the Property's useful life, while hopefully improving quality of life for Spruce Hill's residents.

SP Affordable Housing Group III LLC is the affordable housing arm of Seattle-based Security Properties, one of the largest owners, operators, and developers of multi-family housing in the United States. Security Properties was founded more than 45 years ago as a syndicator of low income housing properties prior to the introduction of the Section 42 LIHTC program in 1986. Today, Security Properties owns approximately 16,000 units nationwide, of which 8,600 are affordable. Since its formation in 1969, Security Properties and its partners have invested over $1.0 billion of equity in multifamily real estate, representing a portfolio value of nearly $4.0 billion.

Staff notes that the 4% LIHTC program is ideally suited for a purchase/renovation project such as this. Although either the City or the Housing Authority is authorized to issue bonds, historically the Housing Authority has played this role for multi-family rental developments.

The IRS requires that any bonds issued by Housing Authority for developments such as this have the approval of the plan of financing by City Council, following a public hearing with respect to such plan. On May 27, 2015 the Housing Authority held a public hearing and there were no comments. Staff notes that approval does not obligate the City in any way to issue or pay for the bonds, or for any debt taken on by the developer.

Pro:

- 174 units of affordable housing will be preserved and renovated.

Con:

- None.

This financing plan does not require City investment, and maintains and improves residential tax base.

Staff recommends that City Council approve the resolution approving in principal the issuance by the Housing Authority of the City of Asheville up to $10,000,000 of multi-family bonds for the Spruce Hill Apartments acquisition and renovation.

RESOLUTION BOOK NO. 37 - PAGE 141

C. RESOLUTION NO. 15-105 - RESOLUTION AUTHORIZING REVISIONS TO THE ASHEVILLE STANDARD AND SPECIFICATIONS AND MANUAL

Summary: The consideration of a resolution revising the Standard Specifications and Details Manual.

The updated Standard Specifications and Details Manual was approved by City Council on May 13, 2014, via Resolution No. 14-95. The purpose of the manual is to provide design guidelines and technical specifications for construction activities related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. It outlines the minimum construction standards which would be allowed within the City limits and it is applicable on both public and private property.

The various revisions include a unique numbering system throughout the manual, eliminating conflicts with the appeals process, making sure there are no conflicts with other regulations, adding new detail sheets, and making "housekeeping" adjustments.

The manual, which is in pdf format, is on the city's webpage under the Public Works Department and it can be copied at no cost.

This item was reviewed by City Council's Planning and Economic Development Committee on May 19, 2015, and it received a unanimous endorsement.

Pros:

- Makes clarification revisions and eliminates conflicts with the appeals process.
- Continues to provide minimum design and construction standards, guidelines, and specifications.
- Includes guidelines and specifications for complete streets principles.

Cons:

- There are no known negative impacts.

There is no known fiscal impact associated with this action.

City staff recommends that City Council approve a resolution revising the Standard Specifications and Details Manual.

RESOLUTION BOOK NO. 37 - PAGE 143

D. ORDINANCE NO. 4418 - BUDGET AMENDMENT WITHIN THE WORKERS' COMPENSATION FUND TO APPROPRIATE PREVIOUSLY UNBUDGETED WORKERS' COMPENSATION INSURANCE RECOVERY REVENUES TO FUND CLAIM EXPENSES IN FISCAL YEAR 2014-15

Summary: The consideration of a budget amendment within the Workers' Compensation Fund in the amount of $92,963.87 to appropriate previously unbudgeted Workers' Compensation Insurance Recovery revenues to fund claims expenses in Fiscal Year 2014-15.

Since July 1, 2014, the City workers' compensation program has been reimbursed $92,963.87 in workers' compensation claim costs by the City's excess workers' compensation insurance carrier. When the Fiscal year 2014-15 Workers Compensation Fund budget was adopted last spring, staff did not budget any revenue from insurance recovery. In order to fund claims expenses that are likely to be paid before June 30, 2015, staff is requesting that City Council appropriate this revenue and increase the claims expense budget by a like amount.

Pro:

- Provides funding for City workers' compensation claim expenses.

Con:

- None.

The insurance recovery funds have been fully received and deposited into the City Workers' Compensation Fund. Upon City Council approval, the overall budget of the City's Workers' Compensation Fund will increase by $92,963.87.

City staff recommends City Council adopt the budget amendment within the Workers' Compensation Fund in the amount of $92,963.87 to appropriate previously unbudgeted Workers' Compensation Insurance Recovery revenues to fund claims expenses in Fiscal Year 2014-15.

ORDINANCE BOOK NO. 30 - PAGE 1

E. RESOLUTION NO. 15-106 - RESOLUTION AUTHORIZING EXECUTION AN INSTALLMENT FINANCING CONTRACT WITH FIRST BANK FOR FISCAL YEAR 2015 CAPITAL IMPROVEMENT PROGRAM VEHICLES AND COMPUTER EQUIPMENT

Summary: The consideration of a resolution authorizing execution of a $3,225,000 installment financing contract for Fiscal Year (FY) 2015 Capital Improvement Program (CIP) Vehicles and Computer Equipment.

Appropriations for FY 2015 include $3,225,000 for various vehicles and computer equipment, with the capital expenditures financed through debt proceeds.

The City distributed on May 6, 2015, a Request for Proposal ("RFP") seeking competitive bids for the financing. Eleven proposals were received, the most favorable of which was

submitted by First Bank (the "Bank") at an interest rate of 1.15% per annum per annum for a term of 48 months (computer equipment) and 59 months (vehicles).

The proposed resolution authorizes an installment financing contract between the City of Asheville and the Bank for the purchase of the vehicles and computer equipment, and it authorizes the City Manager, City Attorney, Finance Director and City Clerk to execute and deliver any and all necessary documents. The contract will place a security interest in the vehicles and computer equipment in favor of the Bank in order to secure the City's obligation under the contract. Pursuant to a previously adopted reimbursement resolution, proceeds from this financing contract will allow the City to reimburse itself for the cost of the vehicles and computer equipment which have already been procured.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over several years of the useful life of the asset.
- Reimbursing this capital purchase with the proceeds of the financing, as opposed to paying for the purchase by using the City's available cash balances, increases currently available funds through restoration of fund balance.
- The financing conforms to the approved Financing Plan for capital expenditures.

Con:

- Financing the purchase increases nominally the lifetime cost of the acquisition due to the payment of interest and closing costs on the amount financed.

The annual debt service payments for this financing range between approximately $370,000 in the first year and approximately $301,000 in the fifth year. Funds are included in the City's FY 2015-16 proposed debt service budget to cover this cost.

City staff recommends that City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with First Bank for the acquisition of the vehicles and computer equipment.

RESOLUTION BOOK NO. 37 - PAGE 144

F. RESOLUTION NO. 15-107 - RESOLUTION TO ACCEPT AN OFFER BY ASHEVILLE AREA HABITAT FOR HUMANITY TO PURCHASE BY PRIVATE SALE REAL PROPERTY ACQUIRED THROUGH FORECLOSURE PROCEEDINGS FOR THE VILLAS AT CEDAR HILL LOCATED ON PISGAH VIEW ROAD

Summary: The consideration of an offer by Asheville Area Habitat for Humanity to purchase, by private sale, real property owned by the City known as the "Villas at Cedar Hill."

In summer 2003 and early 2004, a total of $217,000 was loaned from the Housing Trust Fund to Villas at Cedar Hill, LLC for the development of forty-two (42) units of affordable multifamily housing. Only ten (10) of the units were completed.

In May 2009, the senior lien holder, Blue Ridge Bank, gave notice of foreclosure. The outstanding principal balance owed to the Trust Fund by Villas at Cedar Hill, LLC was $206,785. The City became the successful bidder for two parcels, adjacent to the original site: a 9.8 acre and a 6.2 acre parcel for a total $397,195 (inclusive of foreclosure costs).

Sewer access to an MSD-owned pump station via an existing easement was contested. The City filed an eminent domain lawsuit which has now been resolved with sewer access provided. The property was recently appraised for $458.300.

In 2010, Asheville Area Habitat for Humanity proposed to purchase the property for $450,000, with $300,000 at closing and an additional $150,000 to be applied as second mortgages to be held by individual homeowners. The offer was contingent on access to the MSD Sewage Pump Station. That offer was accepted by City Council; but due to the eminent domain litigation, Habitat's offer expired.

Habitat has now renewed their offer to purchase the property, for the current appraised value of $458,300, with $300,000 in cash and the remainder as second mortgages to the Habitat homeowners. Repayment of the second mortgages would be deferred as long as the houses, when sold, were sold to households earning 80% or less of Area Median Income. City staff asked for changes from the original agreement that Habitat has accepted. These include changing the second mortgages from a 0% interest to a shared appreciation basis, and Habitat agreeing to explore both greater density and permanent affordability of the homes built there.

Pros:

- At least fifty-five (55) units of affordable housing will be created.
- Upon sale, an anticipated $300,000 of funds will be returned to the Housing Trust Fund for lending purposes
- The creation of fifty-five (55) single family homes will increase the City tax base by an estimated $7.5-$8 million in new development.
- The proposed development complements other City investment in the area.

Cons:

- An additional sales amount, estimated at $158,300 and to be determined as the ultimate composition of the project is established, will be deferred until homes are resold by assisted homeowners to households earning more than 80% of Area Median Income.

Although the sale would not fully recover the City investment, it would result in the development of at least 55 new affordable homes, being sold to households making 80% or less of median income; and has the potential to either result in a significant amount available to lend for new affordable housing, and/or the creation of Asheville's first permanently affordable single-family home development. The development will increase the City's tax base by an estimated $7-9 million. Staff anticipates returning to Council for final approval and a budget amendment if the structure of the sale changes.

Staff recommends that City Council concur with the HCD Committee recommendation to approve acceptance of the Purchase offer of Habitat for the City-owned property located at Pisgah View Road.

Mr. Paul Reeves, Director of Construction Services at Habitat for Humanity, thanked City Council for their past, current and future partnership with Habitat. He said that this is an exciting opportunity for the City and Habitat to partner to create 55 units of affordable housing.

RESOLUTION BOOK NO. 37 - PAGE 146

G. RESOLUTION NO. 15-108 - RESOLUTION GRANTING A FEE WAIVER TO THE NATIONAL PARK SERVICE FOR THE BLUE RIDGE QUARTER LAUNCH EVENT

Summary: The consideration of a resolution granting a fee waiver to the National Park Service for the Blue Ridge Quarter Launch event on June 25, 2015.

The United States Mint in partnership with the National Park Service/Blue Ridge Parkway has expressed interest in partnering with the City of Asheville to host a public event to

commemorate the release of the 2015 Blue Ridge Parkway quarter. The Blue Ridge Parkway quarter will be the 28th coin to be released in the US Mint America the Beautiful Quarters® Program.

The event and community celebration will be held at Pack Square Park's Roger McGuire Green on Thursday, June 25, 2015 between the hours of 10:00 a.m. and 11:00 a.m., and is expected to draw attendance of up to 2,000. Event components will include presentations and remarks from federal officials, a coin exchange in collaboration with Asheville Savings Bank, activities conducted by Parkway staff, and opportunities for all participants at the event 18 years of age or under to receive a new quarter in specially designed boxes from the United States Mint.

The fees and charges associated with this event include the special event application fee, park use fees, fees associated with the issuance of permits for temporary site additions, and fees for the closure of 7 metered parking spaces within City-County Plaza. The total of associated fees amounts to $1,007.

Pro:

- Promotes cross-agency collaboration, maximizing benefits and resources between partnering organizations

Con:

- Results in lost revenue from processing, permits, property use fees, parking meters

Fiscal impact is $1,007 of in-kind support and fee waivers

City staff recommends City Council approve a resolution authorizing the City Manager to waive $1,007 in fees & charges associated with the Blue Ridge Parkway Quarter Release event at Pack Square Park.

RESOLUTION BOOK NO. 37 - PAGE 147

H. RESOLUTION NO. 15-109 - RESOLUTION AMENDING THE CITY COUNCIL 2015 MEETING SCHEDULE TO CANCEL THE AUGUST 11, 2015, FORMAL MEETING

RESOLUTION BOOK NO. 37- PAGE 148

I. ORDINANCE NO. 4419 - BUDGET AMENDMENT TO APPROPRIATE INSURANCE RECOVERY FUNDS FOR A TOTALED BUS HENDERSON COUNTY LEASED TO UTILIZE TOWARDS THE PURCHASE OF A NEW BUS TO LEASE TO HENDERSON COUNTY

Summary: The consideration of a budget amendment in the Transit Capital Fund in the amount of $55,262.80 from insurance recovery funds for a totaled bus Henderson County leased to utilize towards the purchase of a new bus to lease to Henderson County.

On August 18, 2014, a bus owned by the City of Asheville and leased to Henderson County was totaled by a third-party and the City settled the property damage claim for $55,262.80. Henderson County seeks to lease a new bus from the City to replace the totaled bus and the Transportation Department seeks to utilize the settlement funds towards the purchase a new bus to lease to Henderson County.

Pro:

- Provides funding for Transportation Department bus purchase.

Con:

- None.

The insurance recovery funds are held in the City Property & Liability Fund. Upon City Council approval, the funds will be transferred to the City Transit Capital Fund to be utilized towards the purchase of a new vehicle.

City staff recommends City Council adopt the budget amendment in the Transit Capital Fund in the amount of $55,262.80 so the funds may be applied towards the purchase of a bus to lease to Henderson County.

ORDINANCE BOOK NO. 30 - PAGE 3

J. **RESOLUTION NO. 15-110 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE 5TH WALNUT ANNIVERSARY PARTY**

RESOLUTION NO. 15-111 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INGLE'S INDEPENDENCE DAY CELEBRATION

RESOLUTION NO. 15-112 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEAF DOWNTOWN

RESOLUTION NO. 15-113 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE RIVERFEST

RESOLUTION NO. 15-114 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE VEGFEST

RESOLUTION NO. 15-115 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE CLIPS BEER & FILM TOUR

RESOLUTION NO. 15-116 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE RUNNING EXPERIENCE

RESOLUTION NO. 15-117 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY CUP

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 5 Walnut Anniversary Party on June 17, 2015, the Ingle's Independence Day Celebration on July 4, 2015, LEAF Downtown on August 1 & 2, 2015, RiverFest on August 8, 2015, Asheville VegFest on August 16, 2015, Clips Beer & Film Tour on September 4, 2015, Asheville Running Experience on September 5, 2015, and Beer City Cup on September 6, 2015.

- Asheville Greenworks has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the 5 Walnut Anniversary Party and allow for consumption at this event.

The 5 Walnut Anniversary Party will be held on Wednesday, June 17, 2015 from 5:00 p.m. – 10:00 p.m. at Walnut Street between the intersection of Broadway and Carolina Lane as per the event area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Ingle's Independence Day Celebration and allow for consumption at this event.

  The Ingle's Independence Day Celebration will be held on Friday, July 4, 2015 from 11:00 a.m. – 10:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- LEAF Community Arts has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at LEAF Downtown and allow for consumption at this event.

  LEAF Downtown will be held on Saturday, August 1, 2015 from 12:00 p.m. – 10:00 p.m. and Sunday, August 2, 2015, from 10:00 a.m. – 8:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- RiverLink has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at RiverFest and allow for consumption at this event.

  RiverFest will be held on Saturday, August 8, 2015, from 1:00 p.m. – 7:00 p.m. at French Broad River Park as per the event area limits referenced on the accompanying site map.

- Brother Wolf Animal Rescue has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Asheville VegFest and allow for consumption at this event.

  Asheville VegFest will be held on Sunday, August 16, 2015, from 12:00 p.m. – 5:00 p.m. at Pack Square Park's Roger McGuire Green, Spruce Street, and Reuter Terrace as per the event area limits referenced on the accompanying site map.

- Asheville on Bikes has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the New Belgium Clips Beer & Film Tour and allow for consumption at this event.

  The New Belgium Clips Beer & Film Tour will be held on Friday, September 4, 2015, from 6:30 p.m. – 10:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- Blue Ridge Roller Girls has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the Asheville Running Experience and allow for consumption at this event.

  The Asheville Running Experience will be held on Saturday, September 5, 2015, from 8:00 a.m. – 8:00 p.m. at Coxe Avenue between Banks and Hilliard as per the event area limits referenced on the accompanying site map.

- North Carolina Adult Soccer Association (NCASA) has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at Beer City Cup and allow for consumption at this event.

  Beer City Cup will be held on Sunday, September 6, 2015, from 9:00 a.m. – 11:00 p.m. at Memorial Stadium as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Greenworks, RiverLink, Brother Wolf Animal Rescue, and the North Carolina Adult Soccer Association

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 5 Walnut Anniversary Party, Ingle's Independence Day Celebration, LEAF Downtown, RiverFest, Asheville VegFest, Clips Beer & Film Tour, Asheville Running Experience and Beer City Cup.

RESOLUTION NO. 15-110 - RESOLUTION BOOK NO. 37 - PAGE 149
RESOLUTION NO. 15-111 - RESOLUTION BOOK NO. 37 - PAGE 152
RESOLUTION NO. 15-112 - RESOLUTION BOOK NO. 37 - PAGE 155
RESOLUTION NO. 15-113 - RESOLUTION BOOK NO. 37 - PAGE 158
RESOLUTION NO. 15-114 - RESOLUTION BOOK NO. 37 - PAGE 161
RESOLUTION NO. 15-115 - RESOLUTION BOOK NO. 37 - PAGE 164
RESOLUTION NO. 15-116 - RESOLUTION BOOK NO. 37 - PAGE 167
RESOLUTION NO. 15-117 - RESOLUTION BOOK NO. 37 - PAGE 170

K. RESOLUTION NO. 15-118 - RESOLUTION ESTABLISHING GOALS FOR THE PRODUCTION OF AFFORDABLE HOUSING PRODUCTION GOALS

Summary: The consideration of establishing a numerical goal for affordable housing production assisted by the City of Asheville.

In October of 2014, City Council met in work session to consider a Comprehensive Affordable Housing Strategy and Policy Framework. The Action Plan arising from that work session included the adoption by Council of short and long term goals for affordable production for the City of Asheville, pending an analysis of needs and resources.

The Affordable Housing Needs Assessment, completed in February of 2015, provides important information that is helpful in establishing a goal. According to that report, the four county region served by the Asheville Regional Housing has a overall rental vacancy rate of about 1%, and a projected regional supply gap of 5,575 units for households earning 120% or less of median income. In Asheville and Buncombe County alone, the rental supply gap for households earning 80% of median income or less is 4,175 units.

Staff has reviewed the tools and resources the City currently has available to assist in the production of affordable housing, including financial resources, land resources and regulatory tools. Staff has analyzed current and projected affordable housing production pipelines, and has estimated forward what are reasonable expectations about affordable housing production using the available resources and tools. These are:

- Financial resources considered include direct City investments in affordable housing: Housing Trust Fund, federal HOME and CDBG funds, the City's "EDCIP," and the Land Use Incentive Grant.

- Regulatory Tools include Density Bonuses, Accessory Apartments, UDO Changes, Conditional Zoning, Conditional use Permits, and Inclusionary Zoning (currently, voluntary only).
- City land resources include the Pisgah View Road parcel, Parks Maintenance, and an assumption that 3 additional parcels will be made available for affordable housing.

Other resources and tools may be made available that could increase the potential for affordable housing production assistance. However, using the above resources, staff estimates that the City could assist in the production of 2,800 units in the next seven years.

Affordable Housing Production Known/Projected Pipeline	2016	2017	2018	2019	2020	2021	2022
City Direct $ Investment	181	207	327	162	227	200	200
Zoning density	0	40	60	80	100	120	150
City Land	0	70	40	60	75	0	0
CZ	76	50	75	75	75	75	75
TOTAL	257	367	502	377	477	395	425
Total all years							**2800**

The Housing and Community Development Committee reviewed the staff analysis at their meeting on April 21, 2015. The Committee agreed with the analysis and recommended that the goals be presented to City Council.

Pro:

- Goals will assist staff and Council establish and evaluate programs designed to produce affordable housing;

Con:

- Achievement of the goals relies in part on funding and costs not under the City's control.

The establishment of this goal does not have a direct fiscal impact, but is predicated on the assumption that financial resources for affordable housing will continue to be available through the duration of this projection timeframe.

Staff recommends that City Council concur with the HCD Committee recommendation to adopt the annual and seven year goal for affordable housing production assisted by the City of Asheville.

Councilman Smith was grateful to City Council for taking this bold step of setting a seven year goal. This is a bold and important step and hoped to find more partners, more tools and more resources to get an additional 2,800 units.

RESOLUTION BOOK NO. 37 - PAGE 173

L. RESOLUTION NO. 15-119 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH B. ALLEN CONSTRUCTION INC. FOR THE CONSTRUCTION OF THE KENILWORTH PARK RENOVATIONS

ORDINANCE NO. 4420 - BUDGET AMENDMENT FOR THE KENILWORTH PARK RENOVATIONS

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to replace the existing tennis & basketball courts, retaining walls, steps, drainage, park sign, and construct accessible parking at Kenilworth Park for an amount not to exceed $298,884, and a budget amendment in the same amount from debt proceeds to fund the contract.

The City of Asheville (City) has determined the existing sports courts, retaining walls, steps, parking, and sports equipment at Kenilworth Park have exceeded their life expectancy, are in poor condition, and pose safety hazards for users. As a result, the city has identified the need for a renovation and has planned to complete the project under general capital improvement fund for Parks & Recreation Department.

The Parks and Recreation Department's ten-year Capital Improvement Plan and Outdoor Court deferred maintenance plan outline projects that have been prioritize and ranked based on the 2009 Parks and Recreation Master Plan, 2013 Assessment Report for Americans with Disabilities Act Compliance, The Recreation Advisory Board, and Public Feedback.

The Advisory Board reviews and prioritizes the deferred maintenance program with staff and input from the public in October of each year to make certain that the plan reflects the needs of the community.

The City issued an Advertisement for Bids for construction of the renovations and received two bids:

- Graham County Land Co., Robbinsville, NC ($447,750)
- B. Allen Construction, Candler, NC ($298,884)

The bid from B. Allen Construction, Inc. was selected as the lowest, responsible bidder with the base bid of $298,884.

Pros:

- Improves safety by replacing uneven and cracked surfaces from years of patching and repairing; replacement of outdated/broken sports equipment.
- Provides safe alternative for recreation.
- Improves performance through ongoing care and maintenance.

Con:

- None

The budget amendment will provide budget authorization for the contract. Project expenses have already been included in the cash flow model for the five year Capital Improvement Program.

Staff recommends that the City Council adopt (1) a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc., to renovate Kenilworth Park for an amount not to exceed $298,884.00; and (2) a budget amendment in the same amount from debt proceeds to fund the contract.

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ORDINANCE BOOK NO. 30 - PAGE 5

M. RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FUNDS THROUGH THE US OFFICE OF JUSTICE 2015 EDWARD BYRNE JUSTICE GRANT - STATE SOLICITATION

This item has been removed from consideration.

N. RESOLUTION NO. 15-132 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FUNDS THROUGH THE US OFFICE OF JUSTICE 2015 EDWARD BYRNE JUSTICE GRANT - LOCAL SOLICITATION

Summary: The consideration of a resolution authorizing the City to apply for funds through the US Office of Justice 2015 Edward Byrne Justice Assistance Grant – Local Solicitation in the amount of $50,434.

The City of Asheville Police Department (APD) requests authorization to apply for the Byrne JAG – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. If the grant is approved the Asheville Police Department and Buncombe County Sheriff's Department will be allocated $50,434 based on the award matrix, with Asheville receiving $38,322 and Buncombe County receiving $12,112. The distribution of funds would be approved through a signed Memorandum of Understanding.

Funds will be utilized to purchase Taser devices which will serve to enhance officer safety and potentially reduce the propensity for injury that offenders could be exposed to during altercations with officers. Effective Taser applications have demonstrated the capability to incapacitate threatening subjects by using an electrical charge to target the motor nerves that control movement. Ideally, these devices facilitate effective restraint while reducing the opportunity for injury to all involved parties, thereby potentially reducing workers' compensation claims and liability claims.

There will be an expense of $38,322 by the APD for the purchase of approximately 30 Tasers. The Buncombe County Sheriff's Department will be awarded $12,112 for its identified needs. This accounts for the total allocation of $50,434 for this grant.

This is a 100% funded non-local match grant that will serve to enhance officer safety for substantially more patrol officers and potentially reduce the probability of injury for threatening offenders.

Pros:

- Increasing the number of Tasers for patrol officers will enhance officer safety and that of the community
- Increased accountability because of the downloadable content related to deployments
- Costs of the devices could offset the costs incurred by workers' compensation or liability claims

Cons:

- Additional burden on future operations budget for the cost of maintenance and replacement after the approximate five-year service life of the device
- Additional training costs associated with purchasing the training cartridges at an approximate cost of $40 per year per device.

If the grant is awarded, there is no local match required, however there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets.

Staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through US Office of Justice Programs in the amount of $50,434.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda "M". This motion was seconded by Councilman Smith and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville budget: pending sales tax redistribution, JDIG, graffiti vandalism bill, and zoning design and aesthetic control bill.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE FISCAL YEAR 2015-16 ANNUAL OPERATING BUDGET

Finance Director Barbara Whitehorn said that City Council conducts a public hearing each year to receive public input on the Proposed Annual Operating Budget prior to adoption of the Annual Budget Ordinance.

The Fiscal 2015/2016 Proposed Annual Operating Budget was presented to City Council on May 26, 2015. The Fiscal Year 2015/2016 Proposed Budget is balanced with an Ad Valorem tax rate of $0.475 per $100 of assessed value, which represents a $0.015 increase over the current year tax rate. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. The Proposed Budget is also available for viewing on the City's website (www.ashevillenc.gov).

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 29, 2015. Adoption of the Fiscal 2015/2016 Budget Ordinance is scheduled for June 23, 2015, at the regularly scheduled City Council meeting. The Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which cannot be changed once the Budget is adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2015/2016 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

In response to Councilman Smith, Ms. Whitehorn explained the affordable housing funding with regard to the Housing Trust Fund and the Economic Development Capital Improvement Program (EDCIP). She said that staff analyzed the current estimate of the EDCIP (Parks Maintenance Relocation Project) to see if there was some leeway to reduce the EDCIP dollars, which will allow the reprogramming of those funds to either the Housing Trust Fund or other housing projects. It was determined that the Parks Maintenance Relocation Project would need approximately $350,000, but was budgeted $805,000.

At Mayor Manheimer's request, Ms. Whitehorn said that the budget includes funding for the living wage for part-time, seasonal and temporary workers. Staff is determining how it will be implemented.

Throughout discussion, Ms. Whitehorn responded to various questions/comments, some being, but are not limited to: how much property tax growth is forecast in the 2015-16 operating budget; does the forecast account for the projects in the development pipeline and their addition to the tax base; what is the fund balance trend; what is the effect of using fund balance as

opposed to increasing the tax rate; how is fund balance related to the City's debt rating; and what would the City have to do to get a AAA bond rating and what would the benefits to the City be.

There was discussion, initiated by Councilman Pelly, that the City could allocate a portion of fund balance for Fiscal Year 2015-16 for non-recurring, one-time capital expenditures and still maintain the 10% minimum relative growth. The proposed budget recommends a 17.2% unassigned fund balance of $17,722,000. A fund balance of $17,011,273 (16.5%) would keep the City at the 10% minimum relative growth, allowing for the reallocation of $700,000.

Mayor Manheimer opened the public hearing for the budget at 5:45 p.m.

Mr. Alan Ditmore felt the friction the City sees between police funding and housing funding is more budgetary. He felt there are other law enforcement agencies to protect commuters, tourists, etc.

Mr. Chris Peterson said that the average City employee salary is $70,000 and elsewhere in the City the average employee salary is $30,000. He was opposed to the addition 1.5-cent tax increase. He questioned Council's economic development incentive for New Belgium since there is infrastructure, etc. that the City will have to improve.

Mr. Ken Michalove provided City Council with a memorandum in which he felt the City Manager's solution to getting a higher spending budget approved is to raise taxes and fees. He felt the City Manager should not recommend an ad valorem tax or fee increase, but reduce the expense in the general government area.

Ms. Jenny Bowen supported a living wage for all City employees.

Vice-President of the Five Points Neighborhood Association explained why the budget for infrastructure that affects public safety and livability needs to be increased substantially. She raised four points as follows (1) multiple items that need dedicated funding include sidewalk repairs, new sidewalks to complete critical linkages, repainting and improving crosswalks including access to transit stops and greenways, traffic calming measures, better signage, ADA improvements, bike lanes, and increased law enforcement; (2) dilapidated unsafe sidewalks near schools or along streets where many children live are in dire need of immediate attention; (3) funds selected for other things that do not affect safety and mobility should be scrutinized and reduced and shifted to go towards these public safety issues; and (4) include infrastructure improvements when the fire station for Five Points is built, i.e. if a new traffic signal is installed, allow it to be activated by pedestrians; and a safer Broadway crossing.

Ms. Julie Mayfield, Chair of the Transit Commission, read a prepared statement thanking City Council for including limited Sunday service, for the continued transfer of over $600,000 from the Parking Fund to the transit system, and for the increase in the transit budget over the last five years. There are still many more improvements to be made to the system since the implementation of the Transit Master Plan in 2012, noting that we remain several years behind the anticipated schedule of improvements laid out in the Master Plan. The Committee asked that the following several key improvements to the system be included in the budget: (1) an additional bus on the S-3 Route to the Airport; (2) later service on several routes; (3) improved service to A-B Tech to downtown and Biltmore Village; and (4) an additional transportation planner. Implementing these requests would further advance the Master Plan and continue to enhance the quality of life of our citizens. They were disappointed there was no room in the budget for any of these improvements but they will remain steadfast in their request for these improvements in the next budget cycle. Mobility continues to be a top priority for people in Asheville.

Ms. Vickie Meath, Director of Just Economics, thanked City Council for continuing the limited Sunday bus service and also thanked Council for including in the budget a living wage for temporary and seasonal employees.

Ms. Billie Laughlin, resident of Five Points, thanked City Council for increasing funds for sidewalks and stressed the need for sidewalk maintenance.

Rev. L.C. Ray, CEO of One Youth at a Time, thanked City Council for their support of the One Youth at a Time program over the past years, and even though it is not slated to receive strategic partnership grant funding this year in the amount of $5,000, he hoped City Council re-consider their decision.

Mr. Mark Ramsey supported a living wage for temporary and seasonal employees.

Mr. Rich Lee, representing the East-West Asheville Neighborhood, provided City Council with a letter from Adam Chase, Board Chair of East-West Asheville Neighborhood Association. He asked that improvements to the Craven Street Bridge are very important to the East-West Asheville neighborhood and to New Belgium and should be advanced into the CIP or the RADTIP as quickly as possible. Improvements to the Craven Street - Riverside Drive intersection and to Riverside Drive under the Norfolk Southern trestle are critical to be performed this fiscal year and their preferred alternative is to shift Craven Street to allow for truck turns from all directions.

Ms. Dawn Chavez, Executive Director of Asheville Greenworks, said that they had applied for strategic partnership grant funding in the amount of $20,000 but were not one of the agencies chosen to receive the funding. She asked City Council to reconsider as they have worked closely with the City on a number of projects and they leverage all the funding they receive towards increasing their impact across the City.

Community Engagement Coordinator for Asheville Greenworks said that they have also applied for strategic partnership grant funding in the amount of $17,500 but was not awarded the grant. She asked Council to reconsider their funding as they work with the low income community.

Mayor Manheimer closed the public hearing at 6:18 p.m.

Vice-Mayor Hunt proposed that out of the excess $700,000 in fund balance (while still maintaining the 10% minimum relative growth) $500,000 be used to accelerate the Craven Street Bridge, and $200,000 be dedicated to the Affordable Housing Trust Fund.

Councilman Smith said that his priorities surround addressing the affordable housing crisis, living wage for all City employees, and transportation infrastructure. He would support the possible excess in the Parks Maintenance Relocation of $450,000 be allocated to the Affordable Housing Trust Fund. Regarding the excess $700,000 in fund balance, he supported $500,000 for the acceleration of the Craven Street Bridge project, with the remaining $200,000 be dedicated to more sidewalks, bus shelters at transit stops, or the Affordable Housing Trust Fund. He explained the uncertainty in our budget from the State level. He explained his concern by the Chamber of Commerce Economic Development Coalition (EDC) increase of $40,000 - to total $100,000. Regarding the strategic partnership funding, the City had $98,400 to allocate and received 17 good applications for a total request of $305,000. What Council will consider later in the meeting is a compromise with a recognition that the funds are not enough. He would be open to increasing the strategic partnership funding allowance, and also open to looking at a strategy that looks at all the agencies that are working with children that focus on the achievement gap.

After discussion, it was the consensus of the majority of Council to allocating an additional $50,000 ($25,000 from the $500,000 allocation for the Craven Street Bridge project and $25,000 from the $200,000 allocation for the Affordable Housing Trust Fund) to the Strategic Partnership Fund and refer the strategic partnership funding process back to the Housing & Community Development Committee for another recommendation at the Council's June 23, 2015, meeting. Said review should include all prior applications received but not funded.

Councilman Bothwell suggested that instead of the $50,000 coming out of the $700,000 fund balance excess, that the $40,000 increase that the EDC requested be dedicated to the Strategic Partnership Fund. He didn't feel the EDC has been a partner to the City in big issues recently.

Councilman Pelly felt it was important to maintain the City's AA rating and agreed that we are being squeezed by the state, but felt a tax increase should be the last resort. He did not feel Council was in the place yet that a tax increase was the only option available to Council. He could not support the 1.5-cent increase.

Councilman Davis agreed with Councilman Pelly and was uncomfortable in trying to amend the budget in piecemeal at this meeting. He felt that the $40,000 increase that the EDC is requesting might be better spent to attract more jobs.

Mayor Manheimer said that the 1.5-cent increase will help sustain what we anticipate to be expenditures that don't go away year after year. When we talk about taking from our fund balance (rainy day fund), it is for a one-time allocation. You cannot avoid a property tax increase by taking from fund balance and patch the budget because you may get the bond rating in trouble, and by taking it from fund balance you're doing it to patch a reoccurring expense. If Council is going to honor a living wage for all City employees, and honor the recommendation for adjustment to salaries for personnel, with no tax increase, we will be looking at a different budget and will have to make cuts.

Ms. Whitehorn explained the three metrics used by the rating agencies and the City's position.

Councilman Pelly felt that with the excess of $700,000 in property taxes this year coupled with the significant additional property taxes from additional projects in the pipeline ($552 Million), we should not have to raise property taxes this year.

When Councilman Pelly asked Ms. Whitehorn to talk about what $552 Million in development projects will be converted to in tax revenue, Ms. Whitehorn said that it is estimated that 80-90% of the projects will be completed. With a millage rate of $.475 per $100, if all of the projects in the 12-18 month timeline are completed and on the tax rolls within 18 months, Fiscal Year 2017-18 will see $1.6 Million in additional revenue. However, it is important to consider that several of the large projects that are coming on line (or have already been added to the tax base) have economic development incentives associated with them. These incentives provide that if a company meets specific benchmarks, a percentage of the additional property tax revenue generated will be refunded for a number of years.

Councilwoman Wisler agreed with Councilman Davis in that additional thought needs to be given to using excess fund balance. She would support the 1.5-cent increase.

It was the consensus of the majority of Council to not allocate the excess $700,000 in fund balance at this time, but allocate those funds later in the Fiscal Year via a budget amendment.

Discussion occurred regarding the increase of $40,000 to the EDC budget, with the majority of Council choosing to support the increase. It was noted that they will be asking for $100,000 a year for the next five years; however, each year the budget is reviewed.

It was the consensus of Council to reallocate the excess in the Parks Maintenance Relocation of $450,000 be allocated to the EDCIP, noting that mid-year a budget amendment to the Affordable Housing Trust Fund would be appropriate.

Mayor Manheimer said that adoption of the Fiscal Year 2015-16 Annual Operating Budget will occur on June 24, 2015.

Closed Session

At 7:18 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including a lawsuit involving the following parties: Gannett Pacific Corp. and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:43 p.m., Vice-Mayor Hunt moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

B. PUBLIC HEARING TO CONSIDER REZONING 1 BUFFALO STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

ORDINANCE NO. 4421 - ORDINANCE TO REZONE 1 BUFFALO STREET FROM NEIGHBORHOOD BUSINESS DISTRICT TO RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to rezone 1 Buffalo Street from Neighborhood Business District to RM-8 Residential Multi-Family Medium Density District. This public hearing was advertised on May 29 and June 5, 2014.

The area of the subject property is approximately 0.21 acres, measuring 41 feet wide along Buffalo Street, and 244 feet long, abutting property owned by State DOT and I-240W. The lot is currently vacant and is a legally conforming lot based on the development standards of the Neighborhood Business (NB) zoning district. Historically, the lot most likely served as an overflow parking lot for an adjacent neighborhood grocery/convenience store to the north that was destroyed by a fire years ago. The parcel borders an unopened right-of-way (ROW) to the south that measures approximately 12 feet wide and 245 feet long; the ROW is not an essential part of the street network as it is not maintained and it dead-ends at property owned by State DOT, adjacent to the I-240W corridor.

Due to the fact that the subject lot is nested within a residential zoning district, the request to rezone the lot to RM-8 would be consistent with the context of the neighborhood, which is primarily single-family. The zoning action, however, would create a noncompliant lot because RM-8 requires 50 feet of frontage and the subject property has only 41 feet of frontage. According to the UDO section 7-17-2, lawfully established nonconforming lots having dimensional nonconformities may be used for any permitted use allowed in the zoning district in which the lot is located provided that any structure meets all applicable dimensional and numerical requirements (such as setbacks, for example) and all applicable procedures are followed.

The NB zoning district provides opportunities in the city to establish low-intensity businesses that are accessible to pedestrians from surrounding residential neighborhoods yet without a waiver from the Tree Commission, the landscape buffer standards would require the subject property to include a 20-foot-wide planted buffer along the southern edge of the lot, thereby reducing any structure's buildable width to 21 feet wide. In addition, a residential use is

not permitted by right in the NB zoning district. Assuming that infill housing is the best use for this site, a rezoning to RM-8 is an appropriate action.

The Asheville City Development Plan 2025 encourages compatible "adaptive reuse, redevelopment and infill development" and states, "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure." Staff feels this rezoning would be compatible with the goals of the Comprehensive Plan.

A consideration would be that the rezoning would create a noncompliant lot within the RM-8 zoning district.

Based on the above findings and the analysis provided in the report, staff finds this request to rezone 1 Buffalo Street from NB to RM-8 to be appropriate and consistent with the context of the neighborhood and broader city goals.

Mayor Manheimer opened the public hearing at 7:53 p.m. and when no one spoke, she closed public hearing at 7:53 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly moved to approve the zoning map amendment from Neighborhood Business (NB) to Residential Multi-Family Medium Density (RM-8) District and (if approving) find that the request is reasonable and consistent with the Comprehensive Plan and other adopted plans because it 1) encourages the adaptive reuse of vacant property and 2) would promote compatible infill development within the urban fabric of the city. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 7

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 29 OAK HILL DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 72 RESIDENTIAL UNITS IN THREE BUILDINGS WITH ASSOCIATED INFRASTRUCTURE, AND CONDITIONS FOR REDUCED BUILDING SETBACKS, REDUCED PARKING COUNTS, AND INCREASE IN RESIDENTIAL DENSITY

ORDINANCE NO. 4422 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 29 OAK HILL DRIVE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO RM-16/CZ RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF 72 RESIDENTIAL UNITS IN THREE BUILDINGS WITH ASSOCIATED INFRASTRUCTURE

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to conditionally zone property located at 29 Oak Hill Drive from RM-16 Residential Multi-Family High Density District to RM-16/CZ Residential Multi-Family High Density District/Conditional Zoning for the construction of 72 residential units in three buildings with associated infrastructure, and conditions for reduced building setbacks, reduced parking counts, and increase in residential density. This public hearing was advertised on May 15 and 22, 2015.

The proposal is for the construction of 72 residential units in three 3-story structures each with 24 residential units and a single large area for parking. The plan is for twenty four one-

bedroom units to be offered at 50% of AMI for a period of ten years. These units will use the housing voucher program which is only available for periods of ten years but is expected to be renewed for up to 30 years. These specific units have received City of Asheville Housing Trust Funds to provide supportive affordable housing to qualifying households experiencing difficulties finding stable housing. In addition, five other units will be offered at 80% of AMI for a period of ten years. Staff also expects that the developer will submit an application for a land use incentive grant (LUIG) although at the time of this writing, there is not one in-hand.

The requested density for the proposal is 19.41 units per acre. The property is zoned residential multifamily high density (RM-16) and the proposal is to rezone to residential multifamily high density conditional zone (RM-16 CZ).

The site is a 3.70 acre site located at 29 Oak Hill Drive located about 450 feet from New Leicester Highway. The site is accessed from a driveway along Oak Hill and then opens to a wider area below the level of the road. Prior to this application the site was graded to its current condition and has few existing trees except at the top of the site at the street. The railroad is adjacent to this parcel and the right of way area (RR ROW) covers a significant portion of the parcel and affects placement of site improvements including buildings and plantings. The site also has a section of sewer line that crosses this property. Trees and structures are not allowed in the sewer line easement area.

The area has a variety of commercial uses along New Leicester Highway and single-family uses surrounding the proposed site to the east and north along Oak Hill Drive.

Access to the property is from Oak Hill Drive. This road has several connections to local streets including New Leicester Highway to the west and Hazel Mill Road to the northeast. A new sidewalk is proposed along Oak Hill Drive along the frontage area and an internal sidewalk will provide access into the site. There are 81 parking spaces provided on the plans which also will accommodate a required fire truck turn-around. The site is within 500 feet to transit service on New Leicester Highway. The ART route W4 travels along New Leicester Highway and back to downtown Asheville.

Landscaping is required for this parcel including street trees, parking lot landscaping, building impact landscaping, dumpster screening and tree-save plantings. The proposed landscaping meets or can meet the requirements of this section.

Open space is required for the development in compliance with 7-11-4 of the UDO. Open space is required at the rate of 500 square feet per unit for a total of .83 acre. The site plans show sufficient area to meet this standard.

The Technical Review Committee (TRC) reviewed this application at their meeting on April 20, 2015 and approved it with conditions. The Planning and Zoning Commission review the project at their meeting on May 6, 2015. City Council provides the final review of the conditional zoning proposal. If approved by Council, the proposal will return to the Technical Review Committee for a final TRC review.

City Council may consider conditions modifying requirements pursuant to 7-7-8 of the UDO which is a part of the conditional zoning approval process.

- *Density*- The project is seeing approval of 19.41 units per acre. The district standard is 16 units per acre. There is a verified shortage of residential units in Asheville and even accounting for the additional density the site can still meet other development standards. Affordable units are also needed for qualifying households at a variety of income levels. This proposal will provide 24 units targeted for qualifying households at 50% of AMI and 5 units for qualifying households at 80% of AMI.

- *Setbacks*- Setbacks in RM-16 are generally 40 feet from side and rear property lines when a single structure contains over 14 residential units. The project is seeking a setback reduction from 40 feet to 20 feet due to the location of the RR ROW which constrains the site and limits the locations where buildings may be located. The RR ROW is about .4 acre and does not permit any other features in this area.

- *Parking*- The UDO provides a formula for parking based on the land use and the number of bedrooms. The UDO requires 86 spaces and the current plans show 81 spaces. Staff recommends that 10 additional bicycle parking spaces be provided (over the minimum of 5%) to help offset the lower number of parking spaces for automobiles.

The applicant is proposing to conditionally rezone the site from RM-16 (residential multifamily high density) to the RM-16-CZ (residential multifamily high density conditional zone) as a way to impose conditions different from the zoning district standards as explained in the conditions section above. Properties to the north, west, and east are also zoned RM-16. These areas have mostly single family residential uses on them with some areas with larger vacant tracts. The existing cemetery on the south-east side of the tract is zoned RS-2. The area to the south is zoned Highway Business (HB) which allows a wide range of commercial and residential uses. The Salvation Army operates a donation center and store there. The proposed residential use is compatible with the residential uses in the surrounding area. Higher density zoning areas are often located where community infrastructure is in place and community services such as shopping centers and employment opportunities are nearby. Higher density multifamily zoned areas can act as a reasonable buffer from commercial areas and other lower density residential areas.

The Comprehensive Plan supports affordable housing as a crucial community need with concerns about the lack of available units. In addition the Comprehensive Plan is supportive of infill development where the infrastructure is sufficient and community services are close by to support the use. Other council adopted plans and studies have highlighted the continued scarcity of affordable units.

The proposal is aligned with the second focus area of the Strategic Plan, *Affordability and Economic Mobility*. The plan seeks to promote affordable housing close to the CBD, jobs and transportation. The proposal provides 29 of the 72 units at affordable rates and is located with access to transit service, employment and other community services.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The proposal provides 72 residential units with an affordable component included at a rate of 24 one-bedroom units provided at 50% of AMI for a period of ten years (renewable for up to 30 years) and 5 additional units provided at 80% of AMI for a period of ten years.
- The proposal is conveniently located to transit and transportation systems.
- Shopping and employment centers are also in close proximity to the project site.
- The existing railroad right of way impacts the placement of structures and parking area on the parcel.

On May 6, 2015, the Planning and Zoning Commission recommended approval with a 5-0 vote. At the meeting four neighbors who live near the project site spoke during the public hearing. The main concerns were about existing traffic on Oak Hill Drive. Oak Hill Drive provides a connection between New Leicester Highway and Hazel Mill Road. Some neighbors were also concerned about existing condition and width of Oak Hill Drive. The project itself is not expected to have a major impact on traffic volumes.

Staff recommends approval of the proposed Oak Hill Village conditional zoning along with the conditions requested, finding the proposal consistent with City-adopted plans and strategic goals.

When Councilwoman Wisler asked where people would park if more parking was needed, Mr. Glines said that there is at least one parking space per unit and that if there was no landscape buffer in the front of the project, people might park there.

Mayor Manheimer opened the public hearing at 8:02 p.m.

Mr. Ward Griffin, applicant, said that he was excited with this great site and great design. They will have 29 of their 72 units at an affordable level. He said that will also complete the City's land use incentive grant where they intend to commit to another 10 units to affordability. He noted that a concern expressed by the community that Oak Hill Drive is being used as a cut through. They are prepared to commit to $5,000 for traffic calming measures off site. He asked for Council's support.

In response to Councilman Pelly, Mr. Griffin said that there will not be a full-time property manager for the 72 units on site, but they will have areas for case managers and some property management in one of the buildings on site.

Councilman Pelly acknowledged the small portion of sidewalk on Oak Hill Drive.

Mr. Rich Lee, representing the Greenway Commission, said that the railroad is the potential future West Asheville Rails to Trails Greenway and when that happens, he hoped we are committed to making sure that West Asheville Rails to Trails Greenway happens.

Mr. Glines noted that a condition regarding the owner/developer providing $5,000 for traffic calming measures will be added to the list of conditions.

Mr. Alan Ditmore said that when people have a problem parking they use alternative transportation modes. He suggested the City stop actively creating parking.

Mayor Manheimer closed the public hearing at 8:10 p.m.

In response to Councilman Pelly, City Traffic Engineer Jeff Moore said that Oak Hill Drive is number three on the list of traffic calming projects. That project is funded for this year and the $5,000 offered will be placed in the traffic calming fund.

When Councilman Pelly asked what the schedule is on Leicester Highway sidewalks, Mr. Moore only knew that the project is in process; however, he felt that Transportation Director Ken Putnam would follow-up with Council on the timing of that project.

In response to Councilman Pelly, Mr. Moore acknowledged that there is no traffic light at the intersection of Leicester Highway and Oak Hill Drive to allow people to cross Leicester Highway to catch the bus. He said that Leicester Highway is a N.C. Dept. of Transportation road and felt that as demand grows the likelihood of a signal would increase.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to conditional zoning request for Oak Hill Village on 29 Oak Hill Drive from zoning RM-16 (residential multifamily high density) to the RM-16-CZ (residential multifamily high density conditional zone) and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the proposal provides 72 residential units and of these 29 will be affordable units which

are needed in the community (2) the site is conveniently located for transit and transportation facilities, and (3) shopping and employment centers are located nearby. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 10

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A CONDITIONAL ZONING OF PROPERTY LOCATED ON 673 SAND HILL ROAD TO ALLOW THE DEVELOPMENT OF ONE ADDITIONAL RESIDENTIAL UNIT IN AN UNFURNISHED SPACE IN AN EXISTING BUILDING

ORDINANCE NO. 4423- ORDINANCE TO AMEND CONDITIONALLY ZONE PROPERTY LOCATED ON 673 SAND HILL ROAD TO ALLOW THE DEVELOPMENT OF ONE ADDITIONAL RESIDENTIAL UNIT IN AN UNFURNISHED SPACE IN AN EXISTING BUILDING

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend conditionally zone property located on 673 Sand Hill Road to allow the development of one additional residential unit in an unfinished space in an existing building. This public hearing was advertised on May 15 and 22, 2015.

The original conditional zoning was approved by City Council in 2007, under Ordinance no. 3546.

The overall project site consists of two parcels (PINs 9627.59-1752 & 9627.49-9750) with a combined area of approximately 5.9 acres located at 673 Sand Hill Road. The parcels were conditionally rezoned from RM-6 to RM-8 by City Council in 2004 and 2007 and the Sand Hill Apartments are complete and occupied. Adjacent zoning includes RS-4 to the north, RM-6 to the east and west and Institutional-CZ to the south.

In 2004, City Council approved a conditional use rezoning (RM-6 to RM-8) for parcel 9627.49-9750 for the renovation and construction of a multi-family residential project, resulting in 25 units in six buildings. In 2007, a similar conditional zoning request for the adjacent parcel (9627.59-1752) was approved for the construction of 23 units in six buildings. The development has been constructed and under operation since then. With the 2007 approval, a condition was placed requiring the 23 units on the second parcel/phase to be deed restricted as affordable for a period of ten years, however since then the development went through a bank foreclosure process that eliminated the deed restriction for the new owner. This proposal would propose to add one unit in Building G on the second phase/parcel, resulting in a total of 49 units for the overall development.

Building G contains an unfinished space and the current owner is requesting to create one additional residential unit within this area of the building. No additional site work is required by the additional unit.

The parcels are accessed via a 20 foot private right-of-way (Deed Book 1400, Page 415) to Sand Hill Road. No changes to access are proposed or required.

The overall site is compliant with regards to parking and no additional spaces are required by the additional unit. Additionally, landscaping and open space were compliant from the 2007 approval.

The additional unit brings the residential density for the overall site up to 49 units; a total of 51 units would be the maximum allowed for the project area.

This proposal was approved with conditions by the Technical Review Committee on May

4, 2015. The Planning & Zoning Commission unanimously recommended approval at their meeting on May 21, 2015. Final TRC review is required prior to issuance of a zoning permit. No communication has been received from the public as of the writing of this report.

The apartment complex was approved and constructed through two separate conditional zoning actions, in 2004 and 2007. The development was approved with compliant parking, landscaping and open space and as the application is to finish out one additional residential unit within an existing building with no other site work, this proposal is considered compatible with the surrounding area.

One of the smart growth principles in the Asheville City Development Plan 2025 highlights the importance of higher density infill development where infrastructure can easily be provided. This is an existing development that was approved in 2007 and the additional unit can be included without site work or impact. Also, the Plan speaks at length about the issue of affordable housing. Staff has confirmed with the Housing Authority that this applicant is an established provider of dedicated housing units. Seven of the apartments are currently coordinated with the Housing Authority, which amounts to approximately 15% of the total number of units in the development being affordable.

Based on the above findings and the analysis provided in the staff report and as stated in the recommendation below, staff finds this request to be reasonable, consistent with the comprehensive plan and within the best public interest.

Considerations:

- The development is existing and established; the additional unit will be provided in an unfinished space requiring no additional site work outside of the structure.
- The applicant is a provider with the Housing Authority to provide dedicated units within the existing development.

Staff recommends approval of the proposed conditional zoning amendment to add one residential unit in the existing development, finding it consistent with City-adopted plans and strategic goals for development.

Mayor Manheimer opened the public hearing at 8:17 p.m. and when no one spoke, she closed the public hearing at 8:17 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to recommend approval of the conditional zoning request for 673 Sand Hill Road from RM-8 CZ to RM-8 CZ and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The development is existing and established through the 2007 conditional zoning; and (2) The one additional unit will be in an existing building and does not require any site work or disturbance. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 17

E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-11-8 (b) (4) TO CORRECT AN EARLIER AMENDMENT THAT PROVIDES A CLARIFICATION FOR A THRESHOLD FOR WHEN SIDEWALKS ARE REQUIRED

ORDINANCE NO. 4424 - ORDINANCE TO AMEND THE UNIFIED DEVELOPMENT ORDINANCE TO SECTION 7-11-8 (b) (4) TO CORRECT AN

EARLIER AMENDMENT THAT PROVIDES A CLARIFICATION FOR A THRESHOLD FOR WHEN SIDEWALKS ARE REQUIRED

Interim Planning Director Alan Glines said that this is the consideration of an ordinance to amend the Unified Development Ordinance to Section 7-11-8(b)(4) to correct an earlier amendment that provides a clarification for a threshold for when sidewalks are required. This public hearing was advertised on May 29 and June 5, 2015.

Currently, among the variety of conditions for when sidewalks are required, item (4) reads:

> *"All existing office, institutional, commercial, and industrial development additions or expansions to structures where the expansion results in an increase of more than 50 percent value of the structure as defined in section 7-11-1 of this chapter;"*

An amendment was approved in 2009 that revised the 50 percent threshold up to 75 percent. This was done to provide some minor relief for when properties were being renovated or retrofitted for new uses to encourage reinvestment and new business uses. During a later amendment, this same threshold was changed back to 50 percent by what appears to have been a typographical error. This has resulted in some inconsistencies within in the UDO.

Therefore, this ordinance amendment seeks to correct this requirement to say that, "*All existing office, institutional, commercial, and industrial development additions or expansions to structures where the expansion results in an increase of more than **75** percent value of the structure as defined in section 7-11-1 of this chapter*"

The Comprehensive Plan speaks to the need for and support for community infrastructure such as sidewalks and seeks to balance new investment and reinvestment in new construction activities in support of community infrastructure.

Staff recommends approval of this proposed amendment because it corrects an inconsistency in the ordinance and supports the construction of needed sidewalk infrastructure. The Planning and Zoning Commission reviewed the amendment at their meeting on May 6, 2015 and voted unanimously to recommend approval.

Mayor Manheimer opened the public hearing at 8:19 p.m. and when no one spoke, she closed the public hearing at 8:19 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler moved to approve the proposed amendment to Section Sec. 7-11-8(b)(4) as outlined in this report and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, because it supports the construction of needed community infrastructure and provides a correction to the ordinance. This motion was seconded by Councilman Pelly and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 24

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-121 - RESOLUTION AUTHORIZING THE APPROVAL OF THE 2015-16 STRATEGIC PARTNERSHIP FUND GRANTS

Community Development Manager Heather Dillashaw said that this is the consideration of a resolution approving the recommendations of the Housing & Community Development Committee for the 2015-16 Strategic Partnership.

The Housing & Community Development (HCD) Committee received applications from 17 eligible organizations for Strategic Partnership Funds for 2015-16, for a total of $315,885. One application was withdrawn after submittal. The Committee considered these applications at their meeting on May 19, 2015, and recommends six applications for funding. The recommendations are:

Agency	Funding Support Purpose	2015 Funding Recommendation
Asheville Design Center	Support of the Asheville Design Center's effort to design and construct an Outdoor Learning Center at Hall Fletcher Elementary.	4,000
Blue Ridge Food Ventures	Support-shared use production at Blue Ridge Food Ventures through 90 unique food and natural products businesses.	25,000
Children First/Communities in Schools	Learning Center program: an afterschool safe haven where economically disadvantaged students receive academic assistance, a healthy snack, and enrichment activities, completely free of cost. Our Learning Centers emphasize education and reduce the achievement gap by offering academic assistance and mentoring relationships for students.	20,000
Homeward Bound of WNC	Fund will support the new AHOPE Coordinated Assessment Program from July 1, 2015 through June 30, 2016.	28,400
Pisgah Legal Services	Pisgah Legal Services will utilize the Strategic Partnerships Fund grant to research and draft policies related to increasing and improving affordable housing in the City of Asheville, including an incentive-based inclusionary zoning policy.	9,000
YWCA	Support the MotherLove Program for pregnant and parenting teens with goals of ensuring participants graduate high school, enroll in secondary education, vocational training or employment at a livable wage and delay a subsequent pregnancy.	12,000

Total recommended funding is $98,400. This amount is unchanged from last year's Strategic Partnership Fund Program.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.
- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funded from the City's general fund. The funding recommendations do not exceed the fiscal limits included in the FY 2015-2016 Proposed Budget of $98,400.

The HCD Committee recommends approval of the 2015-16 Strategic Partnership Fund grants as presented.

After a brief discussion, it was the consensus of Council to

After discussion, it was the consensus of the majority of Council to allocating an additional $50,000 (from the excess $700,000 fund balance) to the Strategic Partnership Fund and refer the strategic partnership funding process back to the Housing & Community Development Committee for another recommendation at the Council's June 23, 2015, meeting. Said review should include all prior applications received but not funded, with an emphasis on agencies that have been partners with the City in the past.

Rev. L. C. Ray, CEO of One Youth at a Time, thanked City Council for this re-consideration of funding.

Mr. Alan Ditmore spoke about the small amount of funding for the YWCA.

Community Engagement Coordinator for Asheville Greenworks also thanked Council for their re-consideration of funding, again noting their work with the low income community.

Ms. Kathy Peterson, representing Blue Ridge Food Venture, thanked City Council for their support.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-121. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 176

B. RESOLUTION NO. 15-120 - RESOLUTION APPOINTING A CHAIR TO THE CIVIL SERVICE BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said it is the responsibility of City Council to annually appoint the Chair of the Civil Service Board.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

At the Civil Service Board meeting on June 4, 2015, all members were advised to contact City Clerk Burleson if they were interested in serving as Chair. Mr. Coxie was the only interested member.

Mayor Manheimer moved to reappoint Mr. Alan Coxie as Chairman of the Civil Service Board to serve a one-year term until your successor is duly appointed or until your term on the Civil Service Board expires, whichever occurs first. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 175

C. BOARDS & COMMISSIONS

RESOLUTION NO. 15-122 – RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the African American Heritage Commission.

The term of Marvin Chambers expires on July 1, 2015.

The following individuals applied for a vacancy: Tiffany DE'Bellott and Alberta Williams.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Chambers.

Vice-Mayor Hunt moved to reappoint Marvin Chambers to serve a three-year term, term to expire July 1, 2018, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 177

RESOLUTION NO. 15-123 - RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ELECTRICAL EXAMINERS

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Electrical Examiners.

The terms of Tommy Wilson, Phil Wilson, David Martin, Gus Sims and Ken Frisbee expire on July 1, 2015.

The following individuals have applied for a vacancy: George Grigg and Charlie Wheeler.

The Boards & Commissions Committee recommended (1) reappointing David Martin (utility representative), Gus Sims (licensed engineer), and Ken Frisbee (layman); and (2) appointing George Grigg (electrical contractor) and Charlie Wheeler (journeyman electrician).

Vice-Mayor Hunt moved to (1) reappoint David Martin (utility representative), Gus Sims (licensed engineer), and Ken Frisbee (layman); and (2) appointing George Grigg (electrical contractor) and Charlie Weaver (journeyman electrician). All terms to expire July 1, 2018, or until their successors have been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 178

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RESOLUTION NO. 15-124 - RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointment members to the Civic Center Commission.

The terms of Joel Storrow, Chris Bubenik and J. Michael Burke expire on June 30, 2015.

The following individuals applied for a vacancy: Greg Duff, Anthony Mitchell, Harris Livingstain and Shelia Surrett.

It was the consensus of the Boards & Commission Committee to reappoint Mr. Storrow and Mr. Bubenik and appoint Greg Duff

Vice-Mayor Hunt moved to (1) reappoint Mr. Storrow and Mr. Bubenik to each serve a three year term respectively, terms to expire June 30, 2018; and (2) appoint Greg Duff to serve a three-year term, term to begin July 1; 2015, and expire June 30, 2018, or until his successor is appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 179

RESOLUTION NO. 15-125 – RESOLUTION APPOINTING A MEMBER TO THE DOWNTOWN COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Downtown Commission.

Mr. Bruce Hazzard has resigned from the Downtown Commission, thus leaving an unexpired term until December 31, 2015.

The following individuals applied for the vacancy: Brent Campbell, John Menkes, Guillermo Rodriguez, Constance Richards, Drea Jackson, Audra Gaiziunas, Rae Geoffrey and Kelly Prime.

It was the consensus of the Boards & Commissions Committee to appoint Brent Campbell.

Vice-Mayor Hunt moved to appoint Brent Campbell to serve the unexpired term of Mr. Hazzard, term to expire December 31, 2015, or until his successor has been appointed. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 180

RESOLUTION NO. 15-126 – RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville-Buncombe Historic Resources Commission.

The terms of William Eakins and Tracey Rizzo expire on July 1, 2015.

No individuals applied for a vacancy.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Eakins and Ms. Rizzo.

Vice-Mayor Hunt moved to reappoint William Eakins and Tracey Rizzo to each serve a three-year term, terms to expire July 1, 2018, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 181

RESOLUTION NO. 15-127 - RESOLUTION APPOINTING MEMBERS TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Hunt said that this is the consideration of appointing members to the Multimodal Transportation Commission.

The terms of Julie Mayfield, Mary Weber and Don Kostelec expire on July 1, 2015. In addition, there currently exists a vacancy left by Robert Roepnack, whose term will expire July 1, 2016.

Vice-Mayor Hunt moved to (1) reappoint Julie Mayfield (representing Transit Committee), Mary Weber (representing Greenway Commission), and Don Kostelec (representing the Bike and Pedestrian Task Force), to each serve a three-year term, terms to expire July 1, 2018, or until their successors have been appointed; and (2) postpone the appointment of the Neighborhood Advisory Committee representative until the Neighborhood Advisory Committee has a full board. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 182

RESOLUTION NO. 15-128 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Neighborhood Advisory Committee.

The terms of Spencer Hardaway, Saul Chase and Joe Fioccola expire on July 1, 2015. In addition, Mr. Robert Roepnack has resigned, thus leaving an unexpired term until July 1, 2017.

The following individuals applied for a vacancy: Julie Hansbury, Philip Lenowitz and Greta Bush.

It was the consensus of the Boards & Commissions Committee, and recommendation from the Neighborhood Advisory Commission, to reappoint Mr. Hardaway and Mr. Fioccola and appoint Greta Bush and Philip Lenowitz.

Vice-Mayor Hunt moved to (1) reappoint Spencer Hardaway (representing 28803 or 28704 zip code), and Mr. Joe Fioccola (representing 28801 zip code); to each serve a three-year term, terms to expire July 1, 2018, or until their successors have been appointed; and (2) appoint Greta Bush (representing at-large) to serve a three-year term, term to expire July 1, 2018, or until her successor has been appointed; and (3) appoint Philip Lenowitz (representing 28804 zip code) to fill the unexpired term of Mr. Roepnack, term to expire July 1, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 183

RESOLUTION NO. 15-129 – RESOLUTION APPOINTING MEMBERS TO THE NOISE ORDINANCE APPEALS BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Noise Ordinance Appeals Board.

The terms of Beau Dean (Regular member) and Elizabeth Franks (Alternate member) expire on July 1, 2015.

The following individuals have applied for a vacancy: Robert Glenn and Tod Leaven.

It was the consensus of the Boards & Commissions Committee to appoint Tod Leaven as a Regular member and appoint Robert Glenn to the Alternate seat.

Vice-Mayor Hunt moved to (1) appoint Tod Leaven as a Regular member to serve a three-year term, term to expire July 1, 2018; and (2) appoint Robert Glenn as an Alternate member to serve a three-year term, term to expire July 1, 2018. Both appointments will be until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 184

RESOLUTION NO. 15-130 – RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Public Art & Cultural Commission.

The terms of Sharon Trammel, Robert Todd and Constance Richards expire on June 30, 2015.

The following individuals have applied for a vacancy: Nancy Long, Irene Morris, Rob Laboray, K. Johnson Bowles, Monika Gross and Audra Gaiziunas.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. Trammel and Ms. Richards and appoint K. Johnson Bowles.

Vice-Mayor Hunt moved to (1) reappoint Sharon Trammel and Constance Richards to each serve a three-year term respectively, terms to expire June 30, 2018, or until their successors have been appointed; and (2) appoint K. Johnson Bowles to serve a three-year term, term to expire June 30, 2018, or until her successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37- PAGE 185

RESOLUTION NO. 15-131 – RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Recreation Board.

The terms of Barry Mundt, Forest Merithew, Robert Pierce, Hutch Kerns and Ashley Arrington expire on June 30, 2015. In addition, Josh O'Conner and Patrick Dennehy have resigned from the Commission, thus leaving two unexpired terms until June 30, 2017.

The following individual has applied for a vacancy: Dean Pistor.

It was the consensus of the Boards & Commissions Committee to reappoint Mr. Mundt, Mr. Merithew, Mr. Pierce and Ms. Arrington; and to re-advertise.

Vice-Mayor Hunt moved to (1) reappoint Barry Mundt, Forest Merithew, Robert Pierce, and Ashley Arrington to each serve a three-year term respective, terms to expire June 30, 2018, or until their successors have been appointed; and (2) re-advertise. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 186

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:47 p.m.

Magdalen Bullock
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 23, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; Assistant City Manager Paul Fetherston; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JUNE 22-26, 2015, AS "BLUE RIDGE QUARTER PARKWAY WEEK"

Mayor Manheimer read the proclamation proclaiming June 22-26, 2015, as "Blue Ridge Quarter Parkway Week" in the City of Asheville. She presented the proclamation to Ms. Leesa Sutton Brandon, Partnerships & Public Information for the Blue Ridge Parkway, who briefed the Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 9, 2015

B. TECHNICAL BUDGET AMENDMENTS

ORDINANCE NO. 4425 - TECHNICAL BUDGET AMENDMENT (1) FROM UNBUDGETED DEGRADATION FEE REVENUE COLLECTED IN THE GENERAL FUND THAT IS DESIGNATED FOR THE RESURFACING PROGRAM AND (2) FROM UNBUDGETED LAND SALE PROCEEDS COLLECTED IN THE GENERAL FUND THAT ARE TO BE DESIGNATED FOR THE CAPITAL IMPROVEMENT PROGRAM

Summary: The consideration of two year-end Fiscal Year (FY) 2015 technical budget amendments: (1) in the amount of $328,314.33 from unbudgeted Degradation Fee Revenue collected in the General Fund that is designated for the resurfacing program; and (2) in the amount of $308,249.51 from unbudgeted land sale proceeds collected in the General Fund that are to be designated for the Capital Improvement Program (CIP).

Degradation Fee Revenue

When the City began the Street Cut Program in FY 2011, it included a degradation fee component of the program. This fee allows utilities that are participating in the Street Cut Program to pay a fee instead of overlaying its cut when the road condition is failing (usually below a rating of 60). This fee is calculated by using the Pavement Condition Rating (PCR) and a percent of an estimated overlay cost. Revenue from the degradation fee is set aside to fund the City's resurfacing program. Up until this current fiscal year, the resurfacing program has been budgeted in the General Fund with degradation fee revenue also budgeted and recorded in the General Fund rather than the Street Cut Fund. From the Street Cut Program's inception through

this current fiscal year, the City has collected $328,314.33 more in degradation fee revenue than has been budgeted. This unspent revenue has been shown as assigned fund balance in the annual audited financial report each year, and therefore not included in the City's unassigned (available) fund balance. The technical budget amendment would appropriate this $328,314.33 in the General Fund and transfer it to the General Capital Projects Fund where it would be added to the FY 2015 street resurfacing project budget. It should be noted that beginning in FY 2016, degradation fee revenue will be recorded in the Street Cut Fund. This revenue will be utilized as it comes in by the City through the Public Works Department to execute smaller paving contracts outside the main resurfacing contract.

Land Sale Revenue

During FY2013, the City began designating land sale revenue to directly support the City's Capital Improvement Program (CIP). As the City has sold land over the last few years, proceeds from the sales have been recorded in the General Fund with the plan of eventually transferring the revenue over to the General Capital Projects Fund to support the CIP. Like degradation fee revenue, land sale proceeds have been shown as assigned fund balance in the annual audited financial report each year, and therefore not included in the City's unassigned (available) fund balance. To date, the City has collected $308,249.51 in land sale revenue. The technical budget amendment would appropriate this $308,249.51 in the General Fund and then transfer it to the General Capital Projects Fund.

Pros:

- Provides additional budget authorization for the FY 2015 resurfacing project.
- Reduces the amount of funds that staff must track and reported as assigned in the City's Comprehensive Annual Financial Report (CAFR).

Con:

- None.

As noted above, both degradation fee revenue and land sale revenue were recorded in the assigned portion of General Fund fund balance in the FY2014 CAFR. Therefore, this budget amendment will have no impact on the City's General Fund unassigned fund balance.

Staff recommends City Council approve the following technical budget amendments: (1) in the amount of $328,314.33 from unbudgeted Degradation Fee Revenue collected in the General Fund that is designated for the resurfacing program; and (2) in the amount of $308,249.51 from unbudgeted land sale proceeds collected in the General Fund that are to be designated for the Capital Improvement Program.

ORDINANCE BOOK NO. 30 - PAGE 26

C. ORDINANCE NO. 4426 - BUDGET AMENDMENT IN THE WATER RESOURCES FUND TO BUDGET THE REFUNDING OF THE SERIES 2005 AND 2007 WATER REVENUE BONDS

Summary: The consideration by City Council of a technical budget amendment in the Water Resources Fund in the amount of $57,002,939 to budget the refunding of the Series 2005 and Series 2007 Water Revenue Bonds.

On June 11, the City closed on the 2015 Water System Revenue Refunding Bond (Green Bonds) transaction. The financing generated $57,002,939 in bond proceeds which are being used to refinance the Series 2005 and Series 2007 Water Revenue Bonds. The financing was completed at an All-in True Interest Cost (TIC) rate of 2.702% with a final maturity in Fiscal Year (FY) 2033. The refunding generated total cash flow savings (new debt service, including all costs compared to the old debt service) of approximately $8,240,000 through 2033.

The FY 2014-15 Water Resources Fund budget did not include appropriations reflecting this refunding transaction. This technical amendment incorporates into the budget the refunding and the costs of execution and delivery.

Pro:

- Amends the FY 2014-15 budget to provide sufficient budget authorization to record the 2015 Water System Revenue Refunding Bond (Green Bonds) transaction.

Con:

- None.

As noted above, the refunding generated total cash flow savings (new debt service, including all costs compared to the old debt service) of approximately $8,240,000 through Fiscal Year 2033.

Staff recommends Council approve the technical budget amendment in the Water Resources Fund in the amount of $57,002,939 to budget the refunding of the Series 2005 and Series 2007 Water Revenue Bonds.

ORDINANCE BOOK NO. 30 - PAGE 28

D. RESOLUTION NO. 15-133 - RESOLUTION ADOPTING A POLICY TO PREQUALIFICATION OF BIDDERS FOR CONSTRUCTION PROJECTS

Summary: The consideration of a resolution to adopt a prequalification policy applicable to particular construction or repair projects and first tier subcontractors on construction manager at risk projects.

In 2014, the North Carolina General Assembly adopted Session Law 2014-42, which amended NCGS §143-135.8 and NCGS §143-128.1, regarding prequalification of construction contractors and Construction Manager at Risk projects. The statutory amendments provide general authorization to local governments to prequalify contractors for construction or repair projects that are bid under the single-prime, separate-prime (multi-prime), or dual bidding methods as well as the first tier subcontractors on Construction Manager at Risk projects.

Prequalification is defined under the amended N.C.G.S. 143-135.8(f)(2) as "a process of evaluating and determining whether potential bidders have the skill, judgment, integrity, sufficient financial resources and ability necessary to the faithful performance of a contract for construction or repair work."

In order to prequalify bidders, City Council must adopt an objective prequalification policy prior to the advertisement of the contract for which the City intends to prequalify bidders.

The Prequalification Policy was prepared by the City's Purchasing Division and Legal Department, borrowing language from the State of North Carolina and other North Carolina local government prequalification policies. All affected City Departments have reviewed the Prequalification Policy.

Pros:

- Policy enables the City to prequalify bidders for certain construction/repair projects.
- Provides for uniformity, consistency and transparency.
- Ability to identify contractors with proven performance before the bid process is started, particularly on large projects and projects that require specialized skills or are fast-tracked.

Con:

- None

Staff recommends City Council adopt a resolution adopting the prequalification policy.

RESOLUTION BOOK NO. 37 - PAGE 188

E. RESOLUTION NO. 15-134 - RESOLUTION AMENDING THE COMPOSITION OF THE CITIZENS-POLICE ADVISORY COMMITTEE BY CONVERTING THE ASHEVILLE POLICE OFFICER - SERGEANT IN COMMUNITY RELATIONS MEMBER POSITION FROM A VOTING MEMBER TO A NON-VOTING MEMBER

Summary: The consideration of a resolution amending the composition of the Citizen-Police Advisory Committee (CPAC) by converting the Asheville Police Officer – Sergeant in Community Relations member position from a voting member to a non-voting member.

In 1989, a Citizen-Police Advisory Committee was appointed by City Council in an ad-hoc capacity to study the relationship between the community as a whole, the African American community in particular, and the Police Department. Following its initial ad-hoc work and submission of a final report that recommended the appointment of a permanent CPAC, Council adopted Resolution No. 91-67 which created CPAC as an on-going committee. The composition of voting members currently include the following:

- Five community representatives from the North, East, South, West and Central portions of Asheville;
- Asheville-Buncombe Community Relations Council Chair;
- Asheville Police Officer – Sergeant in Community Relations or designee;
- Asheville Housing Authority Chair or designee; and
- Two ad hoc members appointed on a temporary basis in response to specific problems, incidents or events.

Non-voting members include the following:

- City Council member; and
- Asheville Chief of Police.

In reviewing the composition of the Commission, the City Manager's Office identified the voting status of the Asheville Police Officer – Sergeant in Community Relations on CPAC as a priority to address. The input and counsel provided by a member of the Asheville Police Department is important to CPAC – and can be provided more effectively in a non-voting capacity similar to the Chief of Police position.

The Boards and Commissions Committee reviewed this item at their June 9 meeting and recommended approval.

Pro:

- Enhances the integrity of the process by providing CPAC with the resource of a sworn member of the Police Department.

Con:

- None identified

City staff recommends City Council adopt a resolution amending the composition of the Citizen Police Advisory Committee by converting the Police Officer – Sergeant in Community Relations member position into a non-voting member.

RESOLUTION BOOK NO. 37 - PAGE 195

F. RESOLUTION NO. 15-135 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ADOPT-A-PARK AGREEMENT WITH JUST FOLKS FOR A WAIVER OF PARK USE AND SPECIAL EVENTS PERMIT FEES FOR TRIANGLE PARK FOR FISCAL YEAR 2015-16

Summary: The consideration of a resolution authorizing the City Manager to sign an Adopt-a-Park Agreement with Just Folks to include a waiver of park use and permit fees for Triangle Park for FY 2015-2016.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area known as "The Block". On June 26, 2012, City Council approved a resolution authorizing the City Manager to sign an Adopt-a-Park Agreement with Just Folks that included a waiver of park use fees of up to $2,500 at the reduced rate provided for local non-profits. The waiver has made it possible for them to produce events that activate Triangle Park by providing a variety of positive activities including music festivals, community cookouts and other community-building events in the Park May to December on Saturdays and Sundays. These events have contributed to more positive use of the area and resulted in the park being used by a more diverse group of city residents and visitors.

Since May 2014, Just Folks has expanded the activities included in their events so that they require tents and food preparation in the park. This in turn has made additional permit fees for tent use and operational fire permits necessary. The City Legal Department and the Special Events/Economic Development Specialist recommended amending the original agreement to include permit fees in order to make it possible for Just Folks to produce their events as planned for this fiscal year. The additional permitting fees were minimal and could be covered by the original fee waiver amount of $2,500. Council approved the amended agreement on October 14, 2014.

The presence of Just Folks members and their programming in the park continues to contribute to the reduction of nuisance behaviors in and around the park and an improved appearance for the park. Over the past four (4) years their efforts have made the park safer and more attractive to downtown visitors and community members and helped the city meet specific City Council goals for economic and community development. The group was also instrumental in the installation of a mural commemorating the contributions of African American businesses, residents and professionals to the success of "The Block", thereby creating a visual record of the historic nature of the area and a sense of place to help preserve the legacy of the once thriving community that existed in this location.

Pros:

- Strategic partnerships allow the city to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee and permitting waiver requests related to this group's events.
- This action is consistent with other partnerships the City has entered into for park programming in key community development areas.
- Creates a sense of place in an historic area of the city.

Con:

- The reduction in park use and permit fees result in lost revenue for the city; however, the city has not budgeted for this revenue in FY 2015-2016.

The estimated value of the waived park usage plus the permit fees is $2,500; however, this revenue has not been included in the FY 2015-2016 budget.

Staff recommends that City Council authorize the City Manager to sign the Adopt-a-Park Agreement with Just Folks including a fee waiver for park usage and permit fees associated with programming in Triangle Park.

RESOLUTION BOOK NO. 37 - PAGE 196

G. RESOLUTION NO. 15-136 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A PROFESSIONAL SERVICES CONTRACT WITH JOHN DAVENPORT ENGINEERING INC. FOR THE REDESIGN OF LIVINGSTON STREET AND A PORTION OF DEPOT STREET INTO A COMPLETE STREET FOR CONSTRUCTION AS ONE OF THE CITY'S TIGER VI-FUNDED PROJECTS

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional services contract with John Davenport Engineering, Inc., dba Davenport, for the redesign of Livingston Street and a portion of Depot Street into a complete street for construction as one of the city's TIGER VI-funded projects.

This agreement is for the design, construction documents, and environmental review stages of a project to improve Livingston Street and a portion of Depot Street from approximately 372 Depot Street to Victoria Road. This multimodal transportation project is envisioned in the TIGER II-funded East of the Riverway Connections plan, and construction is one of the city's TIGER VI projects. The project includes improving the corridor for pedestrians, bicyclists, and transit users while cycle use while maintaining functionality for motorized vehicles.

The City issued a Request for Qualifications (RFQ) for Engineering and Design Services for construction documents, including plans, specifications and estimates for complete street improvements, which included providing required environmental documents, in April 2015. The RFQ closed on April 30, 2015. Nine proposals were received from the following firms:

1. Michael Baker International, Asheville, NC
2. Davenport, Asheville
3. The Jaeger Company, Gainesville, GA
4. Mattern & Craig, Asheville, NC
5. Ramey Kemp & Associates, Raleigh, NC
6. Stewart, Inc., Raleigh, NC
7. JM Teague Traffic Engineering, Inc., Waynesville, NC
8. Vaughn & Melton Consulting Engineers, Asheville, NC
9. Wetherill Engineering, Raleigh, NC

The evaluation committee recommended Davenport as the firm to provide the services for this project. The firms were evaluated based on their qualifications, relevant experience, and technical expertise. Scope and cost were successfully negotiated with the recommended firm.

The project cost will be $233,000 and $17,000 in contingency. This plan will be completed by March 1, 2016, in order to meet TIGER VI grant deadlines.

The evaluation committee consisted of a multi-disciplinary, multi-departmental group of city staff and a member of the community.

Pro:

- This project is the first step to implementing a complete streets project that has been identified in the city's TIGER VI grant and the city's capital budget.

Con:

- The total maximum cost of the subject project is $250,000.

The cost of the design, construction documents, and environmental review for the Livingston Complete Street project will be up to $250,000. This project is already budgeted in the adopted Capital Improvement Program.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a professional services contract with Davenport to develop the design and construction documents, including plans, specifications and estimates, and to perform the environmental review for the Livingston Complete Streets project for the City of Asheville.

RESOLUTION BOOK NO. 37 - PAGE 197

H. ORDINANCE NO. 4427 - FIRST READING OF AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO EXTENET SYSTEMS INC. FOR INSTALLATION OF TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise to ExteNet Systems, Inc., pursuant to the City's Telecommunications Ordinance (3056).

The City of Asheville (City) adopted Article III of the Code of Ordinances (the Telecommunications Ordinance) in 2003 to provide for the granting of revocable and non-exclusive franchises to install telecommunications facilities in the City's right-of-way. ExteNet Systems, Inc. wishes to begin operations in Asheville and requires the granting of a franchise agreement under the Telecommunications Ordinance.

Most of the substantive terms applicable to this or any telecommunications franchise are set forth in the Telecommunications Ordinance, and ExteNet Systems, by accepting the franchise, agrees to abide by the provisions of the ordinance. The main issues to be determined in connection with this particular franchise are the fee that the City will receive and the length of the franchise term.

Franchise Fee: In accordance with §4.5-85(a) of the City's Code of Ordinances, the grantee of any franchise shall pay a franchise fee or may provide non-monetary consideration including additional facilities and excess capacity to be reserved for the city's use.

With regard to a franchise fee, the Information Technologies Department determined that a two-tiered fee structure based on density would reflect the value of the right-of-way in high density areas while encouraging the extension of service into under-served and less dense areas. Within the downtown area (defined as Charlotte/South Charlotte Streets on the east; Beaumont/Hilliard Streets on the south; Clingman/Haywood Streets on the west; and I-240 on the north), the rate is proposed to be $.10 per foot per month for each linear foot of right-of-way used for the installation. Outside of this core area, the rate drops to $.02 per foot per month. In lieu of an estimated fee of approximately $2,850/year for the initial installation of 2 ¼ miles of fiber running along S. Tunnel Road, White Pine Ct. and River Hills Road, ExteNet Systems has agreed to provide the City with the exclusive use of 8 strands of fiber. The estimated value of this fiber is approximately $70,000. ExteNet also has agreed to provide 8 strands of fiber in all subsequent fiber build requests.

Franchise Term: ExteNet Systems has requested a 10-year term, renewable for two 10-year terms, unless either party terminates.

Installation: Pursuant to §4.5-85(d), any installation relative to a franchise in the public rights-of-way must submit a construction plan and receive approval from the City Engineer.

Considerations:

1. This will be the City's third franchise agreement of this type.
2. The City has the obligation to protect and preserve its right-of-way for public use, and the right to expect fair compensation for its use by profit-making enterprises. The compensation that we receive should be fair and equitable, and we may not prefer one provider over another.
3. There is significant public interest in enabling telecommunications providers to provide their service, and especially to enable, or at least not obstruct, provision of such service to less densely populated and underserved areas.

Staff recommends that Council grant a franchise to ExteNet Systems by adoption of the ordinance. Staff is available to assist in determining options relative to the proposed fee schedule and the term. Since this is a franchise ordinance, a second reading of it will be required.

ORDINANCE BOOK NO. 30 - PAGE 30

I. ORDINANCE NO. 4428 - BUDGET AMENDMENT TO COVER COSTS ASSOCIATED WITH THE UNEXPECTED REPAIR NEEDS TO THE EXHIBIT HALL AIR CONDITIONING UNITS AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment in the amount of $72,038 in the U.S. Cellular Center Capital Fund utilizing savings in the U.S. Cellular Center Operating Fund to cover costs associated with unexpected repair needs to the Exhibit Hall Air Conditioning units.

The original to the building (1974) air conditioning units designed to cool the Exhibit Level space at the U.S. Cellular Center have experienced a major part failure, resulting in the in-ability to cool one of the four levels of rentable event space at the facility. After review and consultation from the City's purchasing department, multiple repair companies and suppliers staff determined repair of the AC coils is the best option for the City as compared to replacement of the units as a whole.

Pros:

- Repair to currently non-functional Air Conditioning Unit
- 1 year parts and labor warrantee
- Will allow for space to be cooled during contracted events which the building will be hosting in August & September.

Con:

- $72,037.46 cost is an unplanned expense

The budget amendment will authorize a project budget in the U.S. Cellular Center Capital Fund in the amount of $72,038 for the repair work. The funding for the project will come from savings within the U.S. Cellular Center Operating Fund's FY 2014-15 budget.

City staff recommends City Council adopt a budget amendment in the amount of $72,038 in the U.S. Cellular Center Capital Fund utilizing savings in the U.S. Cellular Center Operating Fund to cover costs associated with unexpected repair needs to the Exhibit Hall Air Conditioning units.

ORDINANCE BOOK NO. 30 - PAGE 54

J. ORDINANCE NO. 4429 - BUDGET AMENDMENT FOR JOB ACCESS AND REVERSE COMMUTE PEDESTRIAN SIGNAL GRANT

Summary: The consideration of a budget amendment in the General Capital Projects Fund in the amount of $13,063 from General Fund savings to increase city funding for the existing Job Access and Reverse Commute (JARC) pedestrian signal grant.

In 2010, the city successfully applied to the French Broad River Metropolitan Planning Organization (MPO) for Federal Transit Administration (FTA) JARC funding to install pedestrian signals at intersections that connect people to transit and jobs; the intersections are as follows:

1) Haywood Road and Louisiana Avenue,
2) Clingman Avenue and Hilliard Avenue,
3) Choctaw Street and McDowell Road, and
4) Biltmore Avenue and Southside/South Charlotte Street.

The project's original plan and cost estimates were based on the traffic engineering and signal work being carried out by the N.C. Dept. of Transportation (NCDOT) and/or it's contractors under a reimbursable agreement between NCDOT and the city, but that proved impossible. NCDOT was able to provide signal plans for one of the intersections, Clingman Avenue and Hilliard Avenue. The city subsequently used JARC funding to have the pedestrian signals at that intersection installed by a contractor. The city also proceeded with design for the remaining three signals using the JARC grant, but insufficient funding remained to purchase and install the signals at the three intersections.

Operational savings in the Transportation Planning budget have made funds available to add to the signal project. This additional funding will still leave a gap, but will help, and can serve as match or partial match if additional grant funding is found.

Additionally, a required reimbursable agreement with NCDOT to cover design review and inspections for the signal projects was paid from the Traffic Safety Capital Project, and that expense should be moved to the project in order to better track project costs and grant funds, and to justify the local match.

This proposed budget amendment moves savings from the General Fund Transportation Planning operations budget to the project, and moves the reimbursable agreement expense from Traffic Safety Capital Project to the JARC project.

Pro:

- Allows planned pedestrian safety improvements to continue.

Con:

- The $13,063 transferred to the project will not be enough to complete all of the signal installations.

This action transfers $13,063 in General Fund operating savings to the pedestrian signal project, continuing investment in Asheville's pedestrian network. NCDOT will maintain the signals, so there will be no increase in ongoing city costs for maintenance of the signal. The movement of the reimbursable agreement expense from Traffic Safety Capital Project to the JARC project has no net fiscal impact; there is no budget amendment needed for this part of the transaction.

City staff recommends City Council adopt the budget amendment in the General Capital Projects Fund in the amount of $13,063 from General Fund savings to increase city funding for the existing Job Access and Reverse Commute pedestrian signal grant.

ORDINANCE BOOK NO. 30 - PAGE 56

K. RESOLUTION NO. 15-137 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT THE CONVEYANCE OF REAL PROPERTY LOCATED ON LAKEWOOD DRIVE AND CHILES AVENUE FROM BUNCOMBE COUNTY

Summary: The consideration of a resolution authorizing the Mayor to accept the conveyance of real property located on Lakewood Drive and Chiles Avenue (PIN # 9648-93-4502-00000) from Buncombe County.

The City of Asheville maintains Lakewood Park in Kenilworth as a neighborhood park with recreational playground amenities. The real property is currently titled in Buncombe County's name and at this time the County wishes to convey the real property to the City in fee simple.

The parcel was originally acquired by the Board of Tax Supervision through a tax foreclosure in 1937. In the 1980's, the Board of Tax Supervision was dissolved and all properties held by the Board were conveyed to Buncombe County. This property was conveyed to the County, yet the historical use as Lakewood Park continued. At present, the City maintains the playground equipment and bathrooms on the property and will continue to use the property for the public purpose of open space and recreation. The conveyance of this property to the City will correct the ownership issue and all real property rights will vest in the City. The Buncombe County Commission approved this conveyance in their meeting on June 16, 2015.

Pro:

- Corrects ownership issue for Lakewood Park

Con:

- None

City staff recommends that City Council adopt the resolution authorizing the Mayor to accept the conveyance of real property located on Lakewood Drive and Chiles Avenue (PIN # 9648-93-4502-00000) from Buncombe County.

RESOLUTION BOOK NO. 37 - PAGE 198

L. RESOLUTION NO. 15-138 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A CONTRACT WITH ROGERS GROUP INC. FOR THE FISCAL YEAR 2015 ASPHALT PAVING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $1,784,404.42 plus a contingency of 12% ($215,595.58) with Rogers Group, Inc. for the project known as Asphalt Paving Improvements – Fiscal Year 2015, City of Asheville Project #CPM-14-15-010, and further authorizing the execution any change orders to said contract which may arise during construction of said project up to the budgeted amount of $2,000,000.00.

A list of warranted streets was put together to be addressed by this contract. The project was advertised on April 27, 2015, and due to an insufficient number of bids, advertised again on May 28, 2015. Bids were opened on June 4, 2015 with the following results:

Rogers Group, Inc. of Nashville, TN,	$1,784,404.42

Harrison Construction Company of Asheville, NC $2,118,546.84.

A 12% contingency ($215,595.58) has been added to allow payment for any unforeseen costs that typically arise during construction and to do additional street resurfacing. The work produced from this contract would fix a number of roads that are in need of repair.

Pro:

- Will repair approximately 4.47 miles of roadways within the Asheville City limits.

Cons:

- The project will cost the City approximately $1,784,404.42.
- Project management and contract administration will consume staff time.

The total budget for this project, including contingency, is $2 million, and is included as part of the Fiscal Year 2014-15 Capital Projects budget.

City staff recommends City Council adopt the resolution awarding the contract to Rogers Group, Inc. and authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $1,784,404.42 PLUS a contingency of 12% ($215,595.58) with Rogers Group, Inc. for the project known as Asphalt Paving Improvements – Fiscal Year 2015, City of Asheville Project #CPM 14-15-010 and authorize the execution any change orders to said contract which may arise during construction of said project up to the budgeted amount of $2,000,000.00.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the current bills with potential impact on the City of Asheville budget, specifically noting that one of the biggest issue of sales tax redistribution, which will cause a significant annual loss to Asheville and other Buncombe County municipalities.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING FOR PROPERTY LOCATED AT 275 AND 281 HAZEL MILL ROAD TO DEVELOP 113 MULTI-FAMILY UNITS

ORDINANCE NO. 4430 - ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL ZONING FOR PROPERTY LOCATED AT 275 AND 281 HAZEL MILL ROAD TO DEVELOP 113 MULTI-FAMILY UNITS

Urban Planner Julia Fields said that this is the consideration of an amendment to a previously approved conditional zoning for property located at 275 and 281 Hazel Mill Road to

develop 113 multi-family units (9 additional units and amenities). This public hearing was advertised on June 12 and 19, 2015.

The project site consists of two parcels [PINs 9638.39-9191 and 6188] located off of Hazel Mill Road, just north of Patton Avenue, with frontage along Clayton Avenue, Hazel Mill Road and Nancy Street. The project proposes a recombination which would result in an overall project area of 6.501 acres. The property slopes gently from west to northeast.

There are two vacant dwellings and several associated structures existing on the parcels which will be removed for this project.

In 2014, the subject property was conditionally zoned to RM-16CZ to allow for a 104-unit apartment complex in 10 buildings. The applicant is still proposing to construct a multi-family development that will consist of ten (10) buildings. The buildings are either two-story (one building) or two/three split configurations (maximum height of 40 feet) and contain a mix of one (36) and two (77) bedroom units for a total of 113 residential units. [The previous mix was 32 one bedroom and 72 two bedroom units]. The developer is still proposing that 10% (now 12 units) of the dwelling units be affordable meeting the City's standards. The remaining units will meet the City's criteria for "workforce" housing. A number of amenities are provided on the property for the benefit of the residents including a dog park, fitness center, community garden, and picnic areas. The buildings will be constructed to meet North Carolina Healthy Built Homes standards. [Amendment proposes to add a fitness center and leasing office to the amenities previously approved].

Access to the site is still proposed via two drive entrances off of Clayton Avenue. It is proposed that Clayton Avenue be widened to accommodate some on-street parking (18 spaces) while allowing for two-way traffic on that street. 188 parking spaces are provided on site. All parking spaces on site will be constructed using pervious pavers. Provisions are made for the parking of 40 bicycles. Sidewalks are provided along both Clayton Avenue and Hazel Mill Road. Both sidewalks are proposed to be 6 feet back of curb. The developer plans to meet the previously approved condition concerning the provision of $14,000 toward the construction of sidewalks along Hazel Mill Road.

The applicant is still proposing compliant landscaping including: street trees, street buffer, building impact, tree save, and parking lot landscaping. The applicant is proposing 2.53 acres of open space, well above the 1.3 acres of open space required.

The Technical Review Committee (TRC) reviewed this application at their meeting on May 18, 2015, and approved it with conditions. The developer has addressed many of the conditions noted by TRC in the submittal that is before the Asheville City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on June 3, 2015. At this meeting the commission voted 5-1 to recommend approval of the conditional zoning to Asheville City Council with conditions as presented (Exhibit B.1). One neighboring property owner spoke at the meeting requesting an evergreen buffer be placed on the eastern boundary of the project site. The applicant has changed the site plan to add in a row of hemlocks on the northeastern property line as was requested at Planning and Zoning Commission by a resident of the area.

City Council will have the final review of the conditional zoning. It will return to the Technical Review Committee for Final TRC review, if approved by Asheville City Council.

The subject parcels are zoned RM-16CZ, with RM-8, Highway Business, Institutional, Office, Resort, and RS-8 zoned properties in the general vicinity. The properties are immediately surrounded by single family homes and townhomes with a large car dealership, offices and a church in close proximity. The proposed development, with a density of approximately 17 units

per acre, is of greater density than is found on the immediately surrounding residential properties, however, the property is within approximately ¼ mile of transit service and within walking distance of a number of service and retail businesses. The developer is still planning to meet the previously approved condition concerning bus passes.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Higher density development furthers the goals and objectives of the comprehensive plan.
- The proposed amendment provides housing in an area close to many services.
- The project will be designed to qualify for Healthy Built Homes certification.
- The project proposes 10% affordable units.
- The project adds nine units to a previously approved development.
- Concern has been voiced by surrounding neighbors regarding increased traffic.

Staff recommends approval of the proposed conditional zoning amendment to add nine additional units and amenities to the previously approved project, finding it consistent with City-adopted plans and strategic goals for development.

The Planning and Zoning Commission recommended approval of the conditional zoning amendment request with conditions as presented at their meeting on June 3, 2015.

Mayor Manheimer opened the public hearing at 5:15 p.m.

Mr. Bob Grasso, applicant, explained that their goal is to break ground in mid-September for the approximate year-long project. Regarding the type of hemlocks to be planted, he said that as a landscape architect he understands there will be on-going responsibility for maintenance regarding the treatment of the hemlocks. He explained the uses for the three non-residential units, which include a leasing office and the flexibility for a bike storage unit and fitness center.

Mayor Manheimer closed the public hearing at 5:20 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Wisler moved to approve the conditional zoning amendment request for White Oak Grove Apartments on Hazel Mill and Clayton Roads and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (a) The plans for increased density on this site further City goals promoting higher density residential infill in appropriate areas; and (b) The plan for 10% of the units (one additional proposed with the amendment) to meet the City's affordability standards respects City goals working to address the needs of the community for increased affordable housing. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 58

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE TO ADJUST THE SIZE LIMITS OF ACCESSORY APARTMENTS

ORDINANCE NO. 4431 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO ADJUST THE SIZE LIMITS OF ACCESSORY APARTMENTS

Urban Planner Vaidila Satvika said that this is the consideration of a wording amendment to revise the current regulations for *Accessory Apartments* to create more useful and appropriate parameters for homeowners that better align with city goals. This presentation is not about short term rentals (STRs) or the City's Homestay rules. STRs and Homestay issues will come before the City Council on August 25, 2015. This public hearing was advertised on June 12 and 19, 2015.

Since we are proposing to adopt Industry standard terminology for *Accessory apartments* in order to call them Accessory Dwelling Units (or ADUs), he referred to them as ADUs throughout this report. He would be using charts and visuals as well.

He explained that ADUs are additional living quarters on single-family lots that are independent of the primary dwelling unit. The separate living spaces are equipped with kitchen and bathroom facilities, and can be either attached or detached from the main residence.

- An *attached* accessory dwelling unit is a part of the primary dwelling but is a separate, complete dwelling unit with its own entrance and exit. These units share the same roof and are within the envelope of the main house.
- A *detached* accessory dwelling unit is separated from the primary dwelling as a stand-alone structure (e.g. granny flat, garage apartment, small cottage).

ADUs provide practical housing options for the elderly, disabled, empty nesters, and young students, and can provide additional rental income for homeowners. ADUs are smaller in size, do not require the extra expense of purchasing land, can be developed by converting existing structures, and do not require the extension of city infrastructure for the additional housing units. ADUs are an inexpensive way for municipalities to increase housing supply, while also increasing the property tax base. As smaller housing units, ADUs are also typically more affordable and thereby provide housing options for low- and moderate-income residents that might otherwise be priced out of the housing market.

ADUs have been a part of Asheville's zoning for at least the last 70 years. The 1948 Zoning Ordinance allowed ADUs in all residential districts without restriction. In fact, there is no record of size limits for ADUs until the adoption of the UDO in 1997. In recent years as the city's housing shortage has become pronounce, there has been renewed discussion about revising the city's ADU rules. The city's Affordable Housing Advisory Committee has been particularly direct in seeking changes to ADU rules—the Committee sought input through an intensive six-months of interviews with non-profits and developers, the results of which are available in the 2014 Affordable Housing Policy Recommendations report. That Committee's seven year goal for affordable housing production, which includes recommendations to ADUs, received Council's unanimous approval last month.

Today, the rules governing ADUs permit them to be no larger than 50% of the primary dwelling and not taller than 40' in height. We propose changes to both the maximum size and to the maximum height. We also propose to have different standards for attached ADUs than for detached ADUs.

He then reviewed the current ordinance to understand what's allowed today.

1) The proposed wording amendment would change the permitted size of <u>detached</u> ADUs from a maximum 50% to 70% of the primary dwelling but would cap their maximum size to 800 SF.

2) The proposed wording amendment would also change the permitted size of <u>attached</u> ADUs from a maximum 50% to 70% of the primary dwelling but would cap their maximum size to 1000 SF. This is a new concept that the current rules do not address.

A few other considerations:

The wording amendment would allow the provision of lots that were legally established but under today's zoning rules are no longer conforming.

a. In Asheville there are about 4000 residential single-family use parcels that have some type of dimensional nonconforming that currently preclude them from permitting an ADU. This wording amendment would allow these parcels to permit an ADU as long as they met their setbacks and other requirements.
b. In addition, existing primary dwellings that are nonconforming would be allowed to permit an ADU within the envelope of the primary structure. This change will allow an older building to permit an ADU within the building in spite of, for example, not meeting a setback developed under recent policy.

Parking: We also propose that parking would be required if required for residential dwellings. There would be no removal of residential parking to accommodate an ADU and ADU parking would not be permitted to be placed in front of the house.

Height: We propose to increase of base height limit to 25' to allow for cathedral ceilings but to limit the maximum height of ADUs to that same height: 25'.

Staff presented the essential concepts of this proposed wording amendment to the Affordable Housing Advisory Committee (AHAC) and to the Coalition of Asheville Neighborhoods (CAN) on 5/7/15. It was referred to at the City Manager's Development Forum on 5/15/14, and then presented to the Planning and Economic Development (PED) and Housing and Community Development (HCD) Committees on 5/19/15. AHAC is strongly in support. CAN expressed concerns about neighborhood impact, in particular in regards to parking and neighborhood context. The proposed amendment addresses both parking and neighborhood context by reducing the maximum building height and setting maximum size limits for ADUs.

This wording amendment complies with the City's Comprehensive Plan by seeking to explore the full range of zoning tools necessary to increase both the supply and compatibility of housing within existing neighborhoods and by identifying infill opportunities and making them readily available. It also complies with the City Council's Strategic Plan by encouraging and incentivizing private investment for the creation of additional in-fill housing.

Staff recommends approval of this proposed amendment because it is consistent with goals outlined in the Comprehensive Plan and City Council Strategic Plan. At their meeting on June 3, 2015, the Planning and Zoning Commission voted 6-1 to recommend approval. The dissenting commissioner was concerned about the maximum building height of 40', which we have reduced to 25'.

In summary, for a city that is facing a housing supply crisis, we believe this wording amendment will give more flexibility to property owners so that more ADUs can be built. And considering that smaller units are typically more affordable, the provision of more ADUs indirectly supports affordable housing. We believe that ADUs are a viable form of neighborhood-scaled subordinate housing units that are a very context-sensitive approach, especially considering that they are located behind homes and dispersed throughout the city.

In response to Councilman Bothwell, Mr. Satvika said the minimum 6 foot setback requirement has not been changed with this amendment. The UDO basically allows for ADUs to encroach into setbacks. As far as the height for detached ADUs, the current ordinance allows for 40 feet (top of ceiling) and staff proposes 25 feet (top of ceiling).

Councilman Bothwell felt that we are discriminating against small property owners. He felt that if a person owns 1,000 square foot home with an 1,000 square foot basement that could be converted into an apartment, he questioned why we are limiting that property owner to 700 square foot apartment. Mr. Satvika said that ADUs have been understood to be subordinate housing units, so we are trying to respect concern that the ADUs may be too big, thus increasing the current maximum size from 50% of the primary dwelling to the proposed 70% of the primary dwelling.

Councilman Bothwell felt there was confusion in the community regarding these changes and suggested the public hearing be held; however, a vote be postponed until after further community engagement.

Councilwoman Wisler agreed with Councilman Bothwell in that there is a lot of misconception about this amendment in the community. She felt there would not be a lot of opposition if the community understood the details, as outlined in Mr. Satvika's presentation.

In response to Councilman Pelly regarding the increase of cars on the street, Mr. Satvika said the amendment proposes that off-street parking would be required if it is required for residential district. The UDO states that for areas within 1 mile of the downtown Central Business District, off-street parking is not required.

At the suggestion of Councilman Smith, Director of Transportation Ken Putnam said that the City is working on the Haywood Road Corridor Parking Study and felt that once that study is completed, we will be able to take any lessons learned and generalize them into other similar neighborhoods.

When Councilman Bothwell asked if there was a way we could assign two parking spaces per house, Mr. Putnam explained that we need to be careful not to breach the idea that we are assigning personal parking spaces within the public right-of-way. He said that we do have a successful program with 150 permitted parking spaces in the Central Business District which is available on a first come/first served basis. He noted that the City is currently working on a comprehensive parking study that, when completed, will provide Council the information on how they would like to set policy in the next 10 years.

Mayor Manheimer opened the public hearing at 5:53 p.m.

The following individuals spoke in support of the amendment:

Ms. Lindsey Simerly, Chair of the Affordable Housing Advisory Committee
Mr. Teal Brown, owner of Wishbone Tiny Homes
Ms. Wendy Dean
Mr. Jayden Gurney, member of the Affordable Housing Advisory Committee
Ms. Laura Lavoy, owner of a tiny house
Ms. Joanne Stephenson, member of the Historic Resources Commission

The following individuals felt the community should be allotted additional time within which to review the details of the proposed ordinance, particularly the parking:

Ms. Barber Melton, member of the Coalition of Asheville Neighborhoods
Mr. Mike Lewis, Grace neighborhood resident
Ms. Billie Laughlin, Five Points neighborhood resident

Mayor Manheimer closed the public hearing at 6:10 p.m.

Mr. Satvika responded to Councilman Davis' concerns regarding the minimum setbacks, using an example of a corner lot.

Councilman Smith thanked the Affordable Housing Advisory Committee for spending more than two years on this issue. The Council has made a priority of more affordable housing and after they received the Housing Needs Assessment Report, Council learned that 47% of the renters in the City are spending more than 30% of their income on their rent. Council has also adopted a 7-year affordable housing goal which the ADU reform was a part. He does understand the anxiety with this ordinance; however, the amendment sets size limits, sets a lower height limit, and parking remains the same as in the current rules. He felt this amendment is a good change. He felt it was important to provide community education regarding this amendment and would support further examination of whether Council wants to increase some of these sizes.

Councilman Smith moved to approve the proposed amendments to Sections 7-14 and 7-16 and associated definitions and table of uses that modify accessory apartments, and (if approving) find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) by employing zoning tools to increase the supply of housing that is compatible with existing neighborhoods; (2) by providing incentives for infill development throughout the city, and (3) by providing needed residential units while making efficient use of existing housing stock, parcels of land and community infrastructure. This motion was seconded by Councilman Pelly.

Councilman Bothwell supported looking at increasing the minimum size, and if it has to be smaller to be a subsidiary structure, then he suggested 10 square feet less than the primary structure. He said that even though he supported the amendment, he would have to vote against it because he felt the community needed to understand the details prior to voting.

Vice-Mayor Hunt felt there is broad support for this amendment and acknowledged this ordinance is a work in progress. He felt that revisions regarding setbacks and ratios of square footage are adjustments that can be made when the ordinance is revisited in a year or two.

Councilwoman Wisler would support the amendment if the City commits to a community education plan to where staff talks to property owners and let the know how this will affect their neighborhoods. Director of Community and Public Engagement Dawa Hitch acknowledged that would occur.

Mayor Manheimer felt that this is a helpful movement that will add to our community. She agreed with Councilwoman Wisler that the key is communication and suggested Mr. Satvika's PowerPoint be placed on the City's website to help those understand the details.

Councilman Pelly acknowledged the urgency to address the affordable housing needs in our community. He also heard legitimate concerns expressed by the neighborhoods. He was pleased that a comprehensive parking study will be coming forward to help Council make policy decisions regarding parking. Regarding tap fees, he suggested the City investigate a way to waive the tap fees which would make the ADU more affordable. And, as a member of the Metropolitan Sewerage District Board of Directors, he would bring the MSD tap wavier suggestion to their attention. Since the City provides economic development incentives for large companies, a tap fee waiver might be a way to provide that same level of economic development to property owners which will be making an investment in the community.

It was the consensus of Council to have the Finance Committee provide information regarding ADU tap fees at their September meting.

The motion made by Councilman Smith and seconded by Councilman Pelly carried on a 6-1 vote, with Councilman Bothwell voting "no."

ORDINANCE BOOK NO. 30 – PAGE 67

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4432 - ORDINANCE ADOPTING THE FISCAL YEAR 2015-16 ANNUAL OPERATING BUDGET AND AMENDMENTS TO THE FEES & CHARGES MANUAL

Director of Finance & Management Services Barbara Whitehorn said that this is the consideration of an ordinance to adopt the Fiscal Year 2015/2016 Annual Budget along with changes to the Fees and Charges Manual discussed below.

The Fiscal 2015/2016 Proposed Annual Operating Budget was presented to City Council on May 26, 2015. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 29, 2015. City Council conducted a public hearing on the Proposed Budget on June 9, 2015. The Fiscal 2015/2016 Proposed General Fund Budget is balanced with an Ad Valorem tax rate of $0.475 per $100 of assessed value, which represents a $0.015 increase over the current year tax rate. All essential City services are maintained in the Proposed Budget.

Changes to the Proposed Budget - Since the Proposed Budget was presented to City Council, there have been two adjustments that have altered the budget that is presented tonight for Council adoption.

- **Strategic Partnership Funding:** At the June 9 City Council meeting, Council agreed to consider budgeting an additional $50,000 in Strategic Partnership grants, pending the recommendations of the Housing and Community Development (HCD) Committee. At their June 16 meeting, the HCD Committee considered applications from ten eligible organizations that had not been granted funds at the June 9 City Council meeting and granted $50,000 in additional funding. Council is taking action on these recommendations in a separate agenda item. Staff has adjusted the FY 2015/2016 Proposed General Budget to reflect this expenditure increase, and the sales tax revenue budget has been increased by $50,000 to provide the necessary funding.

- **Capital Improvement Program – Craven Street Bridge:** Funding for this project was shown in the Proposed Budget Document Capital Improvement Program (CIP) section as part of the overall RADTIP cash flow. The Adopted Budget Document will show cash flow, including $300,000 in funding from Buncombe County, for Craven Street Bridge separately from RADTIP. The overall cash flow totals for the five-year CIP remain unchanged.

Fees and Charges Manual Amendments - In conjunction with adoption of the Fiscal 2015/2016 Annual Operating Budget ordinance, staff is also seeking Council approval of the following amendments to the City's Fees and Charges Manual:

- **Residential Solid Waste Fee:** As discussed with City Council during the budget process, staff is proposing an increase in the solid waste fee from $7.00 per month to $10.50 per month. Revenue from this fee increase is included in the Proposed General Fund Budget.

- **Nature Center Fees:** Also, as discussed with City Council previously, the Proposed Budget includes various increases in admission fees at the Nature Center.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year.
- General Fund Budget is balanced with no fund balance appropriation and all essential City services are continued.

Con:

- None.

As noted above, the Proposed FY 2015/2016 General Fund budget is balanced with no fund balance appropriation and the maintenance of all existing programs and services. Based on revenue and expenditure projections for FY 2014/2015, staff estimates that the City's unassigned fund balance in the General Fund will be $17.7 million on June 30, 2015. With a Proposed FY 2015/2016 General Fund budget total of $103 million, this $17.7 million in unassigned fund balance equates to 17.2% of total budgeted expenditures.

Staff requests that Council (1) adopt the FY 2015/2016 Annual Budget Ordinance; and (2) amend the Fees and Charges Manual with the changes noted above.

Mayor Manheimer stated that since the public hearing was held on June 9, 2015, no public comment would be accepted.

In response to Councilman Bothwell, Assistant City Manager Fetherston said that a plan should be available in 60 days to address how the living wage raises will be implemented, and at that time City Council can direct staff to make the pay adjustment retroactive to July 1.

In response to Vice-Mayor Hunt, Ms. Whitehorn said that the $50,000 additional funding for the strategic partnership fund grants have been included what is before Council, as there was clear direction by Council at the June 9 meeting.

Councilman Pelly supported the budget, however, he felt we should allocate a portion of fund balance for Fiscal Year 2015-16 for non-recurring, one-time capital expenditures while still maintaining the 10% minimum relative growth, instead of raising property taxes by 1.5 cents.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4432. This motion was seconded by Councilwoman Wisler and carried on a 6-1 vote, with Councilman Pelly voting "no".

ORDINANCE BOOK NO. 30 – PAGE 72

B. RESOLUTION NO. 15-139 - RESOLUTION AUTHORIZING THE APPROVAL OF ADDITIONAL 2015-16 STRATEGIC PARTNERSHIP FUND GRANTS

Assistant Director of Economic & Community Development Jeff Staudinger said that this is the consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for additional grants from the 2015-16 Strategic Partnership Fund program.

At the June 9 City Council meeting, Council agreed to consider budgeting up to an additional $50,000 in Strategic Partnership Fund grants, pending the recommendations of the Housing and Community Development Committee. At their June 16 meeting, the HCD Committee considered applications from 10 eligible organizations who had not been granted Funds at the

June 9 City Council meeting. The HCD Committee recommends the following applications for funding:

Agency	Funding Support Purpose	2015 Funding Recommendation
One Youth at a Time	Funds will provide mentoring and tutoring, guided growth activities, job training and placement assistance to at-risk and critically at-risk youth ages 8-19.	5,000
Partners Unlimited	Year-round high school credit recovery on-line learning program through the Academic Enhancement Program. Partners Unlimited will decrease high school dropout and increase college opportunities for minority and economically disadvantaged high school students.	5,000
Asheville GreenWorks	Activities include educating public housing residents on practices and benefits of recycling; launching classroom composting programs in 17 public schools; engaging 10 low-income youth in paid environmental stewardship internships; and coordinating the Adopt-a-Street program	15,350
Green Opportunities	Go will pilot the GO Maintenance Crew maintenance training and job placement service. The pilot will be run for one year to test its feasibility as an ongoing social enterprise, provide more advanced training options, and create career ladder-oriented jobs.	17,150
Project Lighten Up	Support for a community summer day camp that blends education and recreation into daily activities, accomplished through Science, Technology, Engineering and Math (STEM) and Expeditionary Learning (EL) projects.	3,500
Read to Succeed Asheville	Read to Succeed helps lower the achievement gap in Asheville City Schools (ACS) by identifying Kindergarten students who are challenged by learning to read, and matching them with volunteer reading coaches. Coaches make a commitment to mentor and tutor this student in reading until the student is a proficient reader and in the third grade.	4,000

Total recommended additional recommended funding is $50,000.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.
- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funded from the City's general fund. The funding recommendations add $50,000 to the earlier recommended SPF fund allocation of $98,400, for a total recommended allocation of $148,400. Staff will adjust the FY 2015-16 Proposed Budget to include this additional $50,000 in the general fund budget.

The HCD Committee recommends approval of the 2015-16 Strategic Partnership Fund grants as presented.

Rev. Spencer Hardaway, representing Project Lighten Up, thanked Council for providing the additional funding.

Councilman Smith, Chair of the Housing & Community Development Committee, said that the Committee initiated a process to examine how we can best leverage future funds towards our achievement gap goal as outlined in Council's Strategic Operating Plan.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Hunt moved for the adoption of Resolution No. 15-139. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 200

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-140 - RESOLUTION REVISING THE CITY ECONOMIC DEVELOPMENT INCENTIVE POLICY

Economic & Community Development Director Sam Powers said that this is the consideration of a resolution revising the City Economic Development Incentive Policy, to use the median wage rate of new jobs created as a benchmark to determine quality job creation; and establish a benchmark for a living wage for companies that receive city economic development incentives.

City Council has adopted Strategic Goals for 2015-16, affirming priorities to ensure that Asheville is a City that provides Economic Growth and Sustainability, Affordability and Economic Mobility, and High Quality of Life. In the focus area of Economic Growth and Sustainability, Council adopted an action item that directed staff to review the City's current economic development incentive policy, analyze its alignment and utility regarding Council's overall strategic goals, and recommend changes to current policy if appropriate, with special emphasis on consideration of establishing a baseline minimum pay rate for eligibility under the Incentive Policy.

At its May 19, 2015, meeting, the City Council Planning and Economic Development (PED) Committee reviewed the existing incentive policy and made two recommendations to City Council: use the median wage rate of new jobs created as a benchmark to determine quality job creation; and establish a benchmark living wage for companies that receive city economic development incentives.

The current criteria in the City Economic Development Incentive Policy utilizes the Average Weekly County Wage Rate for Buncombe County to determine "equity and quality of jobs created". PED recommended that the policy be revised to use the median wage rate of the new jobs to determine equity and quality of jobs created. Using the median wage for job creation and retention will provide an accurate representation of central tendency in the job creation, and will meet the intent of the policy that the majority of jobs being created should be high quality jobs.

A Living Wage Certification Program administered by the non-profit organization Just Economics provides a certification platform and through that program, certified employers pay at least the current Living Wage which is $11/hour with employer provided health insurance. PED's recommendation to City Council is that the city should consider only participating in projects that create jobs that pay at or above a Living Wage, which is currently $11/for positions that provide health benefits. There is a Universal Living Wage Formula that the city can utilize to determine the current living wage at the time a company applies for consideration for incentives. PED also suggested that full Council discuss the option of only incenting the new jobs created above the benchmark versus only participating in projects that pay the living wage.

Other key requirements of the Policy will remain:

- Minimum new capital investment by the applicant of $1.5 Million
- Project does not transfer existing employment from one location in the City to another
- Have a human resources benefit policy
- Project is a new location or retention/expansion of an existing qualifying business in the City of Asheville
- In accordance with NCGS 158-7.1 other incentives outside of this policy may be provided on a case by case basis
- Performance based grant, paid after jobs are created, capital investment is made, taxes are paid and verified
- Performance contract with the City of Asheville

Pro:

- Aligns with Council Strategic Goals and 2025 Comp Plan.

Con:

- Eliminating participation in any projects unless all jobs are Living Wage could cause potential projects, especially if the project begins with a written RFP response to a site consultant, to be eliminated from consideration before the City has an opportunity to fully engage in a meaningful discussion about the City as a project location.

There is no change in financial impact of the policy revision. All economic development incentive grants are performance based, there is no up-front granting of incentives. Additionally all incentive grants have positive cash flow in that only a portion of new incremental ad valorem taxes created by the company are utilized in the incentive grant. A percentage of ad valorem tax paid by the company stays in the General Fund.

Staff recommends Council accept the PED recommendations to revise the City Economic Development Incentive Policy, to use the median wage rate of new jobs created as a benchmark to determine quality job creation; and establish a benchmark for a living wage for companies that receive city economic development incentives.

There was a brief discussion regarding the option of only incenting the new jobs created above the benchmark versus only participating in projects that pay the living wage. It was the consensus of Council to only participate in projects that pay the living wage.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 15-140. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 201

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

On behalf of City Council, Mayor Manheimer expressed the community's grief regarding the tragedy in Charleston, South Carolina.

Ms. Sherry Christenson, Aging Program Specialist at Land of Sky Regional Council, brought to Council's attention the 40th Anniversary of April 12-18 being National Volunteer Week, and the 50th Anniversary of May being Older Americans Month.

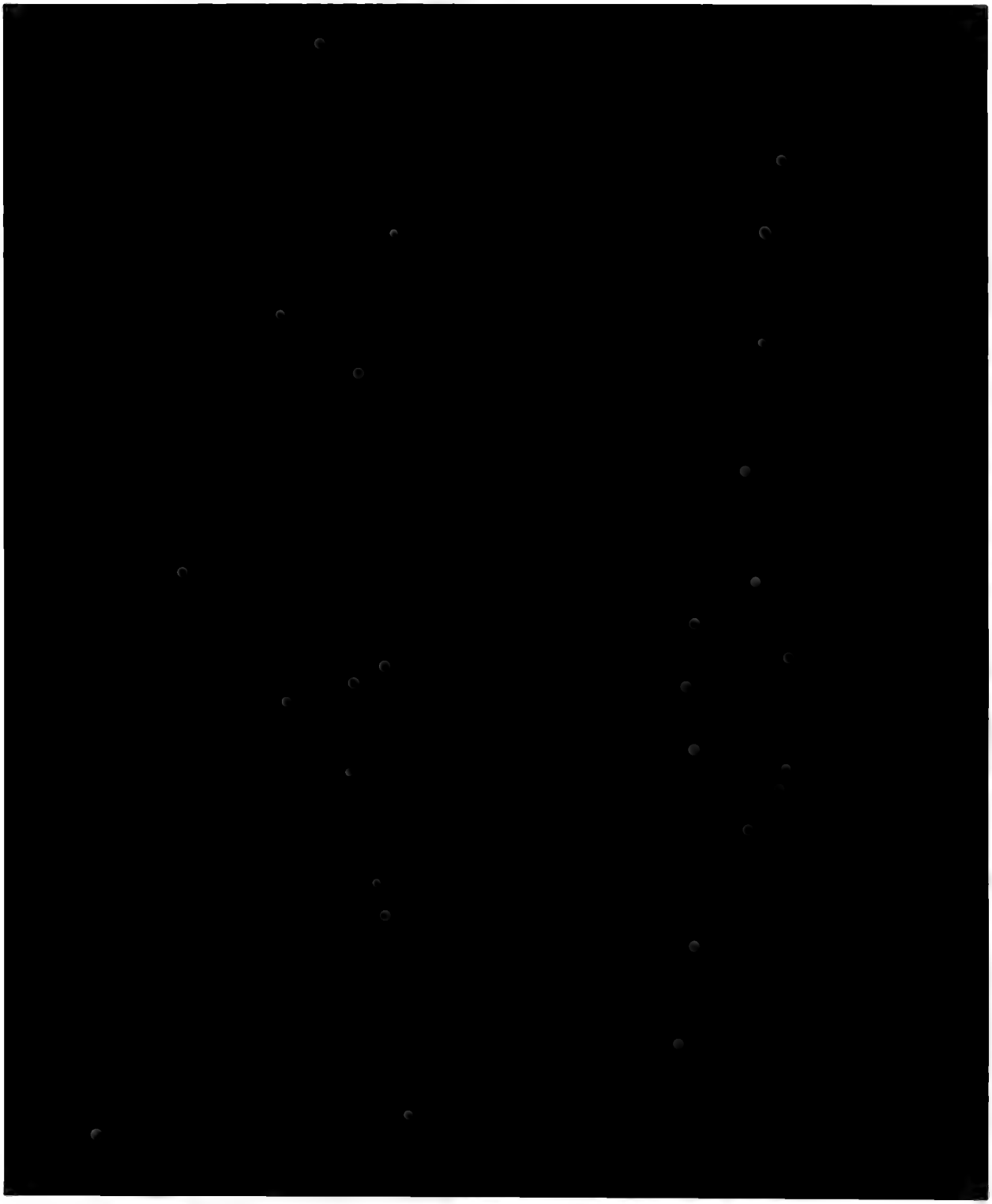
Rev. James Lee, member of the Ad Hoc Committee for the African American Heritage Commission, and Ms. Sasha Mitchell, Chair of the African American Heritage Commission, presented Council with a petition containing 2,042 signatures, along with support from numerous organizations, which proposed "That in conjunction with this major effort to repair and restore the Vance monument, plans be made now to create in Pack Square an equally-significant monument to recognize the enormous sacrifices of African Americans during the period of Slavery and Segregation and also to celebrate the many contributions of African Americans to the physical, economic and cultural like of Asheville and Buncombe County since their arrival here in the late 1700s." The Commission asked for the City's support which will go a long way towards fundraising. The Commission will create the plans and gather input. Mayor Manheimer said that the City is eager to partner with the Commission's efforts to construct some type of marker or monument to the African American's historical contributions to the City. The City is eager to stand ready to help support your efforts and we are hoping to see some momentum on the fundraising and plans by the Commission.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:10 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR



BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL

MINUTES

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Tuesday – July 28, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Councilman Gordon D. Smith

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

ADDITION TO AGENDA

At Mayor Manheimer's request, a LEAF Community Art's request was added to New Business.

I. PROCLAMATIONS:

A. INTRODUCTION OF NEW CITY COUNCIL DEPARTMENT DIRECTORS

City Manager Jackson was pleased to introduce Water Resources Director Jade Dundas and Chief of Police Tammy Hooper.

B. PROCLAMATION PROCLAIMING JULY 30, 2015, AS "ELVIS IN ASHEVILLE DAY"

Mayor Manheimer read the proclamation proclaiming July 302015, as "Elvis in Asheville Day" which is keyed around the 40th anniversary of Elvis' landmark shows in Asheville. She presented the proclamation to Mr. Jon Elliston, Chairman of the Board of the Grateful Steps Foundation, and Mr. Jason Sandford, Founder and Editor of Ashvegas.com, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 23, 2015

B. SECOND READING OF ORDINANCE NO. 4427 - ORDINANCE TO ADOPT A FRANCHISE AGREEMENT WITH EXTENET SYSTEMS

Summary: First reading of Ordinance No. 4427 was adopted on June 23, 2015.

ORDINANCE BOOK NO. 30 - PAGE 30

C. RESOLUTION NO. 15-141 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2015-16

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Apprentice/Intern Program for FY 2015-16.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program, which starts July 1st, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. After a selection program was conducted by the NCDOT the City is in the process to hire the apprentice to work in the Transportation Planning Division, Transportation Department. The apprentice will assist with route planning, analysis of transit related surveys and procurement processes and special projects.

FY 2015-16 funding totals $37,748. The NCDOT will provide 90% of the anticipated funding ($33,748), and the City will provide the remaining 10% ($3,750). The grant funding and the City's local match in the amount of $3,750 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for an apprentice position for FY 2015-16.
- The subject grant enables the City of Asheville to use $33,748 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of $3,750 is required.

The total grant funding for Fiscal Year 2015-16 is $37,748. The City is required to provide a 10% local match in the amount of $3,750. The anticipated grant funding and the City's local match in the amount of $3,750 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT to fund the Apprentice/Intern program for FY 2015-16.

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D. RESOLUTION NO. 15-142 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE FIVE POINT FILM FESTIVAL KICKOFF PARTY ON AUGUST 14, 2015

RESOLUTION NO. 15-143 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL ON SEPTEMBER 11, 12 AND 13, 2015

RESOLUTION NO. 15-144 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE VENTURE LOCAL FAIR ON SEPTEMBER 26, 2015

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 5 Point Film Festival Kickoff Party

on August 14, 2015; the Goombay Festival on September 11, 12 and 13, 2015; and the Venture Local Fair on September 26, 2015.

- 5 Point Film Festival has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the 5 Point Film Festival Kickoff Party and allow for consumption at this event.

  The 5 Point Film Festival Kickoff Party will be held on Friday, August 14, 2015 from 4:00 p.m. – 7:00 p.m. within the boundaries of the City of Asheville Surface Parking Lot #18 located on the corner of Haywood Street & Page Avenue as per the event area limits referenced on the accompanying site map.

- The YMI Cultural Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Goombay Festival and allow for consumption at this event.

  The Goombay Festival will be held on Friday, September 11, 2015 from 5:00 p.m. – 10:00 p.m., Saturday, September 12, 2015 from 10:00 a.m. – 10:00 p.m. and Sunday, September 13, 2015 from 1:00 p.m. – 6:00 p.m. within the boundaries of Pack Square Park's Roger McGuire Green, Reuter Terrace, Vance Median and Raised Lawn areas including South Spruce Street between the intersections of South Pack Square and College Street, North Pack Square between the intersections of Biltmore Avenue and South Pack Square, South Pack Square between the intersections of Biltmore Avenue and South Market Street and within the City Hall/Courthouse Parking Lot as per the area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Venture Local Fair and allow for consumption at this event.

  The Venture Local Fair will be held on Saturday, September 26, 2015 from 12:00 p.m. – 6:00 p.m., within the boundaries of Banks Avenue between the intersections of Coxe Avenue and Church Street, Buxton Avenue between the intersections of Coxe Avenue and Millard Avenue, and Collier Avenue between the intersections of Buxton Avenue and Millard Avenue as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for 5 Point Film Festival, YMI Cultural Center, and Asheville Downtown Association

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the 5 Points Film Festival Kickoff Party, the Goombay Festival, and the Venture Local Fair.

RESOLUTION NO. 15-142 - RESOLUTION BOOK NO. 37 - PAGE 208
RESOLUTION NO. 15-143 - RESOLUTION BOOK NO. 37 - PAGE 211
RESOLUTION NO. 15-144 - RESOLUTION BOOK NO. 37 - PAGE 214

E. RESOLUTION NO. 15-145 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT COMMUNITY WASTE REDUCTION AND RECYCLING GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENT

AND NATURAL RESOURCES TO DEVELOP A PUBLIC HOUSING RECYCLING PILOT PROJECT

ORDINANCE NO. 4433 - BUDGET AMENDMENT TO DEVELOP A PUBLIC HOUSING RECYCLING PILOT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to accept Community Waste Reduction and Recycling (CWRAR) grant funds from the N.C. Dept. of Environment and Natural Resources (NCDENR); and a budget amendment in the amount of $25,950 in the Special Revenue Fund to budget the grant and the City's match.

The City of Asheville has partnered with the Housing Authority of the City of Asheville (HACA) in order to develop a public housing recycling pilot project, to be implemented in the 280 units of the Erskine, Walton and Livingston Street communities. The residents of these communities will be able to utilize "Big Blue" recycling roll carts just like other Asheville residents, which will greatly enhance their ability to recycle and reduce waste. The pilot project will run from October 2015 through June 2016. The City has been awarded a CWRAR grant from NCDENR in order to help fund this pilot project.

The total cost for the pilot project is $25,950. The CWRAR grant would require a 20% cash match from the City of Asheville. Thus $4,325 would be contributed by the City, from the sustainability street light savings in the general fund, while the grant would cover the remaining $21,625.

Pros:

- Provides more equitable access to recycling services for residents of public housing
- Helps to meet City's waste reduction goal while leveraging state funding

Con:

- None can be identified

As noted above the total cost of the project is $25,950, with the grant covering $21,625 or 80% of the cost. The 20% City match of $4,325 will come from sustainability street light savings that have been designated for green projects.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept $21,625 in grant monies from NCDENR; and a budget amendment in the amount of $25,950 in the Special Revenue Fund to budget the grant and the City's match.

RESOLUTION BOOK NO. 37 - PAGE 217
ORDINANCE BOOK NO. 30 - PAGE 80

F. RESOLUTION NO. 15-146 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES INC. TO CONDUCT PHASE II OF A PARKING STUDY ALONG THE HAYWOOD ROAD CORRIDOR IN WEST ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter into a general services contract with Kimley-Horn and Associates, Inc. to conduct Phase II of a parking study along the Haywood Road corridor in West Asheville.

The Haywood Road Vision Plan, which was adopted by City Council via Resolution # 14-37 on February 25, 2014, recommended that a parking study be prepared along the Haywood Road corridor. Staff decided to accomplish the work in two distinct phases using two separate general services contracts. This decision was made so that we would be able to better define the scope of services for the Phase II contract. Phase I included collecting, summarizing, and

analyzing the existing data, meeting with the directly affected stakeholders, and documenting concerns and suggestions. The Phase I contract (contract # 91500124) was executed during September 2014 and completed during June 2015 at a total cost of $53,400.

The Phase II contract includes collecting, summarizing, and analyzing the existing data along the neighborhood streets in the study area, meeting with the stakeholders who live along the neighborhood streets, developing and analyzing strategies to manage parking demand, developing recommendations, and preparing the final report which will include potential projects to be considered in the capital improvements process. The anticipated cost for the Phase II contract is $48,800 and the anticipated completion date is December 2015.

The total cost of both contracts is $102,200 which is over the $90,000 threshold for City Manager execution without City Council approval. As a result, staff is asking City Council to consider approving the subject resolution so that this project can move forward.

This item was included in a memorandum regarding parking that was shared and reviewed by the Council's Planning and Economic Development Committee on April 21, 2015, and one council member attended one of the Phase I public meetings.

Pros:

- Identify and document parking supply and demand.
- Enhance vehicle, bicycle, and pedestrian mobility.
- Encourage additional economic development.

Con:

- More potential projects for the capital improvement program.

The Phase I contract at a total cost of $53,400 was funded under the Parking Enterprises Fund FY 2014-15 operating budget and the Phase II contract, which is anticipated to cost $48,800, is funded under the Parking Enterprises Fund FY 2015-16 operating budget. The total amount budgeted including contingencies is $60,000.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a general services contract with Kimley-Horn and Associates, Inc. to conduct Phase II of a parking study along the Haywood Road corridor in West Asheville.

RESOLUTION BOOK NO. 37 - PAGE 218

G. RESOLUTION NO. 15-147 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH DR. PAUL MARTIN, MD, D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA, TO CONTINUE TO PROVIDE PHYSICIAN SERVICES TO EMPLOYEES, RETIREES AND THEIR FAMILIES

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement for physician services provided through the City of Asheville Health Services Division of the Human Resource Department (City).

In January 1995, the City Council (Council) authorized the City Manager to enter into an agreement for part-time physician services provided through the Health Services division. Currently, Dr. Paul Martin provides episodic care on-site at the clinic for two days a week to City employees and their eligible dependents and retirees. He also provides administrative services as requested by the City.

In the coming year, the Human Resource Department will continue to analyze the Health Services Clinic to ensure the model and services maximize services to employees in a manner

that is sustainable. This analysis will include utilizing a Request for Proposal for physician services.

Pros:

- The Health Services Clinic provides on-site care for non-critical health needs.
- Onsite care and services for employees, retirees and dependents saves the City money in expenses that are not paid in unnecessary doctor, urgent care and emergency room visits
- The on-site employee health clinic is a valuable benefit for City employees, their dependents and retirees.
-

Con:

- There are no foreseen cons for these services

This is a one year contract in the amount of $120,000, and funds have been budgeted and will be encumbered from the Health Care Fund to cover the cost.

City staff recommends Council adopt a resolution authorizing the City Manager to sign an agreement for physician services with Dr. Paul Martin, MD, DBA Asheville Addiction Consultants, PA to continue to provide physician services to employees, retirees and their families.

RESOLUTION BOOK NO. 37 - PAGE 219

H. RESOLUTION NO. 15-148 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDERS TO THE AGREEMENT WITH CDM SMITH FOR ENGINEERING AND DESIGN SERVICES FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT AND FIVE POINTS ROUNDABOUT

Summary: The consideration of a resolution authorizing the City Manager to execute changes to a contract with CDM-Smith to perform additional engineering services for the RADTIP and Five Points Roundabout for $560,452, plus a 20% contingency for an amount not to exceed $672,542.

In January 2014 the City Council authorized approval of a contract with CDM Smith to provide 100% complete construction plans for the RADTIP.

In September 2014 the City received notice of a TIGER VI grant award from the Federal Highway Administration which put the RADTIP, the Five Points Roundabout, and several other projects on an accelerated construction schedule.

Since the time of the original approval, city staff and the consultants have identified changes that will improve the design of the RADTIP and the Five Points Roundabout.

Based on these factors, city staff and CDM Smith have identified additional engineering services that will be required in order to deliver plans on schedule that address the goals for the project. These additional engineering services will achieve the following objectives:

- The consultants will complete plans for the Five Points Roundabout to the 100% level and combine them with the RADTIP plans into one set of construction bid documents. In addition, the consultants will engineer several design changes and improvements to the roundabout.

- The consultants will accelerate the schedule for RADTIP plan review, permitting, and utility coordination to meet all of the milestones for the TIGER VI grant.

- The consultants will modify the RADTIP design to include a protected bicycle lane, also known as a two-way cycle track, for roughly half of the project. The protected bicycle lane will improve bicycle safety. The lane will be the first in the City of Asheville, and the change reflects the current best practices in bicycle planning.

- The consultants will design additional off-street parking under the Jeff Bowen Bridges at I-240, providing a significant number of new parking spaces for the River Arts District and the greenway system.

The City Council Planning & Economic Development Committee met on July 21, 2015, and recommended approval.

Pros:

City Council has identified implementation of the RADTIP and the Five Points Roundabout as a key strategic goal for the city. Continued development of construction designs for the RADTIP will advance this goal. The project is programmed and budgeted in the Capital Improvements Program.

The proposed changes will result in improved designs which include a protected two-way cycle track additional off-street parking, and improved operation of the Five Points Roundabout.

Cons:

The additional engineering costs require financial commitment, but are within budget for the projects.

These funds are budgeted in the Capital Improvements Program.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute changes to the contract with CDM Smith to perform additional engineering services in the amount of $560,452, and further authorizes the City Manager to execute change orders to the contract up to the amount of $672,542.

RESOLUTION BOOK NO. 37 - PAGE 220

I. RESOLUTION NO. 15-149 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GULF COAST LLC TO PROVIDE THE RIGHT-OF-WAY SERVICES FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Gulf Coast LLC to provide the right of way services that are needed for the River Arts District Transportation Improvement Project.

The City of Asheville was awarded Transportation Investment Generating Economic Recovery (TIGER) discretionary funding from the Federal Highway Administration (FHWA) in the fall of 2014 to fund the construction phase of the River Arts District Transportation Improvement Project. In order to accomplish the designated improvements of sidewalks, multiuse paths, road improvements, pedestrian amenities, dedicated bike paths and other improvements designed to improve safety for all riverfront users, additional right of way must be acquired from private property owners. Right of way acquisition activities must take place in compliance with the Federal Uniform Relocation Act because of the involvement of federal funds. Engaging a professional right of way acquisition firm will enable the City to access services such as

negotiation, claim calculation, appraisal, relocation, title and easement services that will be needed.

City staff has engaged in a procurement process that has been competitive, transparent and in compliance with federal, state and local rules and regulations for securing a qualified property acquisition firm. Six firms participated in the procurement process and the top three firms were interviewed. At this time, staff recommends Gulf Coast, LLC to provide turnkey acquisition services for the City at a total cost not to exceed $240,000.

Pros:

- The selection of a property acquisition firm well versed in the Federal Uniform Relocation Act will enable the City to meet its FHWA deadline while protecting property owner rights.

Con:

- There is no negative impact.

The total cost of the contract is not to exceed $240,000; this amount was budgeted in FY 2016 in the CIP allocation for the RADTIP project. This contract is funded through a grant from the French Broad River Metropolitan Planning Organization that passes through NCDOT. The grant is a 80/20 match with the City paying 20% ($48,000) of the cost.

City staff recommends that the City Council direct the City Manager to enter into a contract with Gulf Coast LLC to provide these property acquisition services.

RESOLUTION BOOK NO. 37 - PAGE 221

J. RESOLUTION NO. 15-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING WITH BEAUCATCHER COMMONS, LLC FOR THE IMPROVEMENT OF NANCY STREET

Summary: The consideration of a Memorandum of Agreement with Beaucatcher Commons, LLC for the improvement of a section of Nancy Street to City of Asheville specifications.

Beaucatcher Commons, LLC was approved in February 2015 for a Housing Trust Fund loan of $120,000 to create 12 units of affordable housing on Hazel Mill Road and Nancy Street.

As Kirk Booth, the developer, sought subdivision permits for the project, he discovered that the section of Nancy Street proposed for the development of six of those units had never been accepted as a City street, though it was the site of other development and had been the subject of correspondence with the City dating back to 2008. The section in question runs from Townview Drive to a private Right of Way (ROW), and is approximately 225 feet in length. This length of roadway is used extensively by local residents, is paved, but does not meet City specification for width or condition.

In order for the development project to move ahead, the street must be brought to City standards and, at that time, accepted by City Council.

Staff has researched the current roadway condition and has estimated the cost of the improvement to be $12,480. Staff, including the Directors of Public Works, Transportation and Development Services- have agreed to a draft agreement with the developer to make the needed improvements. The major elements of the draft agreement are:

- The City will provide the labor at its cost to make the needed improvements.

- The developer, as part of the Housing Trust Fund loan, agreed to provide the City with $3,500 for sidewalk improvements to Hazel Mill Road. The City will agree to accept this $3,500 toward the cost of the Nancy Street improvements.
- The City will match the $3,500 with an equal amount from the CIP funds allocated to affordable housing.
- The developer will pay all other costs of materials, estimated to be $5,480.
- The developer will also grant the City a voluntary easement for sidewalks on his lots on Hazel Mill Road.

Pros:

- Six units of housing affordable for thirty years will be created.
- Nancy Street will be improved to City specifications, and when accepted by Council, will be in excellent condition;
- Funds originally intended for the Hazel Mill Street sidewalk are not needed for that purpose;
- Current and future residents of Nancy Street will benefit from the improvements.

Cons:

- The City does not generally expend its own funds to improve a private right-of-way so that it can meet City standards and be accepted as a public street. However, since this work is being done to benefit an affordable housing development and Capital Improvement Plan (CIP) funds are budgeted for such improvements, the request is supported by staff as being in alignment with Council goals.

The labor to be done by the City is already a budgeted expense. CIP funds for affordable housing are also already budgeted.

Staff recommends that City Council approve the City Manager entering into a Memorandum of Agreement with Beaucatcher Commons, LLC for the improvement of Nancy Street.

RESOLUTION BOOK NO. 37 - PAGE 222

K. RESOLUTION NO. 15-151 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF 110 SQUARE FEET OF AIR RIGHTS AT 723 HAYWOOD ROAD TO DOUGLAS R. OSTER

Summary: The consideration of a resolution directing the City Clerk to advertise for upset bids for the sale of 110 square feet of air rights at 723 Haywood Road to Douglas R. Oster.

The City of Asheville controls the sidewalk and street right-of-way located at 723 Haywood Road and in turn controls encroachments into the overhead airspace above the sidewalk. At this time, Douglas R. Oster is planning to renovate the current structure in order to convert it into a multi-use commercial building with an apartment on the second floor. The plans call for the apartment to have a balcony extending into the City controlled air space. Being that balconies are permanent, this encroachment into the public air space must be treated as a sale, and therefore the City requires that the sale of air rights follow certain disposition procedures; specifically the upset bid process.

On July 1, 2015, a qualifying bid was received from Douglas R. Oster in the amount of $220 for the purchase of 110 square feet of air space for the purpose of constructing permanent balconies to a proposed building renovation at 723 Haywood Street. This bid was based on a 2015 Commercial Appraisal of the property and reflects fair market value for the air rights. If the City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the

current bid of $220. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $242 or higher). Since the function of the upset bid process is to confirm fair market value, this resolution provides that if no qualifying, competing bid is received, then the City Council agrees to convey this specified area of air rights to Douglas R. Oster for $220.

Pro:

- The sale will be at fair market value.

Con:

- There is no negative impact.

Financial proceeds associated with this disposition are to benefit the Economic and Community Development Capital Improvement Project budget.

City staff recommends City Council adopt a resolution directing the City Clerk to advertise for upset bids for air rights located at 723 Haywood Road.

Councilwoman Wisler asked that when the new Planning Director is hired that they revisit selling air rights over public property.

RESOLUTION BOOK NO. 37 - PAGE 223

L. RESOLUTION NO. 15-152 - RESOLUTION AUTHORIZING A LEASE AGREEMENT AGREEMENT WITH KEVIN T. AND LISA A FOX FOR THE HEALTH SERVICES OFFICE AT 155 BILTMORE AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute a Lease Agreement between Kevin T. and Lisa A. Fox (Landlord) and the City of Asheville (City) for office and medical space located at 155 Biltmore Avenue for the Health Services Office.

In 2011, the City established a Health Services Office at 155 Biltmore Avenue (identified as PIN # 9648-48-2474-00000) to provide medical care to City employees and eligible dependents with the goal of providing quality health care to City employees and reduce overall medical care costs. The City leases the property at 155 Biltmore Avenue for this specific use and the lease is set to expire on December 31, 2015. At this time, the City is seeking to renew the terms of the lease.

The subject property at 155 Biltmore provides approximately 3,422 square feet of medical and office space in good condition. The property is easily accessible with ample parking. The space is ADA Accessible, and offers all the required needs of a medical office including a waiting/reception area, exam rooms, lab area, doctor's offices, etc.

The term for this proposed lease is three years, with mutual rights to terminate at six months notice. The base rental rate for the leased premises has increased from the current rate of $4,188.50 per month to $4,500 per month, effective January 1, 2016, with a 3% annual increase commencing each year thereafter. The City is responsible for paying related tenant expenses, including utilities, property tax, maintenance and insurance. The Landlord is responsible for major repairs to the roof and structure. Staff has performed analysis of area comparables for medical and office space, and found rental rate and terms to be consistent with fair market value.

Pros:

- The property is right-sized for the City's use and is provides the convenience of parking and proximate location for most users

- A fully operational Health Services Office reduces the City's overall burden of health care costs

Con:

- None noted.

For Fiscal Year 2015-16, the rental costs plus estimated annual costs of property taxes, maintenance, insurance and all utilities were budgeted in the operational budget of the Human Resources Department for the current fiscal year. Beyond Fiscal Year 2015-16, the base rental rate will increase by 3% per year.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease agreement for 155 Biltmore Avenue.

RESOLUTION BOOK NO. 37 - PAGE 224

M. RESOLUTION NO. 15-153 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN WYOMING ROAD AND KEEBLER ROAD AND SETTING A PUBLIC HEARING ON SEPTEMBER 8, 2015

Summary: The consideration of a resolution of intent to permanently close an unnamed alley between Wyoming Road and Keebler Road and setting a public hearing on September 8, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, SABA Holding Group, LLC, Thomas Wolfe, Manager, owner of parcels 9648-64-5150 and 9648-64-6029, and Stephen Carr, owner of parcels 9648-64-5116 and 9648-64-5197, have requested the City of Asheville to permanently close the unnamed alley between Wyoming Road and Keebler Road. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission met on May 27, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley between Wyoming Road and Keebler Road, and set a public hearing on September 8, 2015.

RESOLUTION BOOK NO. 37 - PAGE 225

N. RESOLUTION NO. 15-154 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE BUNCOMBE

COUNTY SHERIFF'S OFFICE CONCERNING DWI TASK FORCE OPERATIONS

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the Buncombe County Sheriff's Office (BCSO) concerning operation of the Asheville/Buncombe DWI Task Force.

The number of impaired drivers on our roads has been a serious concern to citizens and law enforcement in Asheville and Buncombe County for many years. Following a review of statistics on arrests, collisions and fatalities in Buncombe County involving impaired drivers, the North Carolina Governor's Highway Safety Project contacted APD and suggested a special task force with a goal of reducing those numbers and educating the public on impaired driving and its effects. Now in its second year, the APD and BCSO have agreed to memorialize certain practices such as which agency's policies will govern task force operations, supervisory responsibilities over task force personnel and vehicle markings.

APD Interim Chief of Police Steve Belcher and Buncombe County Sheriff Van Duncan reached agreement on terms in June, and staff now seeks authorization from City Council to finalize the agreement as required by N.C. Gen. Stat. § 160A-461.

Pros:

- Provides clarity about each agency's role and responsibilities as members of the DWI task force.

Cons:

- None noted

There is no fiscal impact associated with this action.

Staff recommends City Council authorize the City Manager to enter into an agreement between the City and BCSO memorializing operational practices of the Asheville/Buncombe DWI Task Force.

RESOLUTION BOOK NO. 37 - PAGE 227

O. ORDINANCE NO. 4434 - BUDGET AMENDMENT FOR THE REHABILITATION OF THE SMITH-MCDOWELL HOUSE

Summary: The consideration of a budget amendment, in the amount of $28,200, to accept a federal pass through grant in the amount of $19,000 from the National Park Service Historic Preservation Fund via the North Carolina State Historic Preservation Office; and to dedicate local matching funds from Asheville-Buncombe Technical Community College in the amount of $9,200 for the rehabilitation of the Smith-McDowell House.

Smith-McDowell House is the oldest surviving house in Asheville and the oldest brick structure in Buncombe County. Today Smith-McDowell House is a blend of architectural styles dating from its original 1840s construction and additions completed in the late 19th and early 20th centuries. It is a Local Historic Landmark and is listed in the National Register of Historic Places.

Smith-McDowell House currently functions as an historic house museum, and is leased by the Western North Carolina Historical Association (WNCHA) from Asheville-Buncombe Technical College for that purpose. WNCHA is seeking funding for rehabilitation of the house to repair sections of the slate roof and gutter system to prevent further water damage to the building's interior. Water damage causing the interior plaster and woodwork to be severely compromised is present in several locations throughout the house, including in the WNCHA special collections storage room that houses more than 4,000 objects and other culturally

significant archival materials. Additionally, funding is being sought to address drainage issues on the exterior of the property that could potentially impact the long-term viability of the organization's Olmsted Landscape rehabilitation project begun in 2014.

The scope of work included in the grant project includes the repair of sections of the slate roof and gutter system of the Smith-McDowell House. Drainage issues along the exterior of the house will also be addressed. In addition to the needed repairs, a conditions assessment of the roof will be conducted. All work will be accomplished according to the *Secretary of Interior's Standards for Treatment of Historic Properties and* under the supervision of staff of the North Carolina Historic Preservation Office.

Pros:

- Funding will be made available to rehabilitate the Smith-McDowell House.
- Local matching funds have been provided Asheville-Buncombe Technical Community College.

Con:

- None noted.

As noted above, this budget amendment is fully funded with grants and other non-General Fund revenue sources.

City staff recommends that City Council approve a budget amendment, in the amount of $28,200, to accept a $19,000 grant from the Historic Preservation fund, via the NC State Historic Preservation Office and dedicate $9,200 in local matching funds from Asheville-Buncombe Technical Community College.

ORDINANCE BOOK NO. 30 - PAGE 82

P. ORDINANCE NO. 4435 - BUDGET AMENDMENT TO BUDGET THE PURCHASE OF EQUIPMENT FUNDED THROUGH INSTALLMENT LOAN PROCEEDS FOR STORMWATER EQUIPMENT

Summary: The consideration of a budget amendment in the Stormwater Fund in the amount of $414,000 to budget the purchase of equipment funded through installment loan proceeds.

The adopted FY 2015-16 Stormwater Fund budget included funding to hire an additional crew to enhance the stormwater maintenance program. The crew will be utilized to perform additional preventative maintenance services including performing ditching activities and replacing failed drainage systems. Staff has evaluated the needs of the new crew to be hired and recommends that the new equipment be purchased out of the FY 2015-16 budget funded with installment loan proceeds. The Stormwater Fund has adequate fund balance to purchase the equipment; however, installment financing allows the City to match the debt service payments to the life of the equipment and to maintain cash reserves for planned projects in the future. The amendment will provide sufficient budget authorization to move forward with the purchase of the new equipment.

Pro:

- Provides budget authorization for the purchase equipment for the new Stormwater Fund maintenance crew.

Con:

- None.

This amendment will increase the FY 2015-16 revenue and expense budget in the Stormwater Fund by $414,000. Debt service on the installment loan for the equipment purchases, which is estimated at $125,000 over five years, will not begin until FY 2016-17. Available fund balance in the Stormwater Fund totaled approximately $1.7 million at the end of FY 2013-14; staff is estimating for FY 2014-15, available fund balance will be $2.1 million. This budget amendment will have no impact on available fund balance.

City staff recommends City Council adopt the budget amendment in the Stormwater Fund in the amount of $414,000 to budget the purchase of equipment funded through installment loan proceeds.

ORDINANCE BOOK NO. 30 - PAGE 84

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

Mayor Manheimer highlighted Council on some the following current bills with potential impact on the City of Asheville: sales tax redistribution proposal; municipal service districts; elimination of protest petitions; and state now regulating urbers.

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4436 - ORDINANCE AMENDING THE ANIMAL CONTROL ORDINANCE REMOVING EXEMPTIONS FOR CIRCUSES AND ANIMAL EXHIBITIONS RELATED TO WILD ANIMALS AND OTHER CLARIFYING REVISIONS

Assistant City Attorney Jannice Ashley said that this is the consideration of an amendment to the City Animal Ordinance removing exemptions for circuses and animal exhibitions related to wild animals and other clarifying revisions.

At its January 9, 2015, meeting, the Governance Committee confirmed support for a change in the U.S. Cellular booking policy to exclude events which include any performing wild or exotic animals. This change effectively acts to prohibit circuses with animal acts from appearing at the U.S. Cellular Center. A local animal advocacy interest group, Asheville Voice for Animals, had first come before City Council in April 2014 to request that city officials consider a ban of circuses that use wild or exotic animals from performing at the U.S. Cellular Center due to general concerns about treatment of animals in circuses across the country. In May of 2014, U.S. Cellular staff was asked to review and suggest revisions to its booking policy related to performances of wild or exotic animals. The review also considered the impact on entertainment programming of 'family-friendly' events and the fiscal impact on the U.S. Cellular Center. The results of this review were reported to the Governance Committee at the January 9th meeting and

it was decided that the U.S. Cellular Center's policy should be revised. The revision to booking policy reads as follows: "*Excluded Events: The U.S. Cellular Center elects to refrain from contracting with promoters producing events which include any performance of wild or exotic animals.*"

As part of the consideration of this matter, the Legal staff was asked to review the City's animal ordinance as it related to the keeping or performance of wild or exotic animals. The review of the animal ordinance revealed that several provisions regarding the performance and keeping of wild animals specifically exempted circuses and animal exhibitions (as well as zoological parks). Further legal analysis concluded that there was no legal reason why such exemptions must be granted (i.e. local governments are not pre-empted by State of Federal law from regulating circuses). In order to ensure consistency between the U.S. Cellular Center's new booking policy and the City's animal ordinance and prevent a situation in which circuses or other events involving wild or exotic animal performances are prohibited at the U.S. Cellular Center, but allowed at other locations with the City limits, several revisions to the animal ordinance are recommended.

Asheville's ordinance concerning the regulation and treatment of animals is found in Chapter 3 of the City Code. Generally, in terms of provisions which relate to wild or exotic animals, the keeping of wild animals within the city limits is prohibited (with the aforementioned exceptions) but exotic pets may be kept if a permit has been issued by the animal control administrator.

Section 3-4 of the animal ordinance, defines "**Wild animals**", as "*any animal which can normally be found in the wild state, particularly those feral, dangerous or non-domesticated animals which generally do not live in or about the habitation of humans, including, but not limited to, bears, deer, lions, monkeys, raccoons, skunks, squirrels, turkeys, tigers, venomous snakes and wolf hybrids.*" The City animal ordinance also defines, "**Exotic pet**" as "*any animal that is not classified as domesticated, livestock or a wild animal. This definition does not include feral animals.*"

As a result of public input at the Public Safety Committee, a slight change in the definition of "Wild Animals" is recommended. Unless otherwise directed by the City Council, changes in the definition of "Exotic Pet" or in the ordinance allowing exotic pets with a permit are not considered necessary or recommended at this time.

It is recommended that the definition of "Wild Animal" be revised as follows, with the elimination of deer, lions, monkeys, turkeys, tigers, and wolf hybrids:

Sec. 3-4- Definitions

Wild animal means any animal which can normally be found in the wild state, particularly those feral, dangerous or non-domesticated animals which generally do not live in or about the habitation of humans, including, but not limited to: bears, non-human primates, all felines (other than the domestic house cat), raccoons, skunks, squirrels, venomous snakes, elephants, camels, coyotes, wolves, and any hybrid or crossbreed of such animals which have similar characteristics of the animals specified herein.

As later explained in this report, it is also recommended that the following definition for "Wildlife Sanctuary" be added to the City ordinance:

Wildlife Sanctuary means a charitable organization that is exempt from taxation under section 501(c)(3), Internal Revenue Code of 1986, that: a) Operates a place or refuge where abused, neglected, unwanted, impounded, abandoned, orphaned, or displaced animals are provided care for the lifetime of the animal; b) Does not conduct any commercial activity with respect to wild animals, including but not limited to, (i) the sale, trade, auction, or lease of wild

animals or their parts or (ii) the use of wild animals in any manner in a for-profit business or operation; c) Does not use wild animals for entertainment purposes or in a traveling exhibit; d) Does not breed any wild animals.

There are two additional sections of the animal ordinance for which revisions are recommended in order to make it consistent with new U.S. Cellular booking policy and the intent of the Governance Committee in regard to the keeping or performance of wild or exotic animals.

First, Section 3-12 of the ordinance currently reads as follows:

Sec. 3-12. - Animal care.

(h) It shall be unlawful for any person to sponsor, promote, or train a wild or domesticated animal to participate in any unnatural behavior in which the animal is wrestled, fought, harassed or displayed in such a way that the animal is abused or harmed. This section shall in no way apply to zoological parks, animal exhibitions or circuses.

It is recommended that the underlined portion of this provision be deleted in its entirety, as there should be no exemption for any organization or entity which allow the abuse or harm of an animal. Additionally, a few other minor additions are recommended.

The revised provision would read as follows:

(h) It shall be unlawful for any person to sponsor, promote, exhibit or train a wild, exotic or domesticated animal to participate in any unnatural behavior in which the animal is wrestled, fought, made to perform, harassed or displayed in such a way that the animal is abused or harmed.

Secondly, Section 3-14 of the ordinance currently reads as follows:

Sec. 3-14. - Wild animals.

No person shall keep or permit to be kept on his/her premises a wild animal. This section shall not apply to zoological parks, animal exhibitions or circuses nor apply to the possession, exhibition or handling of reptiles by employees or agents of duly constituted museums, laboratories, educational or scientific institutions in the course of their educational or scientific work.

It is recommended that this provision be revised to pertain to both persons and entities within the city limits, to delete the exemption for allowing wild animals in animal exhibitions or circuses and to modify the exemption as it relates to zoological parks to apply only to zoological parks that are accredited by the Association of Zoos and Aquariums ("AZA") (this recommendation was made in consultation with Nature Center Director Chris Gentile. The AZA is a highly regarded national organization which has an Accreditation Commission consisting of experts who are leaders in their fields and have many years of experience and education in zoo and aquarium operations, animal management, and veterinary medicine. Once accredited, each zoo or aquarium must go through the entire accreditation process every five years to maintain this status. The City's Nature Center is AZA accredited, one of only 6 such organizations in the State of North Carolina, the others are the NC Zoo, the Greensboro Science Center and the three NC Aquariums).

Additionally, changes are recommended to the remainder of the underlined portion of the ordinance for clarification purposes. At Public Safety Committee, there was discussion of consideration to add an exception for wild animals that are used for "bona fide medical, scientific or educational purposes", which is language used in the ordinances of Chapel Hill and Charlotte. However, based on discussion and input from the public, it became clear that such a general

provision would be subject to varying interpretations. Therefore, the current proposed revision is more specific in this regard and clearly allows for "wildlife sanctuaries" or "wildlife rehab programs" as directed by members of the Public Safety Committee.

As noted above, it is recommended to add a definition of "Wildlife Sanctuary". This definition comes from House Bill 554 which is currently under consideration in the 2015 legislature. Additionally, the NC Wildlife Resources Commission issues licenses for "wildlife rehabilitation" which is defined as the volunteer practice of providing care and treatment to injured or orphaned wild animals or birds until such time as those animals are at an adequate level of health to be successfully returned to their natural environment. Wildlife rehabilitators are not allowed to rehabilitate raccoons, skunks, foxes, bats, coyotes, bears, deer, wild turkeys, wild boar, or endangered, threatened or special concern species-many of the animals that fall under the City's definition of "wild animal".

The proposed revision to this Section would read as follows:

Sec. 3-14. - Wild animals.

No person or entity shall keep or exhibit, or permit to be kept or exhibited on his/her/its premises a wild animal within the City limits. This section shall not apply to:

a) An exhibition or educational outreach program by a zoo or aquarium accredited by the Association of Aquariums and Zoos ("AZA");
b) A wildlife sanctuary or wildlife rehabilitator properly licensed and permitted by the NC Wildlife Resources Commission; or
c) A university, college or laboratory, or other research facility registered under the Animal Welfare Act (7 U.S.C. sec. 2132(e)).

This matter was presented to the Public Safety Committee on May 25, 2015, which supported the proposed revisions, and directed that they be sent to Council for action.

Pro:

- The proposed ordinance revisions will ensure consistency between the U.S. Cellular Center's new booking policy and the City's animal ordinance and prevent a situation in which circuses or other events involving wild or exotic animal performances are prohibited at the U.S. Cellular Center but allowed at other locations with the City limits, consistent with the intent of the Governance Committee decision.

Con:

- Though no change to the definition of "wild animal" is being proposed, the revisions to these other sections of the animal ordinance may raise awareness of the existing regulation and may lead to some enforcement action against individuals who may not have realized they were keeping a prohibited "wild animal", for example, a wolf-hybrid or venomous snake.

City staff recommends City Council revise City's current animal ordinance provisions Sec. 3-4, Sec. 3-12 and Sec. 3-14 as described above to remove exemptions for circuses and animal exhibitions related to wild animals and to make other clarifying revisions as described.

When Councilman Bothwell questioned why we were eliminating deer in the wild animal definition, Ms. Ashley said that after reviewing the wildlife rehabilitation section of State Licensing, she removed deer and turkey from the definition. She would be happy to include deer and turkey back into the definition.

Mayor Manheimer opened the public hearing at 5:26 p.m.

Ms. Nancy Brown, President of Full Moon Farm, Inc. (Wolf-Dog Rescue & Sanctuary), felt that residents should be allowed to own wolf-hybrids. She said that such hybrids are usually many generations removed from full-blooded wild wolves and that the U.S. Dept. of Agriculture categories them as domestic. She provided information to Council to back-up her opinion that wolves and dogs are the same species.

The following individuals spoke in support of the amendment to the animal ordinance:

Ms. Robbie Coleman, member of Asheville Voice for Animals
Ms. Dianne Prescott, member of Asheville Voice for Animals
Mr. Lafayette Prescott, member of Asheville Voice for Animals
Mr. Donald Kimbell

Mayor Manheimer closed the public hearing at 5:39 p.m.

In response to Councilman Bothwell, Ms. Ashley said that the Humane Society of the United States says that wolf-dogs are not domesticated.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4436, with the amendment to include deer and turkeys in the wild animal definition. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 86

B. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CHARTWELL STAFFING SOLUTIONS FOR TEMPORARY SERVICES IN THE PARKING GARAGES

Transportation Director Ken Putnam reviewed with Council highlights of the current and future plans.

Short term steps for overall cleanness include (1) additional full-time position(s); and (2) contract options (a) power washing contract being processed; (b) pending temporary services contract includes general cleaning; (c) painting restrooms in Biltmore Avenue garage being considered; (d) steam cleaning restroom floors in Biltmore Avenue garage being explored; (e) paint/seal stairwells in three older garages being considered; and (3) extend restroom hours.

Mid-term steps for the operations include (1) elevator major overhaul in 3 older garages; and (2) heavy-duty structural maintenance at the Civic Center garage. A Comprehensive Parking Study to help guide policy direction is a mid-term step regarding policy. The contract will be in place by October 2015 and scheduled for completion by February 2016.

He then said that he is asking for consideration of a resolution authorizing the City Manager to enter in to a contract with Chartwell Staffing Solutions, Inc. for temporary services in the City's parking garages, surface parking lots, and other facilities during the period of August 1, 2015, through June 30, 2018.

The City of Asheville, through the Parking Services Division, currently operates four parking garages and several monthly parking and pay-by-space surface parking lots downtown. Parking Services Division uses a combination of City employees and contract temporary workers to provide service and customer assistance in these facilities and lots. Generally, City employees work during the business day and early evenings while contract temporary services are used for fill-ins, special events, and to extend garage and public restroom hours during late evenings,

weekends, and holidays. Use of temporary workers allows the greatest flexibility as needs vary greatly depending on time of year and events booked at the U.S. Cellular Center, outside special events, and other large venues downtown. On some days Parking Services may only need one temporary service employee to fill in for a City employee sick or on vacation. At other times, Parking Services may need six to 15 to support a major event downtown.

In late March 2015 Parking Services requested and received bids from interested vendors in providing temporary service employees. Eight vendors responded. Chartwell Staffing Solutions provided the lowest bid for the service. They are located in Charlotte, North Carolina with local recruiters in the Asheville area servicing their existing clients. The total cost of the three-year contract will be $390,000 not to exceed $130,000 per fiscal year.

Pros:

- Provides safe and convenient facilities for residents and visitors parking.
- Using temporary service employees is the most cost effective and flexible manner to augment the Parking Services Division's staffing requirements.
- Allows parking Services to capitalize on extended weekend/nights/holiday hours and special event parking to provide better customer service and to bring in additional revenue.

Con:

- Total cost of $390,000.

The necessary funds for the first year of the contract are already budgeted in the Parking Services' Operating Budget for FY 2015-16.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a contract with Chartwell Staffing to Solutions to provide temporary services in the City's parking garages and lots at a total cost of $390,000 not to exceed $130,000 per fiscal year.

Vice-Mayor Hunt suggested the current contract be extended on a month-to-month basis and that this item be postponed until a comprehensive cleaning plan is in place and possibly added in the the current agreement.

Councilman Davis asked that consideration be given to extend the restroom hours the 29 Haywood Street restroom hours to include afternoons on Sundays. He felt that we should try to garner tourism dollars to help with the maintenance of the restrooms.

Vice-Mayor Hunt felt that with all the activity in downtown Asheville after 5:00 p.m. that restroom hours be significantly more extended.

Mayor Manheimer said that the City needs to think innovatively about our transportation/ transit/parking, noting that there is some underutilization of what we already have.

City Manager Jackson said that staff will provide Council with a comprehensive cleaning plan that might include investing additional resources for a higher level of citizen and customer service.

C. RESOLUTION NO. 15-155 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A SERVICE CONTRACT WITH LEAF COMMUNITY ARTS TO EXPAND YOUTH SERVICES IN THE CITY OF ASHEVILLE

City Manager Jackson said that LEAF Community Arts proposes to expand youth services in the City of Asheville under a one-year service agreement in the amount of $15,000.

LEAF Community Arts is well-established as a partner with the City of Asheville, currently operating under a multi-year service agreement. Currently, LEAF Community Arts receives office space at the East Asheville Community Center in return for partnering on camps, events and educational/cultural programming.

This proposal is aligned with Council's strategic operating plan objective to create "a strong public/private partnership to provide cultural opportunities to the community." Staff believes that an agreement in the amount of $15,000, if approved by City Council, may be absorbed within the existing Parks, Recreation and Cultural Department operating budget.

Ms. Jennifer Pickering, Executive Director of LEAF Community Arts, explained that they are dedicated to our local community youth with a focus on serving youth living in public housing communities or marginalized communities with limited resources. They have been an 11-year City of Asheville partner. They are requesting $15,000 from the City to support LEAF's Art Education programs through LEAF Schools & Streets and The Easel Rider dedicated to the City of Asheville Youth Services for the operating budget year of 2015 (Jan-Dec). The proposed additional youth services above and beyond their current partnership with the City will be (1) $2,500 - Burton Street One Mic Program; (2) $10,000 - Easel Rider Programs Expanded; and (3) $2,500 - Wesley Grant LEAF Southside Drummers Program Enriched and Expanded.

Ms. Schree Chavdarov, LEAF's Community Arts Coordinator, explained the Easel Rider Program. The LEAF agreement with the City Parks and Recreation Department allots up to 10 hours a week dedicated to Easel Rider. In our current operations we are dedicating 15-25 hours of combination events, preparation, teaching artists and coordination. Programs are planned to be expanded beyond their dedicated 48 per year to 80 this year. As of August 1, the U-LEAF Mobile Stage, designed by AVL Design Center Students, will become an additional community-building tool often used in conjunction with the Easel Rider Program.

Ms. Chavdarov also explained the Wesley Grant LEAF Southside Drummers Program. The Program was expanded from 1 week to 2 weeks for 3 months between August and November at a cost of $1,250. Parent Community Coordinator, Shuvonda Harper, will be hired August 1 - December 31 at a cost of $1,000. Uniforms will be purchased for all participating youth that have been in the program currently. Most have been participating for two or more years. Uniforms are their number 1 request for self-esteem and growth of program and recognition in community.

Ms. Jocelyn Reese, LEAF's Schools & Streets Director, explained the Burton Street One Mic Program. She said this program was launched in January as a pilot program. It has quickly grown, and is now a dedicated part of LEAF programming. With the support funds they are able to commit to expanding to three teaching artists three times weekly.

Councilwoman Wisler supported the LEAF programs, noting that their partnership with the City is important. However, she asked that any action be postponed for the following reasons: (1) request for what in the Parks & Recreation Department budget will be cut or reduced since this will be absorbed into their budget; (2) request that the Recreation Board review the request; and (3) place it on a formal agenda so the public will be aware that this item is being considered.

Vice-Mayor Hunt felt it was unfortunate that this request did not come to Council through the annual process, but thinks that it is worth supporting.

In response to Councilman Davis, Ms. Pickering apologized for not understanding the process; however, she said she has tried to understand that process since November 1. If the $15,000 is not granted, it will be a cut in the number of children served and their programming.

Councilman Davis said that Council and staff has worked hard to streamline the strategic partnership grant funding and it is unfortunate that this request did not follow that process since one main goal was to help children.

Mayor Manheimer explained that she felt this request doesn't fit the mold of the strategic partnership grant funding process, but more of the City of Asheville Youth Leadership Academy.

When Mayor Manheimer asked for public comment, no one spoke.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Hunt moved for the adoption of Resolution No. 15-155, while respecting the need for process. This motion was seconded by Councilman Bothwell and carried on a 5-1 vote, with Councilwoman Wisler voting "no".

RESOLUTION BOOK NO. 37 - PAGE 228

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Rich Davis presented City Council with a petition to "request Asheville City Council to name an area of the US Cellular Center in honor of Councilman Jan Davis upon the completion of his third term. His role of leadership and his service to the community for over forty years has played a definitive part in the modernization and success of the US Cellular Center. His work as a volunteer with numerous civic groups such as Asheville Jaycees, Rotary West and Quality Forward and service areas such as Planning and Zoning, Civic Center Commission, Downtown Association and Asheville-Buncombe Sports Commission led ultimately to Asheville City Council. This placed him in a unique position to have helped facilitate the cooperation necessary to make a City-owned property successful and vital to our downtown. Councilman Davis has stayed true to his belief that all great cities have a great gathering place. Whether through sports, entertainment or cultural events, Councilman Davis has maintained the importance of having the Civic Center being more than an economic driver. Just as important, is the need for a gathering spot for Asheville citizens and a place to put our best face for our visitors. We hope you accept this request for consideration and feel this is an appropriate way to recognize a man of distinguished service. Because he holds the building and its people in such high regard we feel this naming as an expression of appreciation would be most heartfelt and deserving." Mr. Mike Burke, former Chair of the Civic Center Commission, Mr. Joel Storrow, Chair of the Civic Center Commission, Mr. Wes Wright, member of the Civic Center Commission, and Mr. Bill Jones, Vice-Chair of the Civic Center Commission, each endorsed Councilman Davis for this honor. Councilman Davis said this was a very humbling experience and that it is a great honor. Mayor Manheimer said that a resolution naming an area of the US Cellular Center in honor of Councilman Davis would be placed on the August 25, 2015, agenda for formal action.

Dr. Kae Livsey requested Council's assistance in addressing a concern related to what they believe is an administrative oversight in transferring ownership of Grandview Circle to the City, when their neighborhood was annexed into the City in 1994. City Manager Jackson said that he would have our Neighborhood Coordinator Marsha Stickford follow-up with Dr. Livsey on this concern.

Mr. Mike Soule appreciated the Transportation Department for the inclusion of the protected bike lane as part of the RADTIP, and also the implementation of the first on-street bicycle parking on Haywood Street.

Mr. Timothy Sadler suggested the City look at the implementation of the License Recognition System in the parking study to generate additional revenue for the City.

Closed Session

At 6:46 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:21 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:21 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – August 25, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 18, 2015, AS "2015 ASHEVILLE BUNCOMBE TIME CAPSULE DAY"

Councilman Davis read the proclamation proclaiming September 18, 2015, as "2015 Asheville Buncombe Time Capsule Day" in the City of Asheville. He presented the proclamation to Ms. Constance Richards, member of the Public Art & Cultural Commission and member of the Time Capsule Selection Panel, who briefed City Council on some activities taking place during the day.

B. PROCLAMATION PROCLAIMING AUGUST 25, 2015, AS THE 75TH ANNIVERSARY OF THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE

Mayor Manheimer read the proclamation proclaiming August 25, 2015, as the "75th Anniversary of the Housing Authority of the City of Asheville" in the City of Asheville. She presented the proclamation to Mr. Gene Bell, Executive Director of the Housing Authority of the City of Asheville, and Mr. Lewis Isaac, Chair of the Housing Authority of the City of Asheville, who briefed City Council on some activities taking place during the day.

C. RESOLUTION NO. 15-156- RESOLUTION NAMING THE U.S. CELLULAR LOBBY AS THE "JAN DAVIS LOBBY"

Economic Development Director Sam Powers said that this is the consideration of naming the U.S. Cellular Center Lobby after Asheville City Council Member Jan Davis.

City of Asheville Council Member Jan Davis has been a community leader and supporter on behalf of the Asheville Civic Center/US Cellular Center for over 30 years. City Council received a naming petition request from civic center members that a suitable area of the facility be named for Mr. Davis in recognition of his contributions towards the facility. City Council referred the request to the Civic Center Commission for a recommendation as to location of the area to be named. The Asheville Civic Center Commission voted unanimously to recommend renaming the Lobby area of the U.S. Cellular Center to the 'Jan Davis Lobby'.

Pro:

- The naming of this public property is in accordance with the City Of Asheville's Naming City Public Owned Property Policy dated March, 25, 2014.

Con:

- None

The purchase of a plaque commemorating the naming would be the associated expense to this consideration.

Staff and the Civic Center Commission recommends City Council approve naming the U.S. Cellular Center lobby as the 'Jan Davis Lobby.'

On behalf of the Civic Center Commission, Mr. Joel Storrow, Chairman of the Civic Center Commission, was proud to recommend the naming of the lobby in honor of Councilman Jan Davis.

Council members expressed how proud they were of Councilman Davis' service not only to the U.S. Cellular Center, but to the City of Asheville.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-156. This motion was seconded by Councilman Bothwell and carried unanimously (with Councilman Davis recusing himself).

RESOLUTION BOOK NO. 37 - PAGE 229

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 28, 2015

B. RESOLUTION NO. 15-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM RAFTELIS FOUNDATION ELEMENTARY FOR THE ACCEPTANCE OF A SCHOLARSHIP

ORDINANCE NO. 4437 - BUDGET AMENDMENT FROM THE RAFTELIS FOUNDATION ELEMENTARY EDUCATION SCHOLARSHIP FOR ACCEPTANCE OF A SCHOLARSHIP

Summary: The consideration of (1) a resolution allowing the City Manager to receive funds from the NC-AWWA-WEA Raftelis Foundation Elementary Education Scholarship and to execute any necessary documents that may be required; and (2) a budget amendment in the amount of $1,000 to budget the scholarship money in the Stormwater Fund.

The City of Asheville, NC, currently has a stormwater educational program which ultimately involves protecting our water resources by educating school age kids on the importance of protecting the environment. Staff continues to provide education to the community as to how stormwater affects the environment.

Staff had the opportunity to request funding from the Raftelis Foundation Elementary Education Scholarship program. This program is targeting elementary awareness to promote water resource stewardship. The goal of this program is to promote educational programs, provide reading and video materials and fund environmental sustainability and water stewardship educational initiatives. The efforts the City continues to promote partners well with the goals of the foundation. As staff has found one of the most successful educational tools concerning environmental issues is through water stewardship programs that work to educate school age students. Students take this knowledge and materials back home and discuss them with their

parents/gardens. Some items staff utilizes to promote the educational program during this past fiscal year (July 1, 2014 – June 30, 2015) included:

- EnviroScape Presentations – This watershed model shows students the effects that pollution can have on water quality. It is a great education tool that teaches the watershed concept in addition to point and non-point source pollution. We exposed 90 students to this activity and they figured out how human activities in a watershed affect water quality.
- Project Wet activities and tours of our water treatment plants – There were 450 participants that toured our water treatment plants through this partnership with the water department. During these tours staff focused on sustainability, wise water use, water production and treatment. Staff also did either an enviroscape presentation or included project wet activities where students learn about water quality and how to protect their watershed.
- Mills River Day – Stormwater staff participated in the Mills River Day and shared our message with approximately 800 participates. We distributed brochures that included the following: dumping & illicit discharge; what stormwater runoff is; benefits of minimizing stormwater pollution; best management practices; flood safety; and the harm that pet waste can cause to our waterways.
- Adopt-a-Street Program – We partner with Asheville Greenworks to provide this program. Groups and organizations are encouraged to help reduce litter by participating in Asheville's Adopt-A-Street program. Participants agree to pick up litter from their adopted street at least six times per year. Greenworks provides groups with bags, vests, gloves, and pick-up sticks. The City of Asheville provides garbage pickup and signs on the street to recognize the litter reduction efforts.
- Adopt-a-Stream Program – The City of Asheville partners with RiverLink for this program. This is a hands-on way for local residents and businesses to get actively involved in improving the water quality of the French Broad River Watershed. Participants are required a minimum of two cleanups per year and report any water related issues/problems to RiverLink. The City of Asheville provides garbage pickup and installation of signs on the streams to recognize the litter reduction efforts. There are a total of 40 active stream cleanup teams.
- Storm drain marking – Stormwater staff partnered with Mountain True to work with volunteers and placed storm drain markers on 500 storm drains in downtown Asheville. These items note that the drains flow into the rivers and streams.

In order to improve these ongoing educational efforts for school-aged students, we applied for and were awarded the Raftelis Foundation Elementary Education Scholarship for $1,000. This money will be used to purchase educational material to further assist the programs currently in place.

Pros:

- Accepting this scholarship money will improve the ongoing education efforts for school-aged students.

Con:

- None

The scholarship from the Foundation will assist in funding existing programs.

Staff recommends Council approve (1) a resolution allowing the City Manager to execute any necessary contracts or documents associated with the Raftelis Foundation Elementary Scholarship for the acceptance of this scholarship in the amount of $1,000; and (2) a budget amendment in the amount of $1,000 to budget the scholarship money in the Stormwater Fund.

RESOLUTION BOOK NO. 37 - PAGE 230
ORDINANCE BOOK NO. 29 - PAGE 88

C. RESOLUTION NO. 15-158 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO BE THE LOCAL GOVERNMENT PARTNER FOR THE ASHEVILLE AREA ARTS COUNCIL GRANT APPLICATION TO THE NATIONAL ENDOWMENT FOR THE ARTS 2016 OUR TOWN GRANT

Summary: The consideration of a resolution authorizing the City of Asheville to be local government partner for the Asheville Area Arts Council grant application to the National Endowment for the Arts 2016 *Our Town* grant and consideration of match funding request for this grant.

The National Endowment for the Arts (NEA) offers numerous grants in a variety of art and design categories. For 2016, the NEA is offering the *Our Town* grant for projects that contribute toward livability of communities. To submit an application, eligible primary partners must be eligible local governments and local arts agencies or other departments, agencies or entities within an eligible local government. Only one application per city/town/county will be accepted. The grant requires a non-federal dollar for dollar match, which may include in-kind, cash and volunteering. Matching funds for this grant must be confirmed prior to award (August 1, 2016).

The AAAC has worked with the Buncombe Cultural Alliance (BCA) to seek matching funds in addition to the funds requested from the City of Asheville. The BCA has agreed on an initial project to conduct a cultural asset inventory. It is a cross sector collaborative assessment of Buncombe County's cultural resources.

A Cultural Resources Asset Inventory captures important information about the scope of the economic activity of creative industry not captured in the area using traditional industry codes.

1. The data captured provides new information about the scale and nature of economic activity that is related to cultural and creative industry based businesses.
2. Information gathered provides feasibility for arts based development and related uses.
3. The inventory creates a common use, business to business database of arts and culture partners.
4. Increases the area's eligibility for additional Creative Place making funding from the National Endowment for the Arts, ArtPlace, SmArt Initiative, and similar funds.

The request to the National Endowment for the Arts will be $80,000. Support is being sought from the City as part of the match in the amount of $25,000.

Staff Review:

- If awarded funds, AAAC and its partners will conduct a public process, coordinating with other national and local processes, to capture the scope of activity in Buncombe County.
- This application was approved by the Public Art & Cultural Commission on July 23, 2015.
- Staff recognizes the need for the AAAC to build capacity and AAAC understands NEA Our Town Grant is to support collaborative efforts that bring results for community goals.

Request for consideration of this grant partnership was presented to PED at their meeting on July 21, 2015. They approved this item for consideration and approval with the following:

- Continue efforts to outreach to other local government to assist in supporting the work and consideration of matching funds as benefit will have an impact to all of Buncombe County.
- If approved, the city's match will be contingent upon support from other local governments.
- Funding support should be a combination of cash and in-kind support since City staff resources will be required.

- Consider how to sustain this work once the initial investment is made for the inventory.

Pros:
- The City of Asheville will not have fiduciary responsibility on this grant.
- The City would partner with the Asheville Area Arts Council and other arts, culture and entertainment agencies in the fulfillment of this grant programming.
- It provides a compass for the development of the identified Innovation Areas, especially the River Arts District.

Cons:
- None noted at this time.

The City's support is grant matching funds in the amount of $25,000. If Council approves this request, staff will include funding for the match in the proposed budget for FY 2016-17. Additionally, staff time and resources will be required in the performance of this grant.

Planning & Economic Development Committee (1) approval by City Council for the local government partnership; and (2) consideration of the matching funds requested in the amount of $25,000, subject to (a) other local government match funding; and (b) combination of cash (no amount specified) and in kind.

Councilman Smith thanked the Asheville Area Arts Council for making this effort. The work for the grant will provide a foundation for future artists as well as new collaborations in the River Arts District.

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D. RESOLUTION NO. 15-159 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH CAVANAUGH AND ASSOCIATES P.A. FOR THE VAULT RENEWALS AND DISTRICT METERING AREAS ZONE METERING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order with Cavanaugh and Associates, P.A., (Cavanaugh) to increase the engineering design services contract in the amount of $8,000 from a total project budget of $190,136 to $198,136 for the Vault Renewals and District Metering Areas (DMA) Zone Metering Project.

On December 10, 2013, City Council (Council) awarded the engineering design services contract to Cavanaugh, for the Vault Renewals and DMA Zone Metering Project. The contract originally consisted of a survey, engineering design, construction administration, and other related professional services to replace existing substandard and failing large water meters and vaults with new metering infrastructure designed and constructed in accordance with the City of Asheville (City) standards. The initial time for the construction contract was 150 days. However, due to unknown site issues, meter technology issues and weather impacts, the construction contract has been extended by 43 days for a total of 193 days. The extension of the construction contract requires that Cavanaugh spend additional time providing construction administration. Also, due to the encountered unknown site conflicts and meter technology issues, Cavanaugh is being required to perform some additional redesign and troubleshooting to resolve these issues.

The additional engineering services for the increased construction contract time and site issues creates the need for a change order to increase the contract amount by an additional $8,000 for a total project budget of $198,136.

Pro:

- Approval of the change order will allow the city to complete the engineering services for the entire project.

Con:

- If the change order is not approved, then the project cannot be finished.

The funding needed for the change order is currently allocated within the Meter / Vault Repair Project in the Water Resources Capital Improvement Projects fund. No budget amendment is necessary.

Current Amount of Cavanaugh and Assoc. Contract	$190,136
Amount Needed for Change Order	$ 8,000
Total Amount for Project	$198,136

The amount remaining in the Meter / Vault Repair Project will be saved for the construction portion of the project. Staff will seek Council approval of contracts associated with this project if the amount of the contract requires Council approval per the City's Procurement, Purchasing and Contracting Policy.

Staff recommends Council approval of the resolution authorizing the City Manager to execute a change order with Cavanaugh to increase the engineering design services contract in the amount of $8,000 from a total project budget of $190,136 to $198,136 for the Vault Renewals and District Metering Areas (DMA) Zone Metering Project.

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E. RESOLUTION NO. 15-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE NORTH CAROLINA APPALACHIAN REGIONAL COMMISSION EMERGING OPPORTUNITIES GRANT PROGRAM

Summary: The consideration of a resolution authorizing the City of Asheville to submit a grant application for the North Carolina Appalachian Regional Commission Emerging Opportunities Grant Program.

The North Carolina Appalachian Regional Commission (NC ARC) offers numerous grants to create opportunities for self-sustaining economic development and improved quality of life for the people of Appalachia. Buncombe County is categorized as a Transitional County, and one of twenty-nine counties in the Appalachian portion of North Carolina. For 2015, the NC ARC is offering the new *Emerging Opportunities* grant for projects that help create a region with:

1. An economy where employment in the manufacturing sector is growing;
2. Vibrant main streets and robust retail activity centers;
3. Communities that use technology to break down barriers of geographic isolation and enable rural communities to market locally-produced goods and services around the world;
4. An economy that respects the importance of heritage, history and place, and recognizes that an asset-based approach to economic development integrates these features at every opportunity;
5. Development of a skilled workforce where improving levels of education and training result in increased opportunity for all residents.

Projects must address ARC Goal 1, to increase job opportunities and per capita income in Appalachia and target a specific NC Strategy comprised of the following:

- Develop leaders and strengthen community capacity
- Diversity the economic base

- Enhance entrepreneurial activity in the region
- Develop and market strategic assets for local economies
- Increase the domestic and global competitiveness of the existing economic base
- Foster the development and use of innovative technologies
- Capitalize on the economic potential of the Appalachian Development Highway System
- Encourage sustainable and effective economic use of natural resources
- Encourage investments in energy projects that create jobs

Applicants must be a 501(c)(3) non-profit or governmental/educational institution. Applications are due by August 28, 2015. Matching funds must be confirmed prior to application submittal. Projects that are selected by the Governor will be recommended to ARC headquarters in October, 2015.

Staff Review:

- Economic development studies are identified as a qualifying project.
- The City of Asheville submitted a pre-application proposing an economic development study on special events to Land of Sky Regional Council and was selected to submit a full application by NC ARC.
- *The Entrepreneurial Impact of Outdoor Special Events* study will:
    - Quantify the impact of special events on local entrepreneurship
    - Generate data to support the development of policy recommendations designed to motivate entrepreneurship and job creation through special events
    - Create a practical, research-based survey tool that can be shared with surrounding communities in the region.
- The proposed study is in alignment with NC ARC Strategic Objective 1.4, to develop and market strategic assets for local economies.
- The proposed study seeks to address NC ARC Strategy 1.4.3, to provide new opportunities to demonstrate cooperation with the private sector, which have the potential of directly creating new jobs and are replicable in other areas of the region or the state.
- The maximum project estimate is $50,000 and requires a 1:1 cash match ($25k/$25k).
- The proposed project performance period is March 2016 – March 2017.

This proposal was presented and approved by the Planning and Economic Development Committee at their meeting on August 18, 2015. They approved this item to be place on your agenda for consideration and approval.

If awarded funds, a Request for Proposal will be issued to secure a contract with a strategic research consulting firm. Staff will work closely with the research consultant to identify the most appropriate analytical techniques and assist in the development of unique survey instruments for each event selected for participation. Staff will serve as a liaison between local businesses, the event organizers, and the research consultant to assure successful implementation, transparency, and optimal inclusion in the survey process.

The proposed research study will encompass a practical examination of various event types, sizes and lengths. The study will identify the most popular events for attendees and vendors, the distance they travel, and to what measure special events contribute to their lives and livelihoods. The study will analyze the most profitable events for local brick & mortar businesses, impact on attendee response and behavior, and pinpoint unique attributes of events that provide the most ideal climate for local business support that drives and motivates entrepreneurship and job creation.

The final report will reveal recommendations as to how local governments can leverage their outdoor public spaces and public-owned land to encourage special events that support job creation and motivate entrepreneurship. The data generated will be used to support

recommendations on incentives for special events that maintain the strongest overall return on investment. The data will be used to support new policies that enhance entrepreneurial activity through outdoor special events. The City will distribute a copy of the final report and surveys to each of the 6 counties adjacent to Buncombe County, and will make an electronic copy of the report available to all other counties in the Western North Carolina Region.

The grant will support City Council's goal to create economic development and community investment opportunities through partnerships, planning and incentives, continue to support Asheville as a culturally diverse city, and continue to develop communications and partnerships with citizens, community leaders, the media and elected officials.

Pros:
- Strengthens the City's relationship with the North Carolina Department of Commerce and the Appalachian Regional Commission
- Provides critical data with which to base sound policy recommendations
- Creates opportunities to engage, support and partner with the private sector
- Establishes a platform to share City efforts and provide assistance throughout the region

Con:
- None noted at this time.

The fiscal impact of the City's support to this grant application is grant matching funds an amount not to exceed $25,000 from the existing Community and Economic Development budget funds. No budget amendment would be required.

City staff recommends City Council (1) approve the NC ARC *Emerging Opportunities* grant application; and (2) consider matching funds requested in the amount not to exceed $25,000 from the existing Community & Economic Development budget.

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F. RESOLUTION NO. 15-161 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEXINGTON AVENUE ARTS & FUN FESTIVAL ON SEPTEMBER 6, 2015

RESOLUTION NO. 15-162 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST ON OCTOBER 10, 2015

RESOLUTION NO. 15-163 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT HOWLIN HALLOWEEN ON OCTOBER 31, 2015

Summary: The consideration of a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival on September 6, 2015; Oktoberfest on October 10, 2015; and Howlin Halloween on October 31, 2015.

- Arts 2 People has requested through the City of Asheville Office of Economic Development that City Council permit them to serve beer and/or unfortified wine at Lexington Avenue Arts & Fun Festival and allow for consumption at this event.

  Lexington Avenue Arts & Fun Festival will be held on Sunday, September 6, 2015 from 11:00 a.m. – 9:00 p.m. at Lexington Avenue, Walnut Street & Hiawassee Street as per the event area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Office of Economic Development that City Council permit the sale of beer and/or unfortified wine at Asheville Oktoberfest and allow for consumption at this event.

  Asheville Oktoberfest will be held on Saturday, October 10, 2015, from 1:00 p.m. – 6:00 p.m. on Woodfin Street between the intersection of Central Avenue & Oak Street as per the event area limits referenced on the accompanying site map.

- Brother Wolf Animal Rescue has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Howlin Halloween and allow for consumption at this event.

  Howlin Halloween will be held on Saturday, October 31, 2015 from 12:00 p.m. – 4:00 p.m. at Carrier Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Arts 2 People, Asheville Downtown Association and Brother Wolf Animal Rescue

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Lexington Avenue Arts & Fun Festival, Oktoberfest, and Howlin Halloween.

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RESOLUTION NO. 15-161 - RESOLUTION BOOK NO. 37 - PAGE 237
RESOLUTION NO. 15-162 - RESOLUTION BOOK NO. 37 - PAGE 240

G. ORDINANCE NO. 4438 - FIRST READING OF AN ORDINANCE GRANTING A NON-EXCLUSIVE FRANCHISE TO SPIRIT COMMUNICATIONS FOR INSTALLATION OF TELECOMMUNICATIONS FACILITIES IN THE PUBLIC RIGHT-OF-WAY OF THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise to Spirit Communications pursuant to the City's Telecommunications Ordinance (3056).

The City of Asheville (City) adopted Article III of the Code of Ordinances (the Telecommunications Ordinance) in 2003 to provide for the granting of revocable and non-exclusive franchises to install telecommunications facilities in the City's right-of-way. Spirit Communications wishes to begin operations in Asheville and requires the granting of a franchise agreement under the Telecommunications Ordinance.

Most of the substantive terms applicable to this or any telecommunications franchise are set forth in the Telecommunications Ordinance, and Spirit Communications, by accepting the franchise, agrees to abide by the provisions of the ordinance. The main issues to be determined in connection with this particular franchise are the fee that the City will receive and the length of the franchise term.

Franchise Fee: In accordance with §4.5-85(a) of the City's Code of Ordinances, the grantee of any franchise shall pay a franchise fee or may provide non-monetary consideration including additional facilities and excess capacity to be reserved for the city's use.

With regard to a franchise fee, the Information Technology Services Department determined that a two-tiered fee structure based on density would reflect the value of the right-of-way in high density areas while encouraging the extension of service into under-served and less dense areas. Within the downtown area (defined as Charlotte/South Charlotte Streets on the east; Beaumont/Hilliard Streets on the south; Clingman/Haywood Streets on the west; and I-240 on the north), the rate is proposed to be $.10 per foot per month for each linear foot of right-of-way used for the installation. Outside of this core area, the rate drops to $.02 per foot per month. In lieu of an estimated fee of approximately $10,000/year for the proposed installation of approximately 3 miles of fiber running from the intersection of Charlotte St and I-240 along College Street and ending up at the West Gate Mall area, Spirit Communications has agreed to provide the City with the exclusive use of 8 strands of fiber. The estimated value of this fiber is over $90,000. Spirit Communications also has agreed to provide 8 strands of fiber in all subsequent fiber build requests.

Franchise Term: Spirit Communications has requested a 10-year term, renewable for two 10-year terms, unless either party terminates.

Installation: Pursuant to §4.5-85(d), any installation relative to a franchise in the public rights-of-way must submit a construction plan and receive approval from the City Engineer.

Considerations:

1. This will be the City's fourth franchise agreement of this type.
2. The City has the obligation to protect and preserve its right-of-way for public use, and the right to expect fair compensation for its use by profit-making enterprises. The compensation that we receive should be fair and equitable, and we may not prefer one provider over another.
3. There is significant public interest in enabling telecommunications providers to provide their service, and especially to enable, or at least not obstruct, provision of such service to less densely populated and underserved areas.

In lieu of an estimated fee of approximately $10,000/year for the proposed installation of approximately 3 miles of fiber running from the intersection of Charlotte St and I-240 along College Street and ending up at the West Gate Mall area, Spirit Communications has agreed to provide the City with the exclusive use of 8 strands of fiber. The estimated value of this fiber is over $90,000. Spirit Communications also has agreed to provide 8 strands of fiber in all subsequent fiber build requests.

Staff, recommends that Council grant a franchise to Spirit Communications by adoption of the ordinance, will be available to assist in determining options relative to the proposed fee schedule and the term if requested by Council. Since this is a franchise ordinance, a second reading of it will be required which will occur during the September 8 Council meeting, after which Council will be in the position to act.

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H. RESOLUTION NO. 15-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION GROUP INC. FOR THE HAYWOOD ROAD MULTIMODAL IMPROVEMENTS PROJECT

ORDINANCE NO. 4439 - BUDGET AMENDMENT FOR THE HAYWOOD ROAD MULTIMODAL IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $243,750.00 plus a contingency of

15% ($36,562) with Patton Construction Group, Inc. for the project known as Haywood Road Multimodal Improvements, City of Asheville Project # ENG-12-13-013; and (2) a budget amendment in the amount of $82,128 from debt proceeds to fully fund the contract and the contingency.

Haywood Road is a busy corridor with vehicular, bicycle and pedestrian traffic. The existing infrastructure is insufficient to handle the growing demands of the area. Partnering with the City in making multimodal improvements on Haywood Road, New Belgium Brewery has donated $50,000 to the project. The project was advertised on July 15, 2015 and on August 6, 2015, bids were opened with the following results:

1. Patton Construction Group, Inc., Asheville, NC $243,750
2. Armen Construction LLC, Charlotte, NC $255,630
3. Moore and Son Site Contractors, Inc., Mills River, NC $261,550

Patton Construction Group, Inc., of Asheville NC, was the lowest responsible bidder with a bid of $243,750. A 15% contingency ($36,562) has been added to allow payment for any unforeseen costs that typically arise during construction.

Pros:

- Will construct approximately 1,700 linear feet of new sidewalk within the Asheville City limits.
- Creates a new bike lane from Craven Street to Beecham's Curve.
- Improves pedestrian and bike safety.
- Encourages walking and biking, thereby reducing carbon emissions.
- Will create a needed linkage between West Asheville and the River Arts Districts.
- New Belgium Brewery donated $50,000 towards the project.

Cons:

- Project management and contract administration will consume staff time.

The contract ($243,750) and the 15% contingency ($36,562) total $280,312. From the original project budget of $220,000, there is currently a remaining balance of $198,184. The budget amendment will increase the project budget by $82,128. With a twenty year amortization schedule for the debt, this budget amendment will have a negligible impact on future annual debt service payments.

City staff recommends City Council adopt (1) the resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $243,750.00 PLUS a contingency of 15% ($36,562) with Patton Construction Group, Inc. for the project known as Haywood Road Multimodal Improvements, City of Asheville Project # ENG-12-13-013 and further authorizing the execution any change orders to said contract which may arise during construction of said project up to the budgeted amount of $280,312; and (2) a budget amendment in the amount of $82,128 from debt proceeds to fully fund the contract and the contingency.

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I. **RESOLUTION NO. 15-165- RESOLUTION AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A CHANGE ORDER WITH COLEJENEST & STONE FOR THE CRAVEN STREET IMPROVEMENTS PROJECT**

ORDINANCE NO. 4440 - BUDGET AMENDMENT FOR THE CRAVEN STREET IMPROVEMENTS PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to negotiate and execute a change order in the amount of $195,052.50 to the previously approved contract with ColeJenest & Stone for professional services for the Craven Street Improvements project for completing the design and construction administration of the project; and (2) a budget amendment in the amount of $195,052.50 from debt proceeds to provide sufficient budget authorization for the change order.

On June 12, 2012, City Council approved a contract in the amount of $852,604 with ColeJenest & Stone for professional services for the design of the Craven Street Improvement project. This project includes improvements to the existing two lane roadway by adding the following complete street facilities: bike lanes, sidewalks, stormwater improvements, stream stabilization, a greenway section, trailhead and public parking areas. The City had previously selected ColeJenest & Stone through a Request for Qualifications process in which 14 other teams had submitted. This change order will increase the original contract amount by $195,052.50 to $1,047,656.50.

The City currently has four funding partners on this project: Golden Leaf Foundation at $300,000, the US Department of Commerce at $1.12M, and the NC Clean Water Management Trust Fund through RiverLink at $365,000, and the latest funding partner, Buncombe County Tourism Development Authority at $160,000. The remaining cost of the project will be paid through the Stormwater, Water, and Parking Funds and General Fund debt proceeds.

As the construction project has progressed there have been many challenges that have resulted in additional services required by the professional services team. The project area is a Brownfield site and special requirements are necessary in dealing with the construction activities associated. Staff and the professional services team have worked diligently to stay within the existing budget. As the site conditions change, additional professional services outside of the original scope are needed.

As this site is a Brownfield, the material must be either hauled off site to a permitted landfill in Lenoir, or the material must be utilized within the existing footprint of the Brownfield site. New Belgium Brewing has worked diligently with City Staff to find locations for as much of the material as possible on their site. If the City has to transport this material off site, the cost is estimated at $500,000. City staff, New Belgium Brewing and the Clean Water Management Trust Fund have partnered to find a solution to keep this material on site by creating an earthen berm where a proposed stormwater bio-swale was designed to go. The partnership will still incorporate a stormwater component in an oversized pipe (stormwater quantity) and a filter system at each drop inlet. By incorporation this into the project, new designs are necessary.

Additional professional services are needed to re-design the trail head to shift away from a potential future Craven Street Bridge Improvement that will support critical bicycle and pedestrian facilities and fulfill Council's resolution to address truck traffic issues in the area.

As the project had developed, additional services have been identified for the design, construction inspection and material testing of the project. As this is a Brownfield site, specialized construction activities have taken longer than originally anticipated requiring inspectors on site more.

Pros:

- Allows the project to continue to move forward and meet the opening date of operation for our partner New Belgium Brewery of December 2015
- Provides additional professional services necessary for the completion of the project which includes a complete street approach to roadway design, provides a greenway linkage, installs bike lanes, provides parking facilities and improves stormwater management

- Allows the City to be sustainable by maintaining as much of the Brownfield material on site as possible and not hauling that material away to a permitted landfill.
- Continue to be proactive in leveraging partnerships for the ongoing project.

Con:

- The project management and contract administration will consume staff time and City Funds

The total additional professional services amount is $195,052.50. A budget amendment in this amount is included with the change order resolution. The City's share of the cost of the Craven Street Improvements project is being funded with debt proceeds. This budget amendment will increase the amount that the City borrows by $195,052.50. With a likely amortization period of twenty years on this debt, the impact on future annual debt service payments of this budget amendment are minimal.

The consideration of 1) a resolution authorizing the City Manager to negotiate and execute a change order in the amount of $195,052.50 to the previously approved contract with ColeJenest & Stone for professional services for the Craven Street Improvements project for completing the design and construction administration of the project; and 2) a budget amendment in the amount of $195,052.50 from debt proceeds to provide sufficient budget authorization for the change order. The total professional services contract is not to exceed $1,047,656.50.

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J. RESOLUTION NO. 15-166 - RESOLUTION RATIFYING AN AGREEMENT WITH PATTON CONSTRUCTION GROUP FOR EMERGENCY REPAIRS TO A FAILED DRAINAGE SYSTEM AT ON CITY-OWNED REAL PROPERTY LOCATED AT 174 S. CHARLOTTE STREET

ORDINANCE NO. 4441 - BUDGET AMENDMENT FOR EMERGENCY REPAIRS TO A FAILED DRAINAGE SYSTEM ON CITY-OWNED REAL PROPERTY LOCATED AT 174 S. CHARLOTTE STREET

Summary: The consideration of a resolution ratifying an Agreement between the City and Patton Construction Group for emergency repairs to a failed drainage system causing a hole on City owned real property and a budget ordinance amendment, in the amount of $190,233 to set up a project budget for the contract and the 15% contingency, with 50% of the funding coming from White Labs and the remaining amount coming from reserves in the Stormwater Fund and the Water Resources Fund.

On July 15, 2015, the City of Asheville was notified of a failure in the storm drainage system, resulting in a large hole, had formed on City owned real property, known as the Water Maintenance Facility, located at 174 S. Charlotte Street, currently leased to White Labs. The hole was due to the rock culvert failure on this property. Public Work staff immediately met onsite with three contractors to assess the urgency and provide bids. As heavy rain continued to fall, the hole grew, placing the Water Maintenance Facility along with equipment located therein, in dire jeopardy of being flooded and public safety compromised.

Immediately thereafter, two of the three contractors provided the City with bids:

- Patton Construction Group, Arden, NC $101,250*
- Steppe Construction, Mills Springs, NC $182,300

*Please note that additional unforeseen items have been added to the contract to increase the amount to where it is today versus where we originally bid it.

The City entered into a contract with Patton Construction Group, who was the lowest responsive and responsible bidder. Patton was authorized to move forward with the construction of the repair and instructed to open the hole at the failed drainage system in order to allow the stormwater to flow-into the existing closed system. The repairs included realigning the drainage system to minimize conflict with White Labs' future silos and improve the hydraulic capacity of the system. Staff has proposed to tie into the existing system with two manholes joined by approximately 80 feet of 54" reinforced concrete pipe and abandoning the previous connection and to also provide for future connections of the existing system. Once this is complete the area is to be backfilled and the parking area repaved.

The current repairs were the minimum needed to mitigate the present, immediate and existing emergency. However, a more permanent fix is warranted. City Staff and representatives from White Labs have communicated about the Project and also have discussed the requirement for a Phase Two to support the emergency repairs and provide a more permanent and long term fix, that will be based upon an engineering analysis of the drainage system, with every effort having been made to incorporate the emergency repairs into a larger, more holistic future permanent repair project.

The total cost of the emergency contract with Patton Construction is $165,420 with a contingency of $24,813, for a total project cost of $190,233. White Labs has agreed to pay 50% of the actual costs for repairs. The remaining 50% will be paid from the Stormwater and Water Resources Funds.

Pros:

- Remove a potential liability issue from the City's stormwater system and protect the public's safety.
- Improve hydraulic capacity of the system.
- Continue a partnership with White Labs

Con:

- Unforeseen financial obligations to fund project.

As noted above, the City will pay 50% and White Labs will pay 50% of this project. The City's portion of the budget, which totals $95,116.50, will be shared equally between Stormwater and Water funds by appropriating reserves in those two funds.

City staff recommends City Council ratify the contract between the City and Patton Construction Group for emergency repairs to City-owned property located at 174 S. Charlotte Street, and a budget amendment in the amount of $190,233 to set up a project budget for the contract and the 15% contingency, with 50% of the funding coming from White Labs and the remaining amount coming from reserves in the Stormwater Fund and the Water Resources Fund.

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K. RESOLUTION NO. 15-167 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH RIVERTOP CONTRACTING INC. FOR THE FISCAL YEAR 2016 DOWNTOWN CLEANING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $250,026 PLUS a contingency of 15% ($37,504) with Rivertop Contracting Inc. for the project known as Downtown Cleaning – Fiscal Year 2016, City of Asheville Project #DC-16-01, and further authorizing the execution of any

change orders to said contract which may arise during execution of said project up to the budgeted amount of $300,000.

The project was advertised on June 12, 2015, and bids were opened on July 15, 2015, with the following results:

Perfection First Services, Marion NC	$48,080 (Bidder withdrew bid)
Diversified Industry Services, Albany, GA	$83,718 (Bidder did not sign several forms)
Rivertop Contracting, Inc. Swannanoa, NC	$250,026
Treece Pressure Washing, Inc. Ringgold, GA	$256,260
Appalachian Paving and Concrete, Swannanoa, NC	$305,120

The contractor will pressure wash sidewalks in the Central Business District. The contractor will also pressure wash City owned street furniture and garbage cans in the Central Business District. This will be the third year that this contract is in place. In addition, the contractor will remove weeds and other undesirable vegetation from City owned sidewalks, curblines and tree grates. This will be the first year that undesirable vegetation removal is included as part of the contract.

The City may elect to renew the contract for two additional one year periods.

Pros:

- Will result in the most heavily used areas of the CBD being pressure washed completely 4 times in the life of the contract and the lesser used areas being pressure washed completely 2 times in the life of the contract.
- Will result in undesirable vegetation being removed from City sidewalks, curblines and tree grates

Con:

- Project management and contract administration will consume staff time.

$300,000 was budgeted for Downtown Cleaning in the general fund. This amount was approved by City Council and included in the Fiscal Year 2015-2016 budget.

City staff recommends City Council adopt the resolution awarding the contract to Rivertop Contracting Inc. and authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $250,026 PLUS a contingency of 15% ($37,504) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning – Fiscal Year 2015, City of Asheville Project #DC-16-01 and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $300,000.

Councilman Davis was pleased that the vegetation removal from City owned sidewalks, curblines and tree grates will be a part of this contract as it will make a huge difference.

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L. RESOLUTION NO. 15-168 - RESOLUTION TO ACCEPT ADDITIONAL EMERGENCY SOLUTIONS GRANT FUNDS TO EXPAND EXISTING RAPID REHOUSING PROGRAM

ORDINANCE NO. 4442 - BUDGET AMENDMENT FOR THE RAPID REHOUSING PROGRAMS FROM THE EMERGENCY SOLUTIONS GRANT

Summary: The consideration of a resolution accepting additional 2014-2015 Emergency Solutions Grant (ESG) funds in order to expand existing Rapid Rehousing Program and increase

administrative support, and a budget amendment in the amount of $40,188 to the budget for the Emergency Solutions Grant in the City's Special Revenue Fund..

City Council approved the acceptance of the 2014-2015 Emergency Solutions Grant in the amount of $194,492 on November 11, 2014, on the recommendation of the Housing and Community Development Committee.

Additional funds in the amount of $40,188 have been allocated to the City of Asheville by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit. $35,648 is available for Rapid Rehousing for Homeward Bound due to high performance of their existing program, and $4,548 for administrative costs to the City of Asheville.

The Housing and Community Development Committee approved the recommendation of these additional funds at their August 18, 2015, meeting.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is now becoming an important resource for rapid re-housing of persons experiencing homelessness.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development Division staff will administer the program. No general funds are requested to support this program.

City staff recommends City Council (1) accept these funds, and sub grant those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit; and (2) adopt a budget amendment in the amount of $40,188 to the budget for the Emergency Solutions Grant in the City's Special Revenue Fund.

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ORDINANCE BOOK NO. 30 - PAGE 109

M. ORDINANCE NO. 4443 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR A DAMAGED BUS SHELTER

Summary: The consideration of a budget amendment in the Transit Capital Fund in the amount of $9,421.10 from insurance recovery funds for a damaged bus shelter to utilize towards the repair of the bus shelter.

On March 8, 2015, a bus shelter located at the corner of Merrimon Avenue and Larchmont Road was damaged by a third-party and the City settled the property damage claim for $9,421.10. The Transportation Department seeks to utilize the settlement funds to repair said bus shelter.

Pro:

- Provides funding for Transportation Department bus shelter repair.

Con:

- None.

The insurance recovery funds are held in the City Property & Liability Fund. Upon City Council approval, the funds will be transferred to the City Transit Capital Fund to be utilized to repair the bus shelter.

City staff recommends City Council adopt the budget amendment in the Transit Capital Fund in the amount of $9,421.10 so funds may be applied towards bus shelter repairs located at the corner of Merrimon Avenue and Larchmont Road.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

III. PRESENTATIONS & REPORTS:

A. LEGISLATIVE UPDATE

RESOLUTION NO. 15-169- RESOLUTION REQUESTING THE LOCAL DELEGATION OF NORTH CAROLINA GENERAL ASSEMBLY FOR THE CITY OF ASHEVILLE OPPOSE SALES TAX REDISTRIBUTION LEGISLATION

Mayor Manheimer explained the passage of the sales tax redistribution legislation threatens to take an estimated $1-3 Million in sales tax revenue from the City of Asheville, and asked for Council's support in adoption of a resolution opposing that legislation. Several cities across North Carolina have signed resolutions opposing this legislation.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Bothwell moved to adopt Resolution No. 15-169. This motion was seconded by Councilwoman Wisler and carried unanimously.

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B. MAYOR'S COMMITTEE FOR VETERANS AFFAIRS

Mr. Ron Kennedy, representing the Mayor's Committee for Veterans Affairs, briefed Council on their activities and urged the community to consider joining the Committee.

On behalf of City Council, Mayor Manheimer thanked Mr. Kennedy and Committee members for their efforts and hard work.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING ON PROPERTY LOCATED AT 39 ELM STREET FROM COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING, WITH

CONDITIONS TO BUILDING SIZE, IMPERVIOUS AREA AND SETBACK, FOR THE CONSTRUCTION OF A 5-STORY HOTEL WITH PARKING

At the applicant's request, Councilman Smith moved to continue this public hearing until November 10, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 960 AND 966 TUNNEL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT AND OFFICE DISTRICT/CONDITIONAL ZONING TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF OFFICES AND OTHER USES WITHIN TWO EXISTING STRUCTURES

ORDINANCE NO. 4444 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 960 AND 966 TUNNEL ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT AND OFFICE DISTRICT/ CONDITIONAL ZONING TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO ALLOW FOR THE OPERATION OF OFFICES AND OTHER USES WITHIN TWO EXISTING STRUCTURES

Urban Planner Julia Fields said that this is the consideration of an ordinance to conditionally zone property located at at 960 and 966 Tunnel Road from RM-6 Residential Multi-Family Low Density District and Office District/Conditional Zoning to Community Business 1/Conditional Zoning to allow the operation of offices and other sues within two existing structures. This public hearing was advertised on August 14 and 21, 2015.

Ms. Fields said that the applicant is requesting review of a conditional zoning submittal proposing to rezone property from RM-6 Residential Multi-Family Low Density District and Office District/Conditional Zoning to Community Business I/Conditional Zoning in accordance with Section 7-7-8 of the Unified Development Ordinance, to allow for the potential use of two properties/buildings for office, health and fitness, residential, low impact artist studios, and instructional services purposes.

The project site (PINs 9658.97-8942 and 9658.98-9020) consists of two separate lots, .212 and .649 acres in size. The properties are addressed 960 and 966 Tunnel Road East. The smaller parcel, 960 Tunnel Road, is currently zoned RM-6 (Residential Multi-Family Low Density District) and contains a vacant residential structure. The .649 acre parcel, 966 Tunnel Road, is zoned Office Conditional Zoning and contains a building that is used for offices and instructional services.

The applicant, Monmovin, LLC, proposes to continue to utilize the structure at 966 Tunnel Road for offices and instructional services (with the potential for residential use) as was established through a conditional zoning process that occurred in 2005. Additionally, they propose to renovate the structure at 960 Tunnel Road for potential use for offices, instructional services, health and fitness facilities, low impact artist studios, or residential purposes. The applicant is requesting rezoning of both parcels, to CBI CZ (Community Business I Conditional Zoning), to allow for this new development and to provide for shared parking and ingress and egress. The parcels will remain separate.

Access to the site is proposed off of Tunnel Road (ingress and egress) at the existing access point for Tract 2. It is proposed that a new access point (one-way, egress only) be established onto Governor's View Road. Eighteen parking spaces are proposed (8 existing) on the properties. An agreement will be entered into to allow for the use of additional spaces on the Groce United Methodist Church property across Governor's View Road. A raised pedestrian crosswalk with high visibility markings will be provided from the subject properties to the church parking area. There are existing sidewalks on Tunnel Road. A sidewalk will be provided along

the Governor's View Road frontage for Tract 1 and either a sidewalk will be constructed or a fee in lieu and 10 foot easement will be provided to the city for the remaining 160 linear feet of frontage along Governor's View Road.

Landscaping is required for this project and includes street trees, parking lot landscaping, and building impact landscaping on Tract 1. Primarily the landscaping on this tract is provided for with existing vegetation. Landscaping planted and required for the previous conditional zoning on Tract 2 is to remain, with the exception of the existing buffer between the properties and landscaping that is in conflict with the proposed egress onto Governor's View Road or any sidewalk construction. Open space is not required as the property is less than an acre in size.

This proposal was approved with conditions by the Technical Review Committee (TRC) on June 15, 2015. Most of the TRC comments have been addressed in the plans that are before the Asheville City Council.

The Asheville Planning and Zoning Commission reviewed this proposal at a meeting on July 16, 2015. At this meeting the commission voted unanimously (5-0) to recommend approval of the conditional zoning to Asheville City Council with conditions as presented (Exhibit B-1).

City Council will have the final review of the conditional zoning. It will return to the TRC for Final TRC review, if approved by Asheville City Council.

The applicant held a meeting for residents and property owners in the area on July 14, 2015, to introduce this proposal to the community. Those in attendance were generally supportive of the proposal.

Tract 2 is currently zoned Office CZ and the building on this parcel will continue to be limited to use for offices and instructional services (with the potential to be used for residential purposes). While properties to the north, east, and across Tunnel Road to the south are zoned residentially and contain single-family homes, the corner parcel (Tract 1) is wedged between the Office CZ parcel and a large place of worship (across Governor's View Road) which is adjacent to properties zoned Community Business I along Tunnel Road. Staff feels this property can be utilized for limited business uses without disturbing the surrounding residential area. Buildings on both properties will remain of a design and scale that is compatible with the residential structures found in the area.

The Planning and Zoning Commission recommended approval of the conditional zoning request with conditions as presented at their meeting on July 16, 2015.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- The project proposes the adaptive reuse of a dilapidated residential structure for limited business purposes.
- The project has compliant parking on site but will provide a parking agreement with the neighboring place of worship to handle any potential overflow parking.
- The project is being designed to be compatible in design and scale with the residential structures found in the vicinity.
- The proposal will result in the loss of one dwelling unit (currently vacant and in need of repair) in the city.

Staff recommends approval of the proposed conditional zoning to allow for the renovation of one structure at 960 Tunnel Road for office, health and fitness, instructional services, residential, or low impact artist studio purposes with shared parking and ingress/egress with another structure at 966 Tunnel Road used for offices, instructional services, or residences. This

recommendation includes all conditions listed on Exhibit B.1 (which includes limitations on signage and hours of operation in addition to use).

Mayor Manheimer opened the public hearing at 5:40 p.m.

Ms. Terry Hasty, Vice-President and co-owner of MindSpring Consulting, Inc. explained their plans are to expand the leadership development for the Wellspring Wellness Center.

Mr. Allen Queen, property owner of 11 Bull Mountain Road, asked what other uses might be allowed within the two existing structures and why does 960 Tunnel Road look like it is being gutted.

Ms. Hasty responded to Mr. Queen and said that Precision Pilates will be moving their business into 960 Tunnel Road. And, that building will look very similar to the current property.

Urban Planner Julia Fields said that this is a conditional zoning and the site plan and conditions will be made a part of the ordinance. She then read the potential uses, from the conditions, noting that everything will remain residential in character.

Mayor Manheimer closed the public hearing at 5:47 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Pelly moved to approve the conditional zoning request of Monmovin, LLC for property located at 960 and 966 Tunnel Road from RM-6 Residential Multi-Family Low Density District and Office District/Conditional Zoning to Community Business I District/Conditional Zoning, and find that the request is reasonable, is in the public interest, and consistent with the Comprehensive Plan and other adopted plans in that (1) The proposed uses on the properties are limited in scope and additional parking, although not required, is provided for so as not to impact the surrounding residential areas; and (2) The proposal supports the goal found in the City's comprehensive plan of pursuing compatible adaptive reuse of properties. This motion was seconded by Councilman Bothwell and carried unanimously.

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C. PUBLIC HEARING CONSIDER AMENDING SECTIONS 7-2-5, 7-8-1, 7-16-1(C)(9) AND 7-18-2(B) OF THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE DEFINITION OF "HOMESTAY" AND THE DISTRICTS IN WHICH HOMESTAYS ARE PERMITTED IN THE TABLE OF PERMITTED USES; THE STANDARDS REQUIRED FOR HOMESTAYS WHICH ARE DESIGNATED AS A USE BY RIGHT SUBJECT TO SPECIAL STANDARDS

Mayor Manheimer clarified that City Council is considering an ordinance governing homestays. A homestay is where you rent out some portion of your home for a short period of time. Homestays have been legal in Asheville since 2006. The short term rental issue is not before City Council at this time. A short term rental is the renting of a stand alone home for overnight stays less than 30 days and those have been illegal in residential districts for many years. The City of Asheville does not the receive room tax and we don't get any more sales tax.

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to revise and simplify existing regulations for Homestays to expand the opportunity to a greater number of residents in the City. This public hearing was advertised on August 14 and 21, 2015.

Ms. Tuch said that Asheville's appeal as a tourist destination has helped to support a growing interest in home based lodging as an alternative to visitors travelling to the area. While

Asheville does not allow a stand-alone vacation rental, it does allow a *Homestay* rental as an alternative. Both typically rent a residential home for periods of less than 30 days, however, the stand-alone rental is often an investment property that remains unoccupied (except by visitors) while the *Homestay* requires that the owner of the property, or a full-time resident, reside in the home with the guests.

With the amazing success and growth in the Air B&B, Vacation Rental by Owner (VRBO) and other internet reservation websites, the number of unpermitted short term rentals has skyrocketed in the last several years. This unregulated growth has resulted in numerous nuisance complaints raising concern in a city where quality of life in our residential areas is a top community priority. Another high priority in the City has been the preservation and creation of safe and affordable housing for all residents. The issue of short term rentals heightened awareness and concern over the lack of available rental housing in the area, and a consultant was hired to review this and other concerns and offer options for consideration. While the research into the short term rental market's impact on available housing was inconclusive, the report offered a number of other thoughtful considerations and sound research into the practices in other communities.

The proposed standards strive to achieve two things:

1) Clarify that a non-resident occupied short-term rental is prohibited in residential districts, and
2) Provide increased opportunity for residents in Asheville to operate resident occupied and run *Homestays* while protecting the character of the residential neighborhoods

(A third goal of supporting pro-active enforcement and increased penalties for violating the Unified Development Ordinance are addressed through a separate draft ordinance.)

Clarifying that non-resident occupied rentals are prohibited in residential districts is achieved primarily by amending the current definition of a *Homestay*. The current definition reads:

> *Homestay* (formerly known as 'bed and breakfast homestay') means a private, owner occupied dwelling with one to three guest rooms where overnight accommodations and a morning meal are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building.

The amended definition reads as follows:

> *Homestay* means a private, resident occupied dwelling, with up to three guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. A homestay is considered a "Lodging" use under this UDO.

This new definition clarifies that the renting of a residential dwelling to transients is considered a lodging use and can be classified as a *Homestay* only if it is a resident occupied, and resident run operation. If it is not resident occupied and run, then it is classified as a lodging facility which would not be allowed in residential districts.

The second goal is accomplished by updating and clarifying the development standards, and by removing existing standards that have proved difficult for a great number of residences to satisfy. The complete list of standards is detailed in the Ordinance but can be summarized as follows:

Removed

- 500-foot separation requirement
- Minimum home size
- Additional off-street parking
- Need to provide a morning meal
- Option for a full-time employee
- Option for signage

Added

- Urban Residential (UR) as a zoning district where the Homestay use will be permitted
- Only one homestay shall be permitted per lot/parcel
- Homestay may not be operated concurrently with a home occupation
- Must carry liability insurance for the homestay use
- Must pay all applicable taxes
- Must comply with all building codes
- Will be permitted and inspected annually

Retained/Clarified/Updated

- No displays of goods or services
- Manager/Operator of the Homestay shall be a full-time resident of the dwelling
- A maximum of 25% of the home may be used exclusively for the Homestay guests
- No activities other than lodging shall be allowed
- No accessory structures or dwelling units shall be used to accommodate guests
- Exterior lighting shall be residential in nature

In an effort to understand the position of the community at large, the City of Asheville has supported and held numerous public input sessions including three different meetings of the Planning and Economic Development Committee, a hearing at the Planning & Zoning Commission, and more recently, the Asheville City Council held a community forum on March 25, 2015. This forum allowed residents, through a variety of media, the opportunity to voice their opinions on the subject of a stand-alone rental, homestay, or other related issues. The Asheville City Council reviewed the results of these public discussions in the context of other city goals and priorities and provided staff direction at their meeting on May 12, 2015.

The Planning & Zoning Commission reviewed this amendment at their June 18, 2015, meeting where it was approved 4-2 (Ms. Carter & Mr. Koon opposed). A moderate amount of public comment included the following concerns:

- Commercial activity impacting the quality of life (harmony) in neighborhoods
- Problems with availability of on-street parking
- Loss of housing units
- Need for more public review and input
- Challenges to effective enforcement

The Commissioners also posed several questions, including:

- How will the inspection process work?
- What is the rationale for restricting the use of accessory units for guests?
- Are accessory units in a home treated differently than detached units? Why?

In response to these questions and some of the concerns raised, a Frequently Asked Questions page has been drafted.

This proposal was also shared with the Affordable Housing Advisory Committee at their August 6 regular meeting and whose members supported the clarification that no accessory dwelling units be used for the homestay operation. This sentiment was also supported by the Coalition of Asheville Neighborhoods when the proposal was shared at their August 10 regular meeting. The Coalition of Asheville Neighborhoods raised a number of other concerns including:

- On-street parking congestion
- The inability to enforce against large groups of unrelated people
- Removing the separation requirement or other consideration of another cap or limit
- The difficulty with enforcement, particularly ensuring that the operator is on-site

Increased opportunity for Homestays in Asheville will increase the number of applications placing a greater burden on staff resources. This combined with the effort to increase pro-active regulation and enforcement requires the addition of one full-time staff person. Estimated impact is approximately $60,000.

This proposal is consistent with goals outlined n the Comprehensive Plan and City Council Strategic Plan, and because allowing and regulating homestays is a reasonable response to a social and economic phenomenon that effectively seeks to balance a variety of city adopted goals, Staff recommends approval of the wording amendment modifying *Homestay* standards with the following clarifications:

1) Clarify that no Accessory Dwelling Unit (ADU) may be used for either guest or host accommodations.
2) Remove language specifying that the owner/operator be on-site during "overnight accommodations".

As this proposal is consistent with goals outlined in the Comprehensive Plan and City Council Strategic Plan, and because allowing and regulating homestays is a reasonable response to a social and economic phenomenon that effectively seeks to balance a variety of city adopted goals, City staff recommends approval of the revised wording amendment modifying Homestay standards, as recommended by the Planning & Zoning Commission, with the following changes: (1) Sec. 7-16-1(c)(9)(c) shall read: *c. The homestay operation shall be managed and carried on by a full-time resident of the property; and (2)* Sec. 7-16-1(c)(9)(g) shall read: *g. No accessory structures or accessory dwelling units shall be used as any part of the homestay operation.*

In response to Mayor Manheimer, Ms. Tuch said that the ordinance reads that Homestays must be managed and carried on by a full-time resident property. She explained that a homestay operator is not required to own the home but must have the owner's permission to operate the homestay. She said that the language specifying that the owner/operator be on-site during "overnight accommodations" was removed because there was some concern that people would interpret that too strictly (physically present during every minute that the guest was there). So, "full-time" resident language was inserted.

In response to Councilwoman Wisler, City Attorney Currin said we changed the ordinance from owner-occupied to resident operator because that standard is to comply with state law.

When Councilman Pelly asked about the removal of the additional off-street parking, Ms. Tuch said that previously there was a requirement that they provide some off-street parking based on the number of bedrooms. That requirement is being removed. In discussing the most significant barriers for people obtaining a homestay permit, the off-street parking was more of the common ones. In order to make this an opportunity that is available to a larger number of residents in Asheville, a policy recommendation by the Planning & Economic Development Committee, and Council direction in May, was it would be best to remove the requirement.

Councilman Bothwell suggested clarity by rewording that a homestay may not be operated concurrently with a home occupation if the occupation requires a home occupation license.

In response to Councilman Bothwell, City Attorney Currin explained the rationale behind no kitchen facilities in homestays. The term "dwelling unit" is defined in the UDO as being an independent housekeeping establishment with separate toilets, and facilities for sleeping and cooking. A dwelling unit is not a homestay and cannot be rented for less than a month. Just having a kitchen or stove is very hard to regulate but when these components are added, the use becomes a dwelling unit and is a separate short term rental.

When Councilman Bothwell asked about the enforcement program, Ms. Tuch said that City Council supported an enforcement program which will consist of a full-time position ($60,000) to perform proactive enforcement, both with permitting and inspections. That position is currently being advertised. After the rush of applications (which they may bring in another person to help), that position may be able to take on other work. The renewal of permit will be a more simplified, more expedited process. She was not sure about anticipated revenues associated with the permitting for homestays; however, permitting fees are intended to be cost recovery - what it would cost the City to actually review and administer the permit. All of our enforcement costs are not necessarily cost recovery. Our standard level on one permit is $104.00

Councilman Davis asked if there has been thought given to grandfathering those people in who are currently operating a home occupation in a homestay. Ms. Tuch said that would be a policy decision on whether to craft language for a grandfather exemption.

Mayor Manheimer opened the public hearing at 6:25 p.m.

Leaving out comments regarding short term rentals, the following individuals expressed concern on the proposed homestay regulations as follows: restrict the homestays to owner-occupied; one full-time person is not adequate to manage the enforcement of homestay requirements; if kitchens are not allowed in homestays, that should be written into the ordinance; retain additional off-street parking; retain the 500-foot separation requirement; residents should not have to police the ordinance by complaints; with the revised definition of "homestays" individuals who own multiple properties in Asheville will now be allowed to utilize a resident property manager to operate homes as full-time commercial inns under the auspice of a homestay; proposed changes are insufficient to protect the residential character of neighborhoods; need for definition of "full-time resident" and provide a specific mechanism for verification of residency; no more than 25% of bedrooms, not square footage (which is unverifiable) be used exclusively for homestay guests; limit the number of annual stays; require off-street parking at the rate of 1 parking spot per bedroom rented out; prohibit signage advertising the homestay and prohibit the sale of goods; prohibit homestays in all single-family residential neighborhoods, in all low-density residential multi-family districts, and in all residential historic districts; reduce the maximum number of guest rooms from 3 to 2; reduce the maximum number of lodgers at one time to 2; need thoughtful approach on additional burdens on infrastructure; homestay rules need to stand up in court; wealthy people will find loopholes in the ordinance; accessory dwelling units should be allowed to be used as a homestay; possible future decrease in property values; housing units should be for those who live and work in Asheville; possibly consider allowing accessory dwelling units on a case by case basis; and reinsert the phrase that the full-time resident that manages the property must be present during overnight stays:

Geneve Bacon
Barber Melton, representative of the Coalition of Asheville Neighborhoods
Stuart Alford
Jane Mathews
Alice Helms

Carole Saltzman
Leon DeJournatt
Jeff Johnson, read letter by Rita Hayes
Sue Schweikart, President of the Five Points Neighborhood Association
Brandee Boggs
Mike Lewis
Helen Powell-Busch
Patricia Lord
Doris Sgan
Doug Ellingson
Bob Pierce
Ann Walsh
David Rodgers
Pamela O'Connor
Iz Webb
Ron Carlson
Julie Nelson
A resident on Craig Circle
Andrew Lawler
Michael Greene

Mr. David Nutter, Montford resident, felt there are two sets of values in this case - a well-regulated amount of Internet-based lodging can improve the connectivity with the broad world and help protect us from civic and fiscal damage in the face of serious opposition by the State vs. the traditions of localness, authentic neighborhoods, history and character and stability that we must preserve. He felt the two actually support each other.

Lisa Shoemaker, representative of Asheville Sharable Short Term Rental Association, supported the proposed homestay regulations.

Leaving out comments regarding short term rentals, the following individuals felt City government should not be involved in this process or be told what they can do with their properties:

Laurie Fisher
Christopher Chiaronmonte
Brian Monteleone
William Stanhope
Greg Meade

Mayor Manheimer closed the public hearing at 8:26 p.m.

Vice-Mayor Hunt recommended we continue this discussion and provide staff with additional policy direction before a vote is taken. He noted there are compelling arguments on both sides. He explained his results from his research from other cities to see how other communities are addressing this issue. He asked that staff do further research to help ensure that the ordinance we pass meets the test of casual and incidental and not commercial. He suggested staff revisit the number of bedrooms; number of nights per year; limit the number of guests in any one homestay; definition of "full time resident"; reconsider whether the phrase full-time resident that manages the property should be present during overnight stays; and revisit the elimination of off-street parking. He said that enforcement is important and we need to move forward with that piece. He has found from his research that cost of enforcement was more than they anticipated, so he wanted to be sure that the cost of the permits cover the amount we need to enforce the regulations.

City Attorney Currin said that if a motion is made today to continue this matter without a date certain, it will need to be re-noticed for another public hearing. If moved to a date certain, it will depend on how extensive the amendments are that it might be required to go back to the Planning & Zoning Commission for review.

Councilman Bothwell suggested one way to address the question of commercial interests moving in and establishing resident managers might be to only allow one permit per land owner. He felt that accessory dwelling units should be allowed to be homestays, especially since we are encouraging people to build them. He continued to be concerned that we don't allow a kitchen facility in a homestay. He said that in every city he has researched, the enforcement is complaint-based. He felt the enforcement piece needs to be revisited.

Mayor Manheimer said that one purpose of living in a city is to have the protection of zoning. It protects your investment. We can argue what kind of zoning or what kind of regulation is appropriate; what serves to protect your interest; and what is too much of an intrusion on your life and how you want to run your home. We need to try to find that balance to ensure that we have the integrity of our neighborhoods, since our great sense of community is in large part to our neighborhoods. She is very much concerned about protecting the integrity of our neighborhoods, and wondered how we can make a decision that looks more broadly at the whole picture in Asheville. The City hired the School of Government to do a study to look at other cities and how they handled this issue. From research, she learned that Asheville has more short term rentals (the term captures homestays and short term rentals) on-line than any other city in North Carolina by hundreds. She felt this is a major issue for our community. No one knows what the long-term effect will be for these in Asheville. Another community similar to ours (Duluth, Minnesota) allows short term rentals and they recently had a Council meeting where they were trying to decide whether or not to have a moratorium because it had gotten so out of control. They permitted 30 and had 50 on-line. They were worried that 20 of them were advising on-line and weren't permitted. Asheville has 900. We do not want to get our ordinance wrong. Using the example of visiting the beach, every single house is a rental and people rent one a week. No one knows each other but the owners are making a mint. It's just a resort community - it's not a community where people raise children, or a place where you know your neighbor. She wanted to balance the private interest of what you should be able to do with your house with the broad interest of preserving the integrity of the community. She feels that homestays do provide an opportunity for people to afford to live in their home that need other means of providing some income, but crafting that ordinance is difficult. We are close to getting it right, but we need to look at making sure we prevent the commercialization. She was not interested in limiting the nights per year or the number of bedrooms or the number of guests. She felt we accomplished that through the maximum of 25% of the home rule. She did think we need to revisit looking at whether to require off-street parking. This is a very serious issue for our community and we need to look thoughtfully at it.

Councilwoman Wisler supported a slower approach. She felt we are moving in the right direction, but would like to revisit the removal of additional off-street parking; craft a definition of a "full-time resident;" look at whether the phrase full-time resident that manages the property should be present during overnight stays; revisit the number of guest rooms. She did want enforcement of what is currently on our books more rigorously than we have.

Councilman Smith wanted locals who need housing to be able to find it and for them to have direct access to some of these tourist dollars. What he didn't want is predatory investors to gobble up our neighborhoods and our housing stock, which is happening in other cities. Let's not pretend it won't happen here. Investors who are seeking to buy up housing are ready to kick out renters, and we need to consider them. Air B&B, VRBO and other internet reservation websites are multi-billion dollar corporations who don't care about Asheville, so we have to take care of ourselves. He felt this issue is too big to get wrong and supported taking a go slow approach. He is open for this to look different, but the bottom line is we have to protect ourselves from the predators and offer some of these opportunities to locals.

Councilman Davis felt that taking time to make the right decision is important. He also noted that Buncombe County collects the hotel/motel tax and then it goes to the State to be redistributed. The Buncombe County Tourism Development Authority received their first check from Air B&B and he will be interested in seeing that amount.

Councilman Bothwell calculated that if there are 900 short term rentals within the City limits it's 1.6% of the houses in the City, so it's not an enormous problem at present.

Councilman Pelly also agreed this is this s complex issue. He too has heard the valuable contributions for homestays, but also heard clear from the neighbors that zoning should mean something and that the integrity of the neighborhood should be protected. He did not think we should make property owners police the ordinance.

Regarding any amendments, Vice-Mayor Hunt hoped they would be in place in advance of next spring and summer, which would be helpful to the people operating homestays.

Vice-Mayor Hunt wanted to reaffirm that the majority of Council wants to move away from purely reactive complaint driven enforcement to something more proactive.

Vice-Mayor Hunt moved to defer consideration. This motion was seconded by Councilman Bothwell and then carried unanimously.

Closed Session

During the lengthy public hearing, Mayor Manheimer announced a closed session during the Council's break. Therefore, at 7:26 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:58 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

D. PUBLIC HEARING TO CONSIDER AMENDING SECTION 7-18-2(B) OF THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE CIVIL PENALTIES FOR VIOLATIONS OF THE CITY'S ORDINANCES RELATING TO THE USE OF RESIDENTIAL STRUCTURES FOR A LODGING USE

ORDINANCE NO. 4445 - ORDINANCE TO AMEND SECTION 7-18-2(B) OF THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE CIVIL PENALTIES FOR VIOLATIONS OF THE CITY'S ORDINANCES RELATING TO THE USE OF RESIDENTIAL STRUCTURES FOR A LODGING USE

Principal Planner Shannon Tuch said that this is the consideration an ordinance to consider amending Section 7-18-2(b) of the Unified Development Ordinance relating to the civil penalties for violations of the city's ordinances relating to the use of residential structures for a lodging use. This public hearing was advertised on August 14 and 21, 2015.

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A. Summary of City's authority to access civil penalties for violations of its ordinances.

The General Assembly grants the City the authority to enforce its ordinances, including zoning ordinances, by assessing fines and civil penalties for ordinance violations. Penalties for a violation of that ordinance. The General Assembly does not determine the amount of the civil penalties assessed for violations of the City's ordinances, but instead, defers to the City to decide what amount is appropriate. The City has the discretion to determine what amount is reasonable to deter violations, encourage compliance and enforce its ordinances.

B. Asheville's ordinances relating to the use of a residential structure for a Lodging Use.

The UDO addresses and regulates certain "Lodging Uses," including but not limited to "Lodging Facilities" and "Homestays."

The UDO defines "dwelling unit" as follows:

> one or more rooms physically arranged so as to create an independent housekeeping establishment for occupancy by one family with separate toilets and facilities for cooking and sleeping. In no case shall a dwelling unit be rented or leased for intervals of less than one month.

See UDO Section 7-2-5 (definition of a "dwelling unit."). A "dwelling unit" rented or leased for less than one month does not fall within the definition above, therefore, is considered a "Lodging Facility" under the UDO. Pursuant to UDO Section 7-2-5, a "Homestay," is a resident occupied dwelling, in which rooms are rented to guests for overnight lodging. See UDO Section 7-2-5 (definition of a "homestay"); Section 17-16-1(c)(9) (special requirements for homestays in certain districts).

Currently, if a person violates the ordinances set forth above he or she is subjected to a penalty in the amount of $100.00 per day, for each day the violation continues. See UDO Section 7-18-2(b). This penalty, however, has proved to be an ineffective method to enforce these ordinances and to deter violations. Specifically, due to the proliferation of internet lodging websites, such as Air BnB and Vacation Rental by Owner, dwelling units illegally used as Lodging Facilities and Homestays, often provide the owners with rates far in excess of the $100.00 per day fine. City enforcement staff reports that violators are willing to pay the fine because the illegal lodging uses still provide sufficient profit to justify the violation. As a result, the current penalty has not proved to be a deterrent. Increasing the daily penalty to $500.00 per day would not allow violators to benefit (or will at least decrease the benefit) from disregarding the requirements of the UDO.

By deterring violations and promoting enforcement, the proposed amendment will further the Comprehensive Plan and other adopted plans, because it will preserve residential neighborhoods, ensure neighborhood compatibility, and protect against non-residential encroachment.

For the reasons set forth above, staff recommends increasing the civil penalty for violations relating to the use of residential structures for a Lodging Use; including: 1) the renting or leasing of a dwelling unit for less than one month; and 2) the use of property as a Homestay, to $500.00 per day. Given the nature of the offense and the City's goal to deter violations of these ordinances, a $500.00 per day fine is reasonable.

This amendment was reviewed by the Planning & Zoning Commission at their June 18, 2015, meeting where it was approved unanimously (6-0).

Pros:

- Complies with the City's authority under N.C. Gen. Stat. § 160A-175 to assess civil penalties for violations of the City's ordinances.
- Proposed fine is more reasonably related to the nature of the offense.
- Allows more effective enforcement of the City's ordinances.
- More efficiently deters violations.

Con:

- None noted.

Staff recommends approval of the text amendment to the UDO which revises Article XVIII, Section 7-18-2(b) to increase the fine for violations of the City's ordinances regulating and restricting the use of a residential structure for certain Lodging Uses.

Mayor Manheimer opened the public hearing at 9:06 p.m.

Leaving out comments regarding short term rentals, the following individuals spoke in opposition of the increase of the fine for violations, some requesting this action be deferred until the homestay amendment is adopted:

Arwen Hawes
Stuart Tait
Melissa Crouch
Brandee Boggs
Michael Greene
Julie Nelson
Carol Saltzman
Patricia Lord
Paul Heathman

Leaving out comments regarding short term rentals, the following individuals spoke in support of increasing the penalty and encouraged proactive enforcement:

David Rodgers
Derek Wiles
Jane Mathews

Mayor Manheimer closed the public hearing at 9:29 p.m.

Vice-Mayor Hunt felt it's clear that City Council will not move to allow short term rentals, and there is direction for staff to amend the homestay ordinance. In May, Council agreed to step up enforcement and directed staff to increase the fines to $500. He felt we need to move forward in a seriously way.

In response to Vice-Mayor Hunt, Ms. Tuch said that the enforcement process always begins with a notice of violation (sent to the tenant and property owner), informing the property owner that a violation has been discovered, what the violation is, and an invitation to discuss how to cure the violation. There is a 30-day period of time to cure the violation, and at times they have extended that 30 days to add an additional 30 days. It's only after that, if they fail to comply that any citations are considered. Fines are not common. We pride ourselves about bringing properties into compliance without fines, but when it is necessary, having it is an effective tool.

In response to Councilman Smith on how staff follows-up to make sure the violation is cured, Ms. Tuch said that it depends on the circumstances. In some instances, the short term rentals have adjusted their occupation and they either get a homestay permit, they shut down the operation and turn it back into a long-term rental, or find some other solution. Staff makes sure

the website is closed and might ask for an Affidavit stating that the operation is shut down. City Attorney Currin also said there is the ability to appeal to the Board of Adjustment within the first 30 days.

In response to Vice-Mayor Hunt, Ms. Tuch said that the enforcement has been on a case by case basis. We have approximately 28 cases in the last 6-9 months. Some of the 28 cases have been resolved, and two or three of the 28 had to pay the citation.

Councilman Davis wasn't sure we have a big problem, but felt better that they are getting a notice of violation and an opportunity to correct.

Councilman Bothwell expressed concern with how the violation days would be determined. He noted that Council is not united on this amendment. He felt we should legalize license, inspect and regulate short term rentals than stalk the internet. He felt we are aiming for an enforcement policy that will be ineffective and really hurt a few people who get caught.

Councilman Pelly wanted to see how this fits into the full context of the proposed homestay ordinance.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the text amendment to the UDO which revises Article XVIII, Section 7-18-2(b) and find that the amendment is reasonable, in the public interest and is consistent with the Comprehensive Plan and other adopted plans because the amendment: a) will more efficiently deter UDO violations and improve enforcement; b) will preserve residential uses in residential areas of the City; and c) will ensure neighborhood compatibility and non-residential encroachments. This motion was seconded by Councilwoman Wisler and carried on a 5-2 vote, with Councilman Bothwell and Councilman Pelly voting "no".

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. CONFIRMATION OF THE PLANNING & ZONING COMMISSION CANDIDATE ESSAY QUESTIONS AND DEADLINE TO ACCEPT APPLICATIONS EXTENDED

It was the consensus of City Council that all applicants, including the incumbents, respond in writing to the following five questions: (1) Please take time to review the City's 2025 Plan land use plan. How strongly does your own vision align with that plan, and in what ways might it differ?; (2) Name one Planning & Zoning Commission decision in the last 18 months you've agreed with and one you've disagreed with or would have struggled with. Please explain your rationale for each; (3) What are some of the positive or negative effects of Asheville's zoning regulations?; (4) How has existing zoning promoted/inhibited the construction of affordable housing in Asheville? What changes could be made to further the creation of affordable housing?; and (5) Are there any changes to the City's processes, including but not limited to public input, for addressing zoning changes that you would like to see made?

Councilman Bothwell moved to confirm the Planning & Zoning Commission essay questions. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

City Council, with a focused interest in effective public engagement, wanted to ensure that the applicant pool represents a broad cross section of the community, and therefore, it was

the consensus of Council to re-opened the application process, with a deadline of Tuesday, September 29, 2015.

After the deadline and all written responses have been received, the City Clerk will send all responses to City Council to narrow the field for interviews. Those interviews will take place in the afternoon of October 27, 2015, with appointments to be effective immediately.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:51 p.m.

Magdalen Burleson
CITY CLERK

Edna E. Manheimer
MAYOR

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Tuesday – September 8, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. INTRODUCTION OF NEW DIRECTOR OF PLANNING & URBAN DESIGN

City Manager Jackson was pleased to introduce Mr. Todd Okolichany, the City's new Director of Planning & Urban Design.

B. PROCLAMATION PROCLAIMING SEPTEMBER 14-18, 2015, AS "MINORITY ENTERPRISE DEVELOPMENT WEEK"

Mayor Manheimer read the proclamation proclaiming September 14-18, 2015, as "Minority Enterprise Development Week" in the City of Asheville. She presented the proclamation to members of the Board of Minority Enterprise Development Week who briefed City Council on some activities taking place during the week.

C. PROCLAMATION PROCLAIMING SEPTEMBER 21, 2015, AS "DAY OF PEACE"

Councilman Bothwell read the proclamation proclaiming September 21, 2015, as "Day of Peace" in the City of Asheville. He presented the proclamation to Ms. Rachael Bliss and others who briefed City Council on some activities taking place during the day.

D. PRESENTATION TO CITY MANAGER GARY JACKSON

On behalf of City Council, Councilman Davis recognized City Manager Jackson for his win in his class in the recent Grand Fondo, and presented him with a picture of that celebratory moment.

II. CONSENT AGENDA:

At the request of City Manager Jackson, Consent Agenda "H" was removed from the Consent Agenda for consideration on October 13, 2015.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 25, 2015

B. SECOND READING OF ORDINANCE NO. 4438 - ORDINANCE TO ADOPT A FRANCHISE AGREEMENT WITH SPIRIT COMMUNICATIONS

Summary: First reading of Ordinance No. 4438 was adopted on August 25, 2015.

ORDINANCE BOOK NO. 30 - PAGE 90

C. RESOLUTION NO. 15-170 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH GRAHAM COUNTY LAND COMPANY, LLC, FOR THE HENDERSONVILLE ROAD SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Graham County Land Company, LLC, for the amount of $2,997,301.75 plus 15% contingency and any change orders within the project budget for the project known as Hendersonville Road Sidewalk Improvements Project, City of Asheville Project #ENG-12-13-015, pending concurrence with award by the N.C. Dept. of Transportation.

The 4.5-mile stretch of Hendersonville Road (US 25) from Seminole Street to Long Shoals Road is populated by many commercial properties, offices, and residential complexes, and lacks consistent pedestrian infrastructure. The project connects existing isolated sidewalks with the construction of approximately 13,000 linear feet of new sidewalk, and also includes new retaining walls, storm water drainage structures, a pedestrian boardwalk, pedestrian crossing signal facilities, and all associated appurtenances. Federal funding administered through the North Carolina Department of Transportation will account for 80% of the project, with the City of Asheville matching the remaining 20%.

This project was initially advertised on May 28, 2015, but no bids were received. The project was re-advertised on July 30, 2015. Bids were opened and the following bids were received:

Graham County Land Company	Robbinsville, NC	$2,997,301.75
GLF Construction	Asheville, NC	$3,590,704.00
NHM Constructors	Asheville, NC	$4,040,975.90
Buchanan and Sons	Whittier, NC	$3,197,469.50

Graham County Land Company, LLC was the lowest responsible bidder with a bid of $2,997,301.75. Adding in a 15% contingency, the total required budget for construction is $3,446,897.01. The work produced from this contract would resolve liability issues associated with inadequate pedestrian facilities. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 2, and Focus Area 3 Goal 1.

Pros:

- Provides connectivity for needed linkage.
- Ensures pedestrian safety.
- Confirms investment in community infrastructure

Con:

- Project management and contract administration will consume staff time and resources.

The budget for this project, which totals $4,125,000, is already included in the City's adopted Capital Improvement Program. The table below shows actual expenses and contracts to date for items such as right of ways, design, and project management. Staff anticipates at this point that the remaining budget of $151,765 will be fully spent on project management and inspection costs. If costs exceed the remaining budget, staff will return to Council to amend the budget. As noted above, federal funding administered through the North Carolina Department of Transportation will cover 80% of the project costs, with the City of Asheville matching the remaining 20%.

Total Budget	4,125,000
Less:	
Expenses & Encumbrances to Date	(526,338)
Graham County Land Co. Contract + 15% Cont.	(3,446,897)
Remaining Budget	151,765

City staff recommends City Council adopt the resolution awarding the contract to Graham County Land Company, LLC, pending concurrence with award by the North Carolina Department of Transportation, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $2,997,301.75 plus a contingency of 15% ($449,595.26), for a total of $3,446,897.01, with Graham County Land Company, LLC for the project known as Hendersonville Road (US 25) Sidewalk Improvements Project.

Councilman Pelly was pleased to see these new sidewalks being constructed.

RESOLUTION BOOK NO. 37 - PAGE 250

D. RESOLUTION NO. 15-171- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A NON-WARRANTY DEED CONVEYING ANY AND ALL INTEREST THE CITY MAY HAVE IN THE CLOSED ALLEY OFF OF BROAD STREET

Summary: The consideration of a resolution authorizing the City Manager to execute a North Carolina Non-Warranty Deed conveying any and all interest the City may have in the closed alley off of Broad Street.

By Resolution No 15-10, dated the 13th day of January, 2015, the City Council of the City of Asheville closed an unnamed Alley off of Broad Street pursuant to the provisions of N.C.G.S. §160A-299. Subsequent thereto, the attorney for the petitioning property owner inquired as to why the City only closed five-feet of the 10-feet unnamed alley, as more specifically set forth in the metes and bounds description describing the closing.

To the extent the public had any interest in the alley, based upon deed research, the only interest the public could have acquired was a 5-feet interest, since the western 5-feet was never part of the alley but, instead, a part of the fee simple title to the property owner adjoining the alley to the west.

Due to a number of issues and confusion regarding the status of the unnamed alley, in order to resolve title issues with the title company, the attorney for the petitioning property owner, asked that the City convey whatever interest, if any, the City has in the alley tc the petitioning property owner, who owns the property on both sides of the alley.

Both the Transit Committee and the Multimodal Transportation Commission previously unanimously agreed to the closure.

Pros:

- Eliminates all confusion as to any public interest in the alley
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution authorizing the City Manager to execute a non-warranty deed conveying any and all interest the City may have in the alley off of Broad Street.

RESOLUTION BOOK NO. 37 - PAGE 251

E. RESOLUTION NO. 15-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AUTHORIZE AN EXCHANGE OF CITY-OWNED REAL PROPERTY ALONG NORTH FORK LEFT FORK ROAD FOR PROPERTY OWNED BY 10 SUGAR MAPLE LLC FURTHER NORTH ON NORTH FORK LEFT FORK TO ASSEMBLE LAND AREA IMMEDIATELY TO THE ENTRANCE OF NORTH FORK RESERVOIR

Summary: The consideration of a resolution authorizing the exchange of City–owned real property on North Fork Left Fork Road (S.R. 2576) for property owned by 10 Sugar Maple LLC also located on North Fork Left Fork Road.

The City of Asheville has learned that the access road to the North Fork Water Treatment Plant crosses property owned by Sharon Came of 10 Sugar Maple LLC. She is developing a subdivision south of the water treatment plant on North Fork Left Fork Road and had the area surveyed. She provided this information to Water Resources. She has agreed to convey ownership of a tract of land (4,316 square feet or 0.10 acres), labeled Tract C that encompasses the existing entrance gate and a portion of the driveway into North Fork. In return, the City proposes to convey a tract of land of equal size labeled Tract B to 10 Sugar Maple LLC. This will eliminate a sliver of property between the new subdivision and North Fork Left Fork Road. The majority of the City land being exchanged is located within the NCDOT right of way on North Fork Left Fork. In addition to the land being exchanged, Water Resources has agreed to install a 2-inch waterline, within an existing City of Asheville waterline easement, that would allow water meters to be installed for the developer's three new lots. Ms. Came and her attorney have approved the preliminary survey and the proposed land exchange agreement.

Pros:

- This assemblage of land will cure the encroachment issue at the North Fork Water Treatment Plant.
- The tracts to be swapped are of equal size and approximate value.

Cons:

- Water Resources has agreed to install the water line for meter connections.
- The City Attorney's office will prepare both deeds.

There are no financial proceeds associated with this disposition, but the conveyance would clear the title should the City want or need to sell any of the property in the future. The City's legal office will perform the closing, therefore no additional costs are anticipated for this transaction.

City staff recommends City Council adopt a resolution authorizing the exchange of real properties located off of North Fork Left Fork Rd.

RESOLUTION BOOK NO. 37 - PAGE 252

F. RESOLUTION NO. 15-173 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH MOTOROLA INC. FOR RADIO SYSTEM MAINTENANCE FROM AUGUST 1, 2015, THROUGH JULY 31, 2016

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Motorola, Inc. to provide maintenance coverage for the City's radio system.

Motorola, Inc. has provided maintenance services for the City's radio communications system since installation of the system in 1992. The service agreements are renewed annually. The maintenance agreement covers what should be the final year of use for the existing radio system during the renewal period of August 1, 2015, through July 31, 2016. The new radio system is scheduled to be complete and come online near the end of this maintenance term.

Pros:

- The primary benefit of this contract is to keep the City's radio system reliable and operational for public safety officers. By keeping the radio system in optimal condition the City is also able to provide communication services to several outside agencies, thereby improving interagency communications.

Cons:

- None noted.

The renewal agreement reflects an annual charge of $148,634.88. Funding for this contract was appropriated in the FY 15/16 budget process.

City staff recommends the adoption of the resolution for radio maintenance coverage for the term of August 1, 2015, through July 31, 2016.

RESOLUTION BOOK NO. 37 - PAGE 253

G. RESOLUTION NO. 15-174 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL

RESOLUTION NO. 15-175 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT BLUE RIDGE PRIDE

RESOLUTION NO. 15-176 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE NEW YEAR'S RESOLUTION RUN & WALK

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Brewgrass Festival on September 19, 2015; Blue Ridge Pride on October 3, 2015; and the New Year's Resolution Run & Walk on January 1, 2016.

- Big Brothers Big Sisters of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

  The Brewgrass Festival will be held on Saturday, September 19, 2015 from 12:00 p.m. – 8:00 p.m. within the boundaries of Memorial Stadium including a fenced extension of the premises as per the area limits referenced on the accompanying site map.

- Blue Ridge Pride has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride and allow for consumption at this event.

Blue Ridge Pride will be held on Saturday, October 3, 2015 from 11:30 p.m. – 7:00 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

- YMCA of WNC has requested through the City of Asheville Community & Economic Development Department that City Council permit the sale of beer and/or unfortified wine at the New Year's Resolution Run & Walk and allow for consumption at this event.

  The New Year's Resolution Run & Walk will be held on Friday, January 1, 2016, from 8:30 a.m. – 12:30 p.m. at Pack Square Park as per the event area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Big Brothers Big Sisters of WNC, Blue Ridge Pride, and YMCA of WNC

Con:

- Potential for public safety issues

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Brewgrass Festival, Blue Ridge Pride , and the New Year's Resolution Run & Walk.

RESOLUTION NO. 15-174 - RESOLUTION BOOK NO. 37 - PAGE 254
RESOLUTION NO. 15-175 - RESOLUTION BOOK NO. 37 - PAGE 257
RESOLUTION NO. 15-176 - RESOLUTION BOOK NO. 37 - PAGE 260

H. RESOLUTION TO ESTABLISH AN OPEN DATA POLICY FOR THE CITY OF ASHEVILLE FOR SUSTAINING PUBLIC DATA AVAILABILITY USING OPEN DATA STANDARDS

This item was removed from the Consent Agenda for consideration in two weeks.

I. RESOLUTION NO. 15-177 - RESOLUTION TO SUPPORT REDISTRICTING REFORM

Summary: The current redistricting process creates a conflict of interest – as State legislators are effectively choosing their own constituents. The redistricting process should be conducted in an open manner with real opportunities for public dialogue and feedback, not behind closed doors. Legislative incumbents often draw districts that are not compact and split communities of interest. Important principles such as the protections of the Federal Voting Rights Act of 1965 and respect for neighborhoods and cities should be clearly listed for a Commission to abide by. Voters are more likely to participate when they feel that their vote will count and that they have a reasonable chance of electing candidates who represent their interests. Elected officials are more responsive to constituents when voters have a choice of candidates, thus increasing accountability and serving the best interests of the voters on North Carolina.

Therefore, The State of North Carolina should establish an independent redistricting process that ensures diversity, partisan balance and geography, for all future redistricting.

In response to Councilwoman Wisler, Mayor Manheimer said that this resolution will be made available to the folks lobbying the legislation for redistricting reform.

RESOLUTION BOOK NO. 37 - PAGE 263

J. MOTION TO REFER THE AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING HOMESTAYS TO THE CITY COUNCIL PLANNING & ECONOMIC DEVELOPMENT COMMITTEE

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Wisler moved for the adoption of the Consent Agenda with the removal of Consent Agenda "H". This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SIMPLICITY

This presentation was moved until October 13, 2015.

B. LEGISLATIVE UPDATE

Mayor Manheimer stated that the legislation is still in session working on the budget. She also said that cities are watching a provision that would shift the cost of bicycle lane infrastructure to cities, even if it is a N.C. Dept. of Transportation project.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER ADOPTION OF THE HISTORIC PRESERVATION MASTER PLAN FOR ASHEVILLE AND BUNCOMBE COUNTY AS PART OF THE ASHEVILLE CITY DEVELOPMENT PLAN 2015

RESOLUTION NO. 15-178 - RESOLUTION ADOPTING THE HISTORIC PRESERVATION MASTER PLAN FOR ASHEVILLE AND BUNCOMBE COUNTY AS PART OF THE ASHEVILLE CITY DEVELOPMENT PLAN 2025

Historic Resources Director Stacy Merten said that this is the consideration of a resolution adopting the Historic Preservation Master Plan for Asheville and Buncombe County. This public hearing was advertised on August 28 and September 4, 2015.

The Historic Preservation Master Plan for Asheville and Buncombe County represents the work of many individuals, conducted over the past 18 months with the assistance of Heritage Strategies, the planning consultants.

Although the Historic Resources Commission (HRC) currently has a successful preservation program, which has been in place since 1979, this plan will help guide the future work of the commission and further historic preservation efforts as supported through the city's adopted comprehensive and downtown development plans. This will ensure that historic preservation remains integral to quality urban design, sustainability and the strategic planning vision of Asheville and Buncombe County.

The following goals were identified early in the process and all subsequent strategies outlined in the plan are intended to facilitate these four overarching goals.

- Heighten public appreciation of Asheville and Buncombe County's heritage and historic resources.

- Ensure that public sector initiatives and actions are models for best practices in the preservation and treatment of historic resources.
- Support private initiative as a primary method through which historic resources are recognized, preserved, and enhanced.
- Enlist historic preservation in the quest for great 21st century growth – make historic preservation central to Asheville and Buncombe County's pursuit of livability and a high quality of life, including economic and environmental sustainability.

The work of Heritage Strategies was guided by an advisory committee chaired by Brendan Ross, the chair of the HRC. Membership of the advisory committee represented a diversity of interests including Buncombe County, the Asheville business community, Asheville neighborhoods, the Preservation Society of Asheville and Buncombe County and the Historic Resources Commission. The community was further engaged through a series of public meetings, focus groups and individual interviews to gather information for input and preparation of the plan.

The plan has been reviewed by the Historic Resources Commission, the Downtown Commission, the Planning and Zoning Commission, and the Planning and Economic Development Committee and was recommended for approval by all.

HRC staff has also consulted with city staff from Planning and Urban Design, and Economic and Community Development, as well as staff from the Preservation Society of Asheville and Buncombe County to gain support for the specific strategies involving those agencies.

Planning staff from Buncombe County were also involved in the planning process and it is the intent of the Historic Resources Commission to work with Buncombe County on adoption of the plan well.

Considerations:

- Provides a clear focus and direction for historic preservation work in Asheville and Buncombe County
- Promotes quality urban design that reflects Asheville's architectural legacy
- Identifies opportunities and partnerships to enhance the historic preservation program
- Outlines strategies for neighborhood and small area planning efforts
- An adopted plan is a tool for local governments to further partnerships and pursue funding opportunities for implementation of the plan
- Is consistent with the Asheville City Development Plan 2025.

City staff recommends City Council adopt a resolution to accept the Historic Preservation Master Plan for Asheville and Buncombe County as part of the officially adopted comprehensive plan for the City of Asheville.

In response to Councilman Bothwell, Ms. Merten explained that there was considerable discussion regarding mandatory downtown design review, but voluntary compliance. Discussion surrounded whether we should try to make downtown a local historic district or not. Ultimately the Advisory Committee didn't think it was the most appropriate thing to do, but they did support a number of strategies to strengthen the downtown review process and bring it more in alignment with preservation goals. Also, there is a possibility that we could create small conservation districts in commercial areas even with some of the changes by the legislature.

Mayor Manheimer opened the public hearing at 5:30 p.m.

Mr. David Nutter spoke in support of the Plan.

Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville and Buncombe County, urged City Council to support the Plan.

Mayor Manheimer closed the public hearing at 5:35 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved to adopt a resolution to accept the Historic Preservation Master Plan for Asheville and Buncombe County as part of the officially adopted comprehensive plan for the City of Asheville and find that the request is reasonable, in the public interest, and is consistent with the Asheville City Development Plan, 2025 in the following ways: 1) the Plan will encourage the protection of downtown's wealth of historic buildings, 2) a high quality design, in new construction projects, 3) the identification, evaluation and documentation of Asheville's historic resources, 4) the continuation of efforts to preserve and manage change within historic districts, 5) the continuation of education towards preservation of Asheville's historic resources, and 6) the strengthening of a strong positive identity and sense of place for all. This motion was seconded by Councilman Pelly and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 264

B. PUBLIC HEARING TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN WYOMING ROAD AND KEEBLER ROAD

RESOLUTION NO. 15-179 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN WYOMING ROAD AND KEEBLER ROAD

Street Division Manager Chad Bandy said that this is the consideration of a resolution to permanently close an unnamed alley between Wyoming Road and Keebler Road. This public hearing was advertised on July 31, August 7, 14 and 21, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, SABA Holding Group, LLC, Thomas Wolfe, Manager, owner of parcels 9648-64-5150 and 9648-64-6029, and Stephen Carr, owner of parcels 9648-64-5116 and 9648-64-5197, have requested the City of Asheville to permanently close the unnamed alley between Wyoming Rd. and Keebler Rd.

The Multimodal Transportation Commission met on May 27, 2015, and approved the closure.

On June 7th, 2015 Duke Energy, PSNC Gas, Charter Communication, Metropolitan Sewage District (MSD) and AT&T were contacted about the request to close an unnamed alley between Wyoming Road and Keebler Road. At that time PSNC and Duke Energy both expressed no concern with the closing of this right of way. Charter Communication and AT&T made no comment. MSD does have a facility located within the current R/W and the applicant, Thomas Wolfe, has been in conversation about the dedication of an MSD R/W upon completion of the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley between Wyoming Road and Keebler Road.

Mayor Manheimer opened the public hearing at 5:38 p.m., and when no one spoke, she closed the public hearing at 5:38 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 15-179. This motion was seconded by Councilman Davis and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 365

C. PUBLIC HEARING RELATIVE TO REZONING 200 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT AND AMENDMENT TO THE HEIGHT ZONE MAP

ORDINANCE NO. 4446 - ORDINANCE TO REZONE 200 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4447 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP IN THE CENTRAL BUSINESS DISTRICT

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to rezone 200 Asheland Avenue from Regional Business District to Central Business District and an amendment to the Height Zone Map. This public hearing was advertised on August 28 and September 4, 2015.

Ms. Bernstein said that the site proposed for rezoning consists of a single parcel owned by Jim F. Hughes of Beacon Properties, is located at 200 Asheland Avenue (PIN 9648.37-0638). There is a single building existing on the approximately 0.48 acres site, one-story in height and approximately 5,000-square feet in size, currently operating with office uses. The site is accessed via a single driveway from Asheland Avenue to the surface parking spaces surrounding the building.

The applicant is proposing a standard rezoning of the single parcel to Central Business District (CBD).

The parcel to the north (172 Asheland) was rezoned from RB to CBD in 2013. Several other parcels in the vicinity have been similarly rezoned in 2013 and 2014. Staff continues to pursue a large-area rezoning along Asheland Avenue and anticipates this action in the early fall.

Because of the repeated requests, staff and the Downtown Commission (DTC) continue to discuss a multi-parcel, City-initiated rezoning on the remaining parcels along Asheland Avenue from Hilliard Avenue to Southside Avenue. Various maps provided in the Downtown Master Plan (2009) included this area along Asheland Avenue due to its proximity to the CBD, wide right-of-way and potential for urban growth. Staff and members of the DTC held a meeting with Asheland Avenue property owners in January 2014 and plan to continue the dialogue with affected neighbors this year, intending to pursue the corridor rezoning and expand the CBD.

Approval of the rezoning request requires an amendment to the Downtown Height Zones map and this parcel would be placed within the Intermediate Height Zone. Asheland Avenue is already considered a Key Pedestrian Street. Extension of the context transition edge is not

applicable as there is no adjacent residential zoning. Any future development would be required to comply with Central Business District design requirements and review standards.

The Downtown Commission evaluated this proposal at their meeting on July 10, 2015, and unanimously supported the rezoning request as well as the application of the intermediate height zone. At their meeting on August 5, 2015, the request was unanimously supported by the Planning & Zoning Commission.

Zoning in this area includes CBD with office and medical uses to the north; a recently approved apartment building (185 Coxe Avenue) in CBD zoning to the west; printing and medical offices in Regional Business zoning to the south; and vacant land and supplies/distribution in Regional Business zoning across Asheland Avenue to the east. Uses allowed in the CBD would be appropriate and compatible on this site. Design standards mandated by the UDO would require that any future development be pulled up towards the corner and focused on the street rather than set back with parking in the front, as seen with the current suburban-style of development on the site and along the corridor. The maximum height permitted (145 feet) would be significantly greater than current RB zoning (80 feet) but is less than the properties adjacent to the west along Coxe Avenue, which are within the tallest height zone.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating on downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

The Land Use & Transportation section contains a specific goal to "continue to look for opportunities to expand the boundaries of the CBD to areas appropriate for that type of development".

The *Downtown Master Plan* recommends strategies for the continued vitality of the downtown and specifically included this section of Asheland Avenue as an area of potential growth and expansion for the CBD. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having the potential to grow and improve following an urban development pattern.

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be reasonable.

Considerations:

- Expansion of the CBD is generally recommended in the *2025 Plan* and specifically recommended along Asheland Avenue in the *Downtown Master Plan*
- Four similar requests have been approved in this immediate location since 2013, leading to staff and the Downtown Commission pursuing a multi-parcel rezoning effort.

Staff recommends approval of the proposed rezoning, finding that the request to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 5:42 p.m., and when no one spoke, she closed the public hearing at 5:42 p.m.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Davis moved to approve the zoning map amendment from Regional Business to Central Business District as a standard rezoning and find that the request is

reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 122

Councilwoman Wisler moved to approve the amendment to the Height Zone Map and find that the request is reasonable and is consistent with the Comprehensive Plan and other adopted plans, based on information provided in the staff report and as stated in the staff recommendation. This motion was seconded by Councilman Davis and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 125

D. PUBLIC HEARING AND APPROVAL OF MODIFICATION TO A CONDITIONAL USE PERMIT FOR BILTMORE GARDENS ORIGINALLY APPROVED IN 2005 (NOW KNOWN AS COMMERCIAL PROPERTIES AT BILTMORE) TO INCLUDE THE DEVELOPMENT OF THE COMMERCIAL PORTION OF THE PROJECT WITH THREE, 2-STORY OFFICE BUILDINGS AND ASSOCIATED PARKING ON PROPERTY KNOWN AS 700 BILTMORE AVENUE

City Attorney Currin reviewed with Council the conditional use process, which is a quasi-judicial permit hearing. At this public hearing all the testimony needs to be sworn and due process protections afforded to the applicant.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:45 p.m.

Assistant Director of Planning & Urban Design Alan Glines submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Assistant Director of Planning & Urban Design Alan Glines said that this is the consideration of an ordinance to to grant modification to a conditional use permit for Biltmore Gardens originally approved in 2005 (now known as Commercial Properties at Biltmore) to include the development of the commercial portion of the project with three, 2-story office buildings and associated parking on property known as 700 Biltmore Avenue. This public hearing was advertised on August 28 and September 4, 2015.

This application modifying the conditional use permit follows the standards outlined in 7-5-5 of the UDO. The site consists of a 6.6 acre parcel located at 700 Biltmore Avenue (City Exhibit 3 - Location Map). The property is owned by Near Urban Development Co, LLC. The parcel is steeply sloping with the residential component at the higher portions of the site and commercial uses at the lower portion of the site near Biltmore Avenue. The parcel is zoned Institutional and is governed by a conditional use permit approved in 2005 as the Biltmore Gardens (Ordinance 3222) for 114 residential units and four commercial structures totaling 15,060 square feet. Parking was also approved for the site along with several access points along neighboring streets. The parcel is bordered by three streets: Caledonia Road to the north, Bowling Park Road to the east, Kenilwood Place to the south and Biltmore Avenue to the west. Neighboring uses include, single family residential and commercial uses along Biltmore Avenue (City Exhibit 3 - Site Layout).

The residential portion of the development has been renovated and sold. The modification proposal consists of changes to the commercial component of the CUP. The original approval included 4 commercial structures totaling 15,060 square feet, The modification seeks to reduce the overall amount of commercial space to 10,255 square feet and proposes only three commercial structures compared to four which were approved in the original permit. The size of one structure, Building Three will be increased by a small amount. In addition the architectural style of the development would change from the original proposal: from a mix of traditional residential revival-styles (colonial, Italianate, arts and crafts) to a more contemporary residential style proposed now. Original and proposed elevations and perspective drawings are included in this report (City Exhibit 3 - Elevation Plans for Buildings 1, 2 and 3). The plans provide a comparison of building footprints on sheets 700 and 701 of the current proposal with the earlier approval. A summary is provided in the table below:

	2005 Approval	**2015 Proposal**	**Change**
Building One	6,960 s.f. two-stories	3,800 s.f. two-stories	Reduce 3,160 s.f.
Building Two	4,800 s.f. two-stories	4,555 s.f. two-stories	Reduce 245 s.f.
Building Three	1,500 s.f. one-story	1,970 s.f. two-stories	Add 470 s.f. add one story
Building Four	1,800 s.f. two-stories	Removed from proposal	Eliminated from plan
Total	15,060 s.f.	10,255 s.f.	New reduction 4,805 s.f.

Mr. Glines presented Council with City Exhibit 4 (Revised Table showing the 2015 proposal for Building One is 3,700 s.f. two stories, not 3,800 s.f. two-stories).

Existing and Proposed Building Components: The residential units have been completed and permits have been closed out. Rough grading for the lower area of the site is also completed. The final component of the development is to complete the construction of the new commercial buildings and provide parking and landscaping. The uses of the commercial buildings will be primarily office except for Building One which will be used for office and special events in conjunction with the rental use of some of the residential condominiums. As originally approved this building was to house a restaurant. Buildings Two and Three were originally approved for office and retail and will today focus on office uses.

The new buildings are proposed to be more contemporary in style but with a scale and detailing similar to nearby residential homes (City Exhibit 3 - Building Study). The materials include cementitious siding, stone veneer and aluminum-glass storefront windows, additional smaller windows, and shed-style awnings. The roofs will utilize clipped gables and shed dormers which is compatible with nearby residential roof styles.

Sidewalks surround the site and new sidewalks will connect internally from the parking areas and the new structures to the external sidewalk system.

New surface parking and bicycle parking will be provided for the commercial uses including some that are already in place and others that will be constructed. The parking counts meet UDO requirements.

Landscaping is required for the project and includes parking lot landscaping and building impact landscaping. In addition a number of existing trees will remain on the property and will be protected. The proposed landscaping meets the requirements outlined in the UDO (City Exhibit 3 - Village View from Biltmore Avenue; Village Interior View; Residential Condominium View; Section View; Sketch).

This proposal was approved with conditions by the Technical Review Committee on July 20, 2015. The modification application also requires a quasi-judicial review by the Asheville City

Council and final TRC review.

The site is zoned Institutional District.

A letter of support from The Residences at Biltmore Condominium Owners' Association Inc. has been received (City Exhibit 5).

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. There are total of seven conditional use standards that the project must meet. The applicant has provided a statement on these findings.

Mr. W. Louis Bissette, representing Near Urban Development Company, said that the commercial components original planned as a part of this mixed use project, and approved by City Council in 2005 were never completed as a result of the economic downtown and the project's subsequent bankruptcy and foreclosure. The commercial properties were purchased earlier this year by Near Urban Development Company. Near Urban proposes to complete three commercial buildings, basically as approved in the 2005 conditional use permit. One of the four commercial structures originally approved will not be constructed and is not a part of this application. This modification seeks to reduce the overall amount of commercial space from approximately 15,000 square feet in 2005 to approximately 10,000 square feet today. He explained the size of the three structures compared to what was proposed in 2005. The three buildings are essentially in the same location as previously approved in 2005. Access, sidewalks, parking, landscaping and open space remain as previously approved and meets the City's requirements as outlined in the Unified Development Ordinance. He then reviewed the seven conditional use standards and how their project complies with those standards. He asked for the Council's support of this modification.

After hearing no rebuttal, Mayor Manheimer closed the public hearing at 6:01 p.m.

Councilman Pelly moved to approve the modification to the conditional use permit for Commercial Properties at Biltmore located at 700 Biltmore Avenue, subject to the site plan and elevations and conditions outlined in the Technical Review Committee report, because the proposal meets the seven conditional use permit standards as demonstrated by the applicant. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Currin said that on the September 22 agenda, a motion will be placed approving the Findings of Fact and Conclusions of Law for Commercial Properties at Biltmore located at 700 Biltmore Avenue.

E. PUBLIC HEARING TO CONSIDER AMENDMENTS TO THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW LAND USE THAT PERMITS FELINE ADOPTION TOGETHER WITH RETAIL SALES, KNOWN AS CAT CAFÉ, WITHIN THE CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4448 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO CREATE A NEW LAND USE THAT PERMITS FELINE ADOPTION TOGETHER WITH RETAIL SALES, KNOWN AS CAT CAFÉ, WITHIN THE CENTRAL BUSINESS DISTRICT

Urban Planner Vaidila Satvika said that this is the consideration of an amendment to the Unified Development Ordinance sections 7-2-5 definitions, 7-8-1(d) table of permitted uses, and Section 7-17-3 (c) land use impact table to create a new land use that permits feline adoption together with retail sales, to be defined as Cat Café, within the Central Business District (CBD). This public hearing was advertised on August 28 and September 4, 2015.

The applicant for this wording amendment is Brother Wolf Animal Rescue, a not-for-profit organization whose mission is to provide the resources and lifesaving programs to build a No Kill community.

The applicant is interested in creating a cat café in downtown Asheville, which is a new model of mixing animal adoption with the experience of a café. The cat café model originated in Taiwan in 1998 and has since spread to North America with the opening of a cat cafe in Montreal in 2014. A number of additional cat cafes have opened throughout the U.S. and Canada with the twist of partnering with local animal shelters to showcase adoptable cats looking for new homes. In order to meet health standards, cat cafes are required to separate areas that house cats from food and beverages.

Currently, the UDO precludes animal uses in the CBD. The only two uses in the various zoning districts within the city that relate to live animals are Kennels and Veterinary Clinics.

> *Kennel* means any premises where domestic animals, such as dogs and cats, are boarded, trained, or bred for commercial or animal control purposes.

Veterinary clinics, although not defined, are primarily places of medical service for animals.

The cat café can fit within the kennel use but because kennels permit dogs, a potential noise nuisance for residents and businesses, staff believes permitting kennels within the CBD is not appropriate. The cat café would not meet the veterinary clinic definition because it would only serve orphaned cats that are in need of adoption, not providing medical services to any "owned" cat although medical services would be provided as needed to the cats in the adoption center. Staff proposes to create a new use that would only be permitted in the CBD that would be specific to housing orphaned cats until they are adopted.

The proposed use would be defined as Cat Café and would be permitted only within the CBD:

> *Cat café* means any premises used to house or contain homeless, orphaned, or unwanted cats and that is owned, operated, or maintained by an organization that is licensed by the State as an animal shelter and devoted to the welfare, protection, and humane treatment of animals for the purpose of adoption, and which incorporates retail sales to support the interaction of patrons with cats, such as a café, bookshop, or other permitted use.

The proposed wording amendment would add *Cat Café* as a low-impact use under the Office/Business classification in the Land Use Impact Table of Section 7-17-3 (c), as it is would be consistent with the intensity of uses in that section.

The proposed wording amendment was presented to the Downtown Commission on July 10, 2015 and to the Planning and Zoning Commission on August 5, 2015, and received unanimous support from both.

Staff recommends approval of this proposed amendment because the proposed change to the UDO is determined to be consistent with the Comprehensive Plan and other adopted plans, and is reasonable in that it will add to the city's dynamic and diverse culture and economy by contributing to the eclectic mix of creative, innovative businesses and the employment opportunities they provide.

Mayor Manheimer opened the public hearing at 6:07 p.m., and when no one spoke, she closed the public hearing at 6:07 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the proposed amendment to Sections 7-2-5 definitions, 7-8-1(d) table of permitted uses, and Section 7-17-3 (c) land use impact table to create a new, low-impact land use that permits feline adoption together with retail sales, to be defined as *Cat Café*, within the Central Business District (CBD) and find this amendment is consistent with the Comprehensive Plan and other adopted plans, and is reasonable and in the public interest because it will add to the City's dynamic and diverse culture and economy by creating to the eclectic mix of creative, innovative businesses and the employment opportunities they provide. This motion was seconded by Councilwoman Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 128

F. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 311 AND 315 OLD HAW CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR CHURCH RENOVATION, PARKING AREA, ADDED SIDEWALKS AND CONSTRUCTION OF 10 STUDENT HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE, WITH CONDITIONS FOR REDUCED PROPERTY LINE BUFFERS FOR PORTIONS OF THE SITE

ORDINANCE NO. 4449 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 311 AND 315 OLD HAW CREEK ROAD FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR CHURCH RENOVATION, PARKING AREA, ADDED SIDEWALKS AND CONSTRUCTION OF 10 STUDENT HOUSING UNITS WITH ASSOCIATED INFRASTRUCTURE

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to conditionally zone property located at 311 and 315 Old Haw Creek Road from RS-4 Residential Single-Family Medium Density District to Institutional District/Conditional Zoning for church renovation, parking area, added sidewalks and construction of 10 student housing units with associated infrastructure, with conditions for reduced property line buffers for portions of the site. This public hearing was advertised on August 28 and September 4, 2015.

The project area consists of a single 6.16-acre parcel located at 311 & 315 Old Haw Creek Road with secondary frontage along Bethesda Road. The parcel is currently zoned Residential Single-Family Medium Density (RS-4) and contains a church and minister's parsonage, and a cemetery that measures nearly 69,000 square feet, occupying one quarter of the property. The site is primarily surrounded by residential uses. The site is immediately north and adjacent to Haw Creek Elementary School, a school of approximately 410 students in grades kindergarten through fifth.

The applicant is seeking to create a more flexible use of their property to be able to continue as a place of worship while accommodating other uses. The plan is to create a multi-use property that houses students and seminarians year round as part of an educational and community service curriculum. The project components are outlined here:

- Students would be housed in ten newly constructed small cottages measuring approximately 350-600 square feet each, located at the southwest corner of the property and accessed through a new driveway adjacent to the church. The homes have been designed by Wishbone Tiny Homes but would be built by ministerial students and volunteer labor.

- Fellowship Hall – The existing fellowship hall will be remodeled and upgraded to include a co-working kitchen/maker space, co-working office space, and dining hall.
    - Co-working kitchen/maker space – The co-working, commercial kitchen/maker space will be used by the church and will be available for use by the public at a charge. It will incorporate classes such as canning, cooking, and pickling. Food truck operators may use the kitchen as their commissary, where food is prepared and then loaded onto the truck for delivery.
    - Co-working office – A shared co-working office measuring approximately 800 square feet will be developed with approximately 25 work stations that will be used by students and also open to the public for use at a charge.
    - Dining Hall – The dining hall will be used for all users of the premises.

  There shall be no retail sale of good from the co-working kitchen/office spaces and no restaurant sales.
- Sanctuary – The sanctuary of the church will be used as a place for worship for the four church congregations. It will be renovated in order to be a more flexible space so that it can accommodate community meetings and events. The pews will be replaced with moveable seating.
- Classrooms – On the same floor as the sanctuary there are five classrooms that will be used by students and instructors, and may be available to the public for meeting spaces as part of the co-working kitchen/office spaces.
- Parsonage – The parsonage serves as a residence for clergy and lay missionaries associated with the church; it will continue to function as a residential house for the church's ministers, guests, and temporarily for student ministerial housing.

This chart summarizes the current versus proposed spaces and uses:

Structure	Name of Space	Current Uses	Area	Proposed Uses	Area
Church	Sanctuary	Workship space	2192 SF	Workship space	2192 SF
	Fellowship Hall	Dining area	1548 SF	Dining space	774 SF
				Co-working office	774 SF
	5 Class Rooms	Various church/educational	1576 SF	Church/Educational/Meeting Rooms	1576 SF
	Kitchen	Kitchen	716 SF	Co-working kitchen/maker space	716 SF
Parsonage		Ministerial Housing	5116 SF	Ministerial Housing	5116 SF
Tiny Homes		N.A.	0 SF	10 small homes	6000 SF

Co-working space available to the public at a charge	1490 SF 9%

Access to the property is from either Old Haw Creek Road or Bethesda Road. There will be two parking areas, one accessed from Old Haw Creek Road, the other from Bethesda Road.

There are currently 33 parking spaces on the premises. Based on the mix of uses and the expected overlap, the minimum number of parking spaces required for the project is 41. The project will provide eight additional spaces in order to meet that requirement. Three of the spaces will be provided as accessible parking spaces. Bike parking and a loading berth will be provided.

A 20-foot-wide paved access road will extend from the new parking lot to connect the ten small cottages for access. The applicant will use that access road to join the parsonage so that the parsonage's currently-used gravel driveway may be removed, which would reduce the number of entrances/exits to enhance safety and it would also allow for the planted buffer yard to be uninterrupted by the gravel road encroachment.

A new sidewalk measuring at least five feet wide is proposed along the length of the property adjacent to Old Haw Creek Road and Bethesda Road, and south, bisecting the property, along the cemetery to a 30-foot right of way, which is unpaved. The sidewalk that bisects the

property will enhance the cemetery by making it easier for visitors to access and it will provide a direct connection for access to the school. The applicant has agreed to allow parents to use the church parking facility to park and walk children to the school through the property, or to have children walk along that sidewalk to the parking area to be picked up after school.

The site is on the ART bus route E2 with a bus stop across the street from the site.

Landscaping is required for this project including street trees, parking lot landscaping, street buffer, building impact landscaping, and a property line buffer. The applicant is requesting modifications to the property line buffer due to the location of the cemetery; to comply would require the relocation of more than 75 graves. The proposed alternative compliance is detailed below.

The open space requirement is 15% of the lot area. The site plan shows sufficient area to meet this standard.

Conditions modifying development standards:

1. Property line buffer – a type B (30 foot wide) property line buffer is required adjacent to RS-4 zoned properties.
    1. Along the cemetery, the property line buffer will be waived. At this southern and southeastern edge of the property along the cemetery, which measures approximately 450 feet, planting a buffer would require the relocation of more than 75 graves. *Staff is supportive of this modification due to existing site constraints and because the uses and activity along this part of the property will not change.*

The applicant promoted a community meeting via direct mail to 2,250 households in January 2015, which resulted in a meeting on January 25, 2015, with over 40 people in attendance. The applicant held two additional community meetings. The first gathered approximately 70 people, the second gathered approximately 75 people. At those cookouts, the applicant reviewed the proposed plan and answered questions. On June 18, 2015, the applicant presented to the Haw Creek Home Owners Association to a group of 25. Two letters of support have been received from the public as of the writing of this report.

This proposal was approved with conditions by the Technical Review Committee on April 20, 2015, and requires review by City Council and Final TRC prior to zoning approval. The proposal was presented to the Planning & Zoning Commission first on May 6, 2015, and, after seeking a continuance to gather more public support and to better articulate the plan, it returned to the Planning & Zoning Commission on July 16, 2015. The Planning & Zoning Commission recommended to approve the proposal with a 3-2 vote. Two commissioners were concerned about the tiny homes.

The site is surrounded by other properties zoned RS-4, most of which are single-family residential. There is a pocket of RM-6 zoning to the north of the site, which is mostly used as a place of worship. By moving from RS-4 to INST zoning, the applicant seeks greater flexibility to be able to continue as a place of worship while also accommodating student housing and co-working kitchen/office spaces. All of the uses proposed are identified in the UDO's impact table as "low."

The primary proposed use of the property will continue to function as a place of worship as it has for many years. The question of commercial activity, however, was a concern at the May 6th Planning & Zoning Commission meeting and is addressed here: Is commercial activity compatible with the proposed project and in this residential neighborhood?

First, it should be noted that only about 10% of the project's gross floor area would be used for commercial activities for part of the time. The co-working kitchen/maker space would

serve as non-commercial dining for church members and students, while the co-working office space would serve ministerial students. In comparison, every residential dwelling, under the *Home Occupation* provision of Section 16, is allowed to use up to 25% of its home for commercial uses as an ongoing business. Commercial activity is not precluded from residential areas, but it is subordinate to the primary use.

There is precedent for neighborhood-scale commercial activity within residential districts. An example would be the Harvest House in Kenilworth Road. Open Monday through Friday from 9 a.m. to 4 p.m., the Harvest House is a parks department-owned facility that offers various free activities as well as paid classes in weaving, wood working, clay sculpture, glass mosaics, painting, and so on. The center is very popular and acts as a vibrant neighborhood community center that is located in the middle of the residential zoning district and Kenilworth neighborhood. The commercial activity of the Harvest House does not contribute to a negative neighborhood environment; it's an amenity for the neighborhood.

Appropriately-scaled commercial activity within residential districts helps neighborhoods to be more walkable and bicycle friendly by offering relevant goods and services close by. For this reason there exist various city goals that promote the development of mixed-use corridors and mixed-use development where appropriate. In fact, the Comprehensive Plan states that "appropriately-scaled non-residential uses that serve residents of neighborhoods should be permitted in appropriate locations."

(As a side note, in regard to taxation, according to the County Tax Department allowing a for-profit business to use the church's facilities would make those facility areas taxable but it would not take the whole church property out of tax exemption. The applicant is aware of this.)

The property is bordered by an elementary school to the south, which, as an institutional use with over 400 children served, will be served by this project by being able to use the church's parking lot and sidewalk as a supplemental drop off and pick up location for the school, which the church has agreed to.

In regard to the added residential density, under the current RS-4 zoning if the owner so chose it would be permissible to build an additional four homes within the 60,000 square feet of the property that is currently not built upon (area behind the parsonage/church and not including the cemetery). In comparison to what is permissible by right, 10 small cottages, when combined (approximately 5000 SF), will be a lower impact use below what is developable by right under RS-4. (Area = 60,000 SF. Min lot size = 10,000 SF. Approx 5 homes and cul-de-sac).

The Haw Creek Commons project would offer commercial activities that would be significantly subordinate to the principal use of the site as a place of worship and they would serve neighborhood residents. For this reason, the proposal is compatible with the site and the surrounding neighborhood, and it is consistent with broader city goals pertaining to the adaptive reuse of property to support the continuation of a local institution and community space.

The proposal complies with policies adopted by the City in several ways. As stated in the *City Development Plan 2025,* reusing older buildings is "the most sustainable construction" and helps to preserve and protect neighborhood vitality and appropriately-scaled non-residential uses should be allowed in appropriate locations. This proposal aims to repurpose the site to ensure its financial sustainability and the Plan states that the number one strategy for land use is adaptive reuse of (vacant or) underutilized structures. The addition of street trees, sidewalks and on-site bike parking as well as the location along a transit route supports bus use; the streetscape will be enhanced and automobile dependence may be minimized. A large amount of the site will remain planted and additional, native landscaping will be added to the parking areas, along the streets, and in front of buildings adding to sustainability and environmental goals.

This proposal aligns with City Council's Strategic Plan. As part of Focus Area #1: Economic Growth and Sustainability, this project will "ensure a sustainable financial future for Asheville by promoting an environment where citizens and businesses want to live, work, and invest" by reusing this site to create an eastern hub for their organization's operations. In addition, consistent with Focus Area #3: High Quality of Life, the project will enhance the quality of life for neighborhood residents by adding sidewalks that improve safety and provide more pedestrian connectivity.

Considerations:

- The project proposes the adaptive reuse of an existing building and provides a way for a community institution to adapt to changing realities.
- Ten small cottages would be constructed (beyond street view) to accommodate students.
- Subordinate commercial uses would be added to provide neighborhood-scale co-working spaces alongside on-going traditional uses.
- Sidewalks will be provided along both Old Haw Creek Road and Bethesda Road.
- Additional landscaping will be added throughout the site to soften the streetscape and provide buffering to adjacent properties.

Staff recommends approval of the proposed conditional zoning to allow for the redevelopment of the church and fellowship hall at 311 & 315 Old Haw Creek Road for the construction of ten small cottages, development of neighborhood-scale co-working spaces, new parking area, and to enhance the site with landscaping and sidewalks. This recommendation includes approval of the landscape modifications as detailed above.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Pastor Larry Duggins from the United Methodist Church said they are looking to modify this existing Church building to allow the formations of new types of Christian community. They are continuing worship in this facility by each of four congregations that are currently working in this space, but we are making changes to the physical space to allow community formation in the way that people form community today. Research shows people form community around their work places and that is the motivation behind the co-working spaces within the facility. People form community around food so they would like to create a shared use commercial kitchen, modifying the kitchen that already exists. There would be up to four workers allowed in the kitchen space at any one time. People also form community around their children's schools. They are creating a new relationship with Haw Creek Elementary School. They've added new signage to their parking spaces inviting people to park in their parking lot to walk across to pick up their children at school. That will help alleviate the traffic problem that exists at the entryway to the School. They are also creating a sidewalk with gardens from the parking lot to the School. In addition, they have already added a playground and picnic tables to the space to make it a family-friendly place. Finally, they are working with School administration to make sure that we are making all of our space available to the Elementary School for needs and desires they have. People also form community around shared recreational and community activities so they have modified the space for those activities. They are taking out all the pews out of the main sanctuary so that space can be used not only for worship, but for community meetings in the area. Space will also be utilized by a quilting group, an AA group, a woodworking group, etc. The Missional Wisdom Foundation not only creates this new kind of community but they also teach people about that. They have plans to teach high school, college and seminary students, as well as adults in clergy and adults in lay leadership, about this new kind of missional education through classes and retreats at the space. They want to have 10 tiny student houses on the site, to be able to achieve specific educational goals. First they want their students to experience community living in a monastic austere kind of environment in which we can teach the theology of sufficiency. Second they want to expose the students to that particular kind of housing because we believe it has great potential for affordable housing in some areas or housing for the homeless in some areas. On their site, the only use for those tiny houses is student houses. They have held four community meetings. This is not a retail space and they are not having retail sales from

this location, other than those kinds of sales that churches typically have, e.g., bake sales, rummage sales, etc. This is not a restaurant space. They will not have food service to people for sale. This is not a manufacturing facility to sell tiny houses. And, this is not a business, it's a ministry. There is no profit motive. We are charging people to be able to support the on-going operation of this ministry and other ministries of the Foundation. This is an attempt to repurpose the Church building to match how people form community today.

The following individuals spoke against the conditional zoning for various reasons, some being, but are not limited to: to allow this church the additional activities will open the door for other churches in the area to do the same; this is a very residential neighborhood and their quality of life will be encroached upon; size of the tiny homes seem to be getting larger from every community meeting; community meeting attendees were not supportive of this project; suggestion of adding a dorm to the back of the church and eliminate the 10 tiny homes; fear of what will happen to the tiny homes when the students move out; 10 tiny homes are not sustainable; transient students will walk near the school yard and it will not be safe for the children; 10 tiny homes will decrease adjoining property owners tax values; and the 10 tiny lots will be in the woods and will not be visible from the Church or the School which is not good when there is an adjoining School:

Resident on Willowbrook Road
Ms. Barber Melton, Board Member of the Haw Creek Community Association
Mr. Joe Bly, father of adjoining property owner on Trinity Chapel Road

The following members spoke in support of the conditional zoning for various reasons, some being, but are not limited to: churches need to find new ways to keep their doors open; this is a way to give back to the community; and this will be a positive impact on the Haw Creek community:

Ms. Margaret Burnette King, resident on New Haw Creek Road
Pastor from Bethesda United Methodist Church
Mr. Luke Lingle, employee of the Western North Carolina Conference of United Methodist Church
Mr. Shawn Rice, Director of RFD Construct who will provide the general contracting Services
Ms. Lisa Gibbs, resident in the immediate area

Mayor Manheimer closed the public hearing at 6:50 p.m.

Mr. Rice responded to various questions raised by the community. He said if the trees are marked with a yellow ribbon, they will remain. He felt there is no precedent being set as conditional zonings are considered on a case by case basis. The 10 tiny homes are not trailers on wheels. There will be one tiny home on a trailer which will be used for the teaching element, but that will not remain on the site.

Councilman Bothwell felt that the big problem with tiny homes is that there is a very high material use per square footage and they are much less energy efficient than if you put 10, 500 square foot apartments in a block together. You gain the advantages of HVAC, piping and it disturbs less land.

Councilman Bothwell noted there was a question of what would happen to the tiny homes with the students moved out. He said that a 500 square foot home is very easy to move.

Councilwoman Wisler was concerned about the construction of the 4 tiny homes on the property to be used in the teaching curriculum. Mr. Satvika explained that there is a condition that "the teaching curriculum is allowed to include the construction of up to 4 tiny homes per year, but not for commercial sale. Tiny homes will not exceed 600 square feet. Construction of the tiny

homes will occur only between the hours of 9:00 a.m. and 5:00 p.m. and will be located immediately behind the parsonage, as noted in the site plan."

Pastor Duggins explained that they intend to build up to 10 tiny homes that will be on permanent foundations and built up to residential housing codes. They also plan to build up to 4 tiny homes on trailers so that after their infrastructure is built and there is another round of students, they can have the experience of building one of these houses. There is a condition that they have agreed to regarding the construction being limited to daylight houses and only four houses. These will be for teaching tools and will not be sold.

When Vice-Mayor Hunt asked what happens to the teaching tiny home after it has been constructed, Pastor Duggins said they will give them away or send them off with people who have a use for them in their area. The one they are building now on site will be used as a teaching tool to take to local United Methodist congregations to tour them and get a feeling of what tiny houses represent.

Councilman Pelly moved to approve the conditional zoning request for Haw Creek Commons at 311 & 315 Old Haw Creek Road from RS-4 (Residential Single-Family Medium Density) to INST - CZ (Institutional District – Conditional Zone) with the conditions for the properly line buffer waiver along the cemetery, based on the master plan and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The project proposes the reuse of an existing building, the most sustainable form of development, (2) the project will provide neighborhood-scale co-working spaces that will serve residents of Haw Creek, and (3) the project improves access and safety for users of the site as well as for neighbors by adding sidewalks along the streets and through the property itself. This motion was seconded by Councilman Davis.

In response to Vice-Mayor Hunt, Mr. Satvika reviewed the process of hearings to date and noted that less than 10% of this proposal would include a commercial component. And in comparison, we allow, with our home occupational rules, any home in the City can have up to 25% of their home as their home occupation. Commercial activity is not prohibited precluded from residential areas, but we definitely think it should be subordinate, and staff believes it is subordinate here.

Vice-Mayor Hunt was concerned that neighbors expect the noise of construction to go away after a project is complete, but that would not be the case here with the construction of the 4 tiny homes for the teaching curriculum. When he asked Pastor Duggins what would happen if Council did not allow the construction of the 4 additional tiny homes, Pastor Duggins said that would remove a teaching component they are trying to incorporate into their curriculum, as they find it's important to give people the actual experience of doing something. They believe tiny homes are a viable alternative to address affordable housing and to address the theology of sufficiency.

Vice-Mayor Hunt moved to amend the main motion to approve the conditional zoning request (with the property line buffer waiver along the cemetery) with the removal of the condition that the teaching curriculum is allowed to include the construction of up to 4 tiny homes per year. This motion was seconded by Councilman Smith.

Councilman Davis did not understand that this would be an on-going teaching curriculum of allowing the construction of up to 4 tiny homes per year.

When Councilman Bothwell suggested the Church build a structure to contain the noise from the construction of the 4 tiny homes, Mr. Rice stated that there is a condition that the applicant will return to the Planning & Zoning Commission in one year to review if there are noise issues.

Councilman Pelly said that there have been concerns expressed, but none from the adjoining property owners about noise. He said this is a 6-acre site adjoining a 20-acre Elementary School site. In addition, the site they will build the tiny times on is below grade.

Vice-Mayor Hunt felt that in a residential area Council would now allow a home occupation that involved construction of buildings and exporting them. He also said the construction of the additional tiny homes doesn't necessarily have to happen on the site for the students to participate.

When Mayor Manheimer asked for a vote on the amended motion, said vote was 6-1, with Councilman Pelly voting "no."

City Attorney Currin said that since this is a conditional zoning, the applicant will have to agree to any conditions imposed by Council. Pastor Duggins acknowledged that Council will remove the condition allowing the teaching curriculum to include the construction of up to 4 tiny homes per year and he agreed to that amendment.

Councilman Pelly, Haw Creek resident, was heartened by the opportunities of this proposal presents and felt the changes associated with the School are good improvements.

When Mayor Manheimer asked for a vote on the amended main motion, said vote carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the representatives from the Neighborhood Advisory Committee and the Sustainability Advisory Committee on Energy & the Environment, it was the consensus of Council to postpone these appointments until October 13, 2015.

Regarding the Buncombe County Tourism Development Authority appointment, it was the consensus of Council to re-advertise the position for two additional weeks, hold the interviews in the Council Chamber in the afternoon of October 13, and transition into the interview process similar to the Planning & Zoning Commission vacancies.

A. RESOLUTION NO. 15-180 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Julie Mayfield, Edward Hay and Jerome Jones, as members of the HUB Community Economic Development Alliance, expired on August 22, 2015.

The following individuals have applied for a vacancy on the Board: Ted Figura, Hunter Goosmann, Ed Manning, Grant Millin, Kendra Sherrod, Cheri Torres and Brooke Brownlow.

The Boards & Commission Committee recommended reappointing Julie Mayfield, Edward Hay and Jerome Jones.

Vice-Mayor Hunt moved to reappoint Julie Mayfield, Edward Hay and Jerome Jones, to each serve an additional three-year term, terms to expire August 22, 2018, or until their

successors have been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

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B. RESOLUTION NO. 15-181 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Hutch Kerns and Ashley Arrington expired on June 30, 2015. In addition, Josh O'Conner and Patrick Dennehy also resigned, thus leaving two unexpired terms until June 30, 2017.

The following individuals have applied for a vacancy on the Commission: Dean Pistor, Helen Hyatt, Laura Carlson, and Patrick Dennehy.

The Boards & Commission Committee recommended appointing Dean Pistor, Helen Hyatt and Laura Carlson.

Vice-Mayor Hunt moved to appoint (1) Dean Pistor and Helen Hyatt to each serve a three-year term, terms to expire June 30, 2018, or until their successors have been appointed; (2) appoint Laura Carlson to fill the unexpired term of Mr. O'Connor, term to expire June 30, 2017, or until her successor has been appointed; and (3) appoint Pat Dennehy to serve the unexpired term of Mr. Dennehy, term to expire June 30, 2017, or until his successor has been appointed. This motion was seconded by Councilman Pelly and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

A group of individuals sought City Council support in urging the City of Asheville to prevent the removal of a stand of valuable tall oak trees on Collier Avenue in Asheville's South Slope. Some of the trees are taller than surrounding buildings, tall enough that you can see them from various vantage points several blocks away. They asked the City to lead the way in preventing the loss of this unique wood in this otherwise urban neighborhood. One way would be to facilitate offering the developer a land swap where he can build his apartment project without the need to remove the forest. Another way would be for the City to assist in finding a donor(s) who would acquire the lot with the purpose to preserve and protect the wood in its natural form. After discussion on how this needs to be a community effort in raising funds, with the City being in a minority investment role as with other parks in the City, it was the consensus of Council to ask City Manager Jackson to first meet with the developer to see how willing he is to consider an exchange of property, and then to provide the following information: (1) what was the staff's perspective for this area during the development of the South Slope Innovation District; (2) how much did the developer pay for the property; (2) what kinds of things is the developer looking at constructing on this property; (3) is there an affordable housing component in the developer's plans; and (5) get background and context of this area from the Parks & Recreation Master Plan, the Downtown Master Plan and the Economic Development CIP.

A representative from the Vietnam Veterans Association Chapter 124 asked City Council to consider donating to the Vietnam Traveling Memorial Wall, which will be at the Harley-Davidson of Asheville on September 9-14, 2015. While this Wall is a replica of the one in Washington, D.C., this experience can have the same emotional and healing effect on our visitors. In addition, traveling to Washington is not always easy or affordable for Vietnam Veterans, family and friends. They have raised over $13,000 but their budget is $25,000. He noted that Buncombe County pledged $6,000, and he asked for a donation from the City of Asheville.

Closed Session

At 8:01 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (3) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. Statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:33 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:33 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – September 22, 2015 - 5:00 p.m.

Regular Meeting

Present: Vice-Mayor Mark W. Hunt, Presiding; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Mayor Esther E. Manheimer

PLEDGE OF ALLEGIANCE

Vice-Mayor Hunt led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized Lt. Bradley Duncan, Station 11; Engineer Adam Hurdt, Station 11; Sr. Fire Fighter Justin Baker, Station 2; Sr. Brad Maselbas, Station 2; Abby Moore – NC Association of Hazardous Materials Responders Outreach and Education Chair coordinated the team organization; and Chief Joy Ponder – Member of the NCAHMR was the team leader at the Challenge, for coming in first place in the Twelfth Annual "HAZMAT CHALLENGE." This competition allows teams to practice typical HazMat responses while competing against colleagues from across the State of North Carolina. This year eleven teams competed with the Asheville Hazardous Materials Regional Response Team #6 won first place.

Vice-Mayor Hunt thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

II. CONSENT AGENDA:

At the request of Councilman Davis, Consent Agenda Item "H" was removed from the Consent Agenda for discussion and/or individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 8, 2015

B. RESOLUTION NO. 15-182 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS UNDER THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR A REGIONAL LAW ENFORCEMENT LIAISON

ORDINANCE NO. 4450 - BUDGET AMENDMENT TO ACCEPT FUNDS UNDER THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR A REGIONAL LAW ENFORCEMENT LIAISON

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Governor's Highway Safety Program for highway safety grant funds to purchase equipment for the Traffic Safety Unit; and to cover the costs associated with the City providing an officer to serve as the Regional Law Enforcement Liaison which entails training and travel related to the liaison duties, and the associated budget amendment in the amount of $20,000.00.

The City of Asheville Police Department (Police Department) currently participates in the Highway Safety Program campaigns. In order to maximize participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance communication and effectiveness. The Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for Highway Safety Program Region 10 which covers Buncombe, Henderson, Madison, Mitchell, Polk, Rutherford, and Yancey counties.

Pro:

- Reimbursement revenue to cover the cost of obtaining the needed equipment including speed measuring instruments for police motorcycles, Crash Data Retrieval Software subscription, and laptop computers.
- Reimbursement revenue to cover the cost of necessary training and travel related to highway safety duties and operations.

Con:

- Commitment of staff hours for the officer charged with the liaison duties to accomplish the goals stated in the grant contract.

This budget amendment is fully funded with grant revenue and there is no impact to the General Fund budget.

Staff recommends that the City Council adopt a resolution authorizing the City Manager to enter into an agreement with the Highway Safety Program to provide an officer to act as the Regional Law Enforcement Liaison. The grant will provide funding for travel expenses, needed equipment cover costs associated with the liaison role.

RESOLUTION BOOK NO. 37 - PAGE 270
ORDINANCE BOOK NO. 30 - PAGE 138

C. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE MODIFICATION TO A CONDITIONAL USE PERMIT FOR BILTMORE GARDENS (NOW KNOWN AS COMMERCIAL PROPERTIES AT BILTMORE)

D. RESOLUTION NO. 15-183 - RESOLUTION APPROVING A WRITTEN EXEMPTION FROM THE REQUEST FOR QUALIFICATION PROCESS AND AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH KIMLEY-HORN AND ASSOCIATES INC. TO PROVIDE REDEVELOPMENT OPTIONS FOR THE FORMER MATTHEWS FORD PROPERTY

Summary: The consideration of a resolution approving a written exemption from the Request for Qualification (RFQ) process and authorizing the City Manager to execute a contract with Kimley-Horn and Associates, Inc., for the amount of $30,000 to provide redevelopment options for the former Matthews Ford property.

The City of Asheville designated the South Slope Extension as an Innovation District. Property previously known as the Matthews Ford property is located within that district. Although Duke Energy Progress currently owns the property with plans for electrical infrastructure development, they continue to evaluate other options/locations that meet their electrical system needs. The City of Asheville would like to evaluate the property to see if it can be developed in conjunction with the Lee Walker redevelopment to allow additional access to Lee Walker, include mixed-use and affordable housing.

Kimley-Horn has a proven track record of working on mixed-use, mixed income projects.

Since the scope of work of this proposed contract may include some minor design and/or engineering services, it may be viewed as a professional services contract, rather than a general services contract. The State statutes require that professional service contracts be subject to a RFQ process, but N.C.G.S. § 143-64.32, allows for a written exemption from this process for professional service contracts under $50,000 upon local government approval. The proposed contract with Kimley-Horn will be in an amount not to exceed $30,000.

Pro:

- The study will provide information on the feasibility for using the site as mixed-use, mixed income property.

Con:

- None.

The project budget will be an hourly rate not to exceed $30,000.

Staff recommends City Council adopt the resolution approving a written exemption from the RFQ process for professional service contracts and authorizing the City Manager to execute a contract with Kimley-Horn and Associates, Inc., for the amount of $30,000 to provide potential redevelopment options for the former Matthews Ford property.

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E. RESOLUTION NO. 15-184 - RESOLUTION TO EXEMPT THE FORMAL BIDDING REQUIREMENT FOR THE SUBJECT PURCHASING BID, AND AUTHORIZE THE WATER RESOURCES DEPARTMENT TO PURCHASE MID-SIZE METER BOXES FROM SOLE SOURCE FORTILINE WATERWORKS

Summary: The consideration of a resolution to exempt the formal bidding requirement for the subject purchasing bid, authorize Water Resources Department (Water Resources) to purchase mid-size meter boxes, and recognize Fortiline Waterworks as the sole source for the purchases.

North Carolina General Statute 143-129 (e) allows exceptions to formal bidding when standardization or compatibility is the overriding consideration.

On April 10, 2012, City Council passed Resolution No. 12-77 to exempt the formal bidding requirement for Water Resources to purchase mid-size meter boxes from a sole source supplier, PSP Manufacturing & Supply. PSP Manufacturing & Supply has gone out of business, and the rights to manufacture the meter boxes have been transferred to Fortiline Waterworks in Concord, North Carolina.

In November 2011, the Water Resources Department Standard Details were updated to detail new meter box requirements for 1-inch, 1 ½-inch, and 2-inch meters. The new meter box requirement would allow sizes of water meters ranging from 1 to 2-inch to fit within the same meter box, thereby reducing the various sizes of meter boxes needed. The meter boxes shown on the updated details are manufactured by Fortiline Waterworks in North Carolina. There are currently no other manufacturers who provide a box that can house meters in this range of sizes.

Water Resources staff consulted with the City's Purchasing Division on the need to sole source the purchase to Fortiline Waterworks due to compatibility issues with the Department's Standard Details. It is the consensus of the City's Water Resources Department and Purchasing Division that Fortiline Waterworks should be recognized as the sole source for this purchase and a Purchase Order should be issued to it for the purchase of mid-size meters boxes. The sole source with Fortiline Waterworks will initially be for 12 months to allow time for interested vendors

to update products to match the City's needs and provide a competitive bid. If no vendors update its products, then the sole source would continue annually thereafter.

Pros:

- Recognizing Fortiline Waterworks as the sole source for the mid-size meter boxes and authorizing the purchase from this vendor will ensure compliance with Water Resource's Standard Details.
- The meter boxes can be locked, which will deter tampering and water theft.
- The meter box has a locking mechanism that does not allow the lid to slip, slide, or otherwise dislocate, which greatly reduces pedestrian liability when located in sidewalks , or other pedestrian-friendly environments.

Con:

- Sole sourcing the meter box reduces the advantage of competitive pricing through other vendors. The initial 12 month sole source will give other vendors a chance to manufacture like products that meet the Water Resource standard. The meter boxes will be more expensive than the current meter boxes. Water Resources currently pays $671 for mid-size meter boxes. The price will increase to $710 per meter box. Because the proposed meter box can accommodate different meter sizes, that should help compensate for the increased expense.

The funding needed for this purchase is currently allocated in the Water Resources' Operating budget.

Staff recommends City Council consideration of a resolution to exempt the formal bidding requirement for the subject purchasing bid, authorize Water Resources to purchase mid-size meter boxes, and recognize Fortiline Waterworks as the sole source for the purchases.

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F. ORDINANCE NO. 4451 - BUDGET AMENDMENT TO USE FEDERAL DRUG SEIZURE FUNDS TO FUND TRAINING, SAFETY EQUIPMENT AND EDUCATIONAL MATERIALS FOR THE ASHEVILLE POLICE DEPARTMENT

Summary: The consideration of a budget amendment in the amount of $40,000 to authorize the use of Federal Drug Seizure Funds to purchase safety equipment and training materials for Community training for the Asheville Police Department.

The Federal Asset Forfeiture Program is an equitable sharing program which divides the illegal proceeds from criminal activities between the federal government and local law enforcement agencies. It is designed to help off-set the considerable cost of drug enforcement, and other applicable joint investigation by allowing local law enforcement agencies to use seized monies for equipment, training, and improvements that might not necessarily be budgeted for by the agency. The illegal proceeds are divided with 20% going to the federal agency adopting the seizure and 80% going to the local law enforcement agency initiating the seizure.

The Police Department has received $40,000 in federal drug seizure funding. This proposed budget amendment would authorize the use of this funding for: 1) Training and Materials, 2) Purchase criminal justice books in partnership with AB Tech and local high schools; and 3) Safety equipment to better equip officers to render first aid to the public and each other in critical incidents. These are items which are not currently funded within the Police Department's operating budget.

Pros:

- Reduction in cost to the City of Asheville for the purchase of this equipment and training

- Increase officer and public safety by providing safety equipment to render first aid
- Support of partnership with AB Tech and Local High School Criminal Justice Programs through providing educational materials

Con:

- None noted

Accepting and allocating these State Forfeiture Funds is a financial benefit to the City and Police Department by allowing it to be better equipped and providing additional safety measures to protect the public. There is no impact to the General Fund budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment in the amount of $40,000 authorizing the acceptance and use of Federal Asset Forfeiture Program Funds to fund training, safety equipment and educational materials.

ORDINANCE BOOK NO. 30 - PAGE 140

G. ORDINANCE NO. 4452 - ORDINANCE AMENDING THE MEMBERSHIP OF THE CIVIC CENTER COMMISSION TO (1) ADD THE ASHEVILLE-BUNCOMBE SPORTS COMMISSION DIRECTOR AND THE ASHEVILLE SYMPHONY DIRECTOR BE NON-VOTING EX-OFFICIO MEMBERS; AND (2) ALLOW THE COMMISSION TO APPOINT COMMITTEES FROM ITS MEMBERSHIP OR THE COMMUNITY AT LARGE

Summary: The consideration of an amendment to the provisions of the Civic Center Commission ordinance to allow the Commission to add additional ex-officio members and to appoint members to committees from members of the community at large.

First, in regard to ex officio membership, Sec. 2-61 of the City Code pertains to the "Creation; composition; terms of office meetings; authority" of the Asheville Area Civic Center Commission and subsection(a) of this Section states that the commission shall be composed of nine voting members and that "*the city manager, the city finance director and the civic center director, and the Asheville Area Chamber of Commerce's Director of Convention and Marketing Sales, shall be non-voting ex officio members.*" The Commission would like the ability to include additional non-voting ex officio members. The reason for this change is that currently, there are Directors of two organizations-the Asheville Buncombe Regional Sports Commission (Ben Van Camp) and the Asheville Symphony (David Whitehill) who attend and report at the Commission meetings regularly but have no formally recognized role in the Commission. These organizations engage in work that, like the work of the Chamber of Commerce, has particular impact and relationship to the functions of the Civic Center. For example, the Sports Commission was instrumental in negotiating with the Southern Conference to return to the City of Asheville and to hold the event at the civic center and the Asheville Symphony, leases space at the civic center and also is one of the primary users of the Thomas Wolfe Theatre. Therefore, the Commission would like the ability to add directors of such organizations as non-voting ex-officio members of the Commission.

Originally, the Commission requested that they be allowed to add ex officio members generally, as they saw fit, upon a majority vote. However, when the matter was heard before the Boards and Commissions Committee on September 8, 2015, the recommendation was revised to allow only the specific addition of the Sports Commission Director and Asheville Symphony Director as ex officio members.

Second, in regard to the appointment of subcommittee members from the community at large, Sec. 2-61(g) currently allows the Commission to "*provide for committees whose functions shall be fixed by the commission at the time of appointment.*" The Commission would like to revise this section to clarify that committee members may be appointed from the community at large, in addition to the Commission membership. Other City Commissions, including the

Downtown Commission and the Riverfront Redevelopment Commission, have this ability to appoint community members to subcommittees and this is often very useful. In the case of the Civic Center Commission, for example, a very experienced Commission member, Mike Burke, has reached the end of his term and therefore can no longer serve on the Commission. However, the Commission is interested in having him continue to head the Thomas Wolfe Task Force.

Pro:

- Enables the Commission to have more meaningful participation from organizations and individuals with expertise and experience that is particularly valuable to the work of the Commission.

Con:

- None known.

City Staff recommends City Council adopt the amendments to the Civic Center Commission ordinance allowing the Asheville Buncombe Regional Sports Commission Director and the Asheville Symphony Director to be added as ex-officio, non-voting members and to allow the Commission to appoint members of the community at large to committees.

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H. RESOLUTION INCREASING THE LIVING WAGE RATE FOR FULL- AND PART-TIME CITY EMPLOYEES AND INCREASING ITS APPLICABILITY TO ALL CITY EMPLOYEES

This item was removed from the Consent Agenda for discussion and/or an individual vote.

I. RESOLUTION NO. 15-186 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT GRANT FUNDS THROUGH THE 2015 EDWARD BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION, TO PURCHASE CONDUCTED ELECTRICAL WEAPONS

ORDINANCE NO. 4453 - BUDGET AMENDMENT FROM THE U.S. DEPT. OF JUSTICE FOR THE 2015 EDWARD BYRNE JUSTICE ASSISTANCE GRANT

Summary: The consideration of a resolution authorizing the City of Asheville (City) to enter into contract with and accept funds through the 2015 Edward Byrne Justice Assistance Grant – Local Solicitation (Byrne JAG – Local Solicitation) in the amount of $50,434 and a budget amendment in that same amount.

The Asheville Police Department (Police Department) received authorization and applied for the Byrne JAG – Local Solicitation. On September 3, 2015 the City was awarded the grant and is requesting authorization to officially accept the grant. The related funding is a predetermined amount, based on the Part 1 Uniform Crime Reporting. Once accepted the Police Department and Buncombe County Sheriff's Department will be allocated $50,434 based on the award matrix. The City will receive $38,322 and Buncombe County will receive $12,112. The distribution of funds would be approved through a signed Memorandum Of Understanding (MOU).

If approved, the Police Department plans to utilize the grant funds to purchase Conducted Electrical Weapons (CEW) for uniformed patrol officers. These devices will serve to enhance officer safety and potentially reduce the propensity for injury that offenders could be exposed to during altercations with officers. Effective CEW applications have demonstrated the capability to incapacitate threatening subjects by using an electrical charge to target the motor

nerves that control movement. Ideally, these devices facilitate effective restraint while reducing the opportunity for injury to all involved parties, thereby potentially reducing workers' compensation claims and liability claims.

There will be an expense of $38,322 by the Police Department for the purchase of approximately 30 CEW's. The Buncombe County Sheriff's Department will be awarded $12,112 for its identified needs. This accounts for the total allocation of $50,434 for this grant.

This is a 100% funded non-local match grant that will serve to enhance officer safety for substantially more patrol officers and potentially reduce the probability of injury for threatening offenders.

Pros:

- Increasing the number of Conducted Electrical Weapons for patrol officers will enhance officer safety and that of the community
- Increased accountability because of the downloadable content related to deployments
- Costs of the devices could offset the costs incurred by workers' compensation or liability claims

Con:

- Additional burden on future operations budget for the cost of maintenance and replacement after the approximate five-year service life of the device
- Additional training costs associated with purchasing the training cartridges at an approximate cost of $40 per year per device.

If the grant is accepted, there is no local match required, however there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets.

Staff recommends City Council adopt the resolution authorizing the City Manager to accept grant funds through US Office of Justice Programs in the amount of $50,434, and a budget amendment in that same amount.

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Vice-Mayor Hunt asked for public comments on any item on the Consent Agenda, but received none.

Vice-Mayor Hunt said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda "H". This motion was seconded by Councilman Pelly and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

H. RESOLUTION NO. 15-185 - RESOLUTION INCREASING THE LIVING WAGE RATE FOR FULL- AND PART-TIME CITY EMPLOYEES AND INCREASING ITS APPLICABILITY TO ALL CITY EMPLOYEES

Summary: The consideration of a resolution increasing the living wage rate for full and part-time employees and increasing the applicability of the living wage provisions to all City employees regardless of full or part-time status, including temp seasonal employees.

The City of Asheville's Living Wage Policy is considered annually as part of the budget process. The adopted fiscal year 2015-16 budget includes funding to set a living wage of $12.50/ hour without employer-provided health insurance and $11.00/ hour with employer-provided health insurance. Effective retroactive to July 3, 2015, the revised Living Wage Policy would apply to all City employees regardless of full or part-time status, including all temporary/seasonal employees.

Pros:

- Updates living wages to Just Economics WNC guidelines.
- Supports affordability goals for persons all incomes.

Cons:

- Cost impact.
- Reduced cost recovery for City services.

The adopted budget includes $250,000 City-wide, sufficient funds to implement the living wage retroactive to July 3, 2015. The wage adjustments will impact cost recovery for operations of the U.S. Cellular Center and the Parks and Recreation Department. U.S. Cellular Center impacts are estimated at $24,000 annually. The Civic Center Commission recommends consideration of adjustments to billable hour rates, box office hours and staffing to offset the cost increase. Fee increases and staffing adjustments would be considered in the process of planning the FY 2016-17 budget.

For City Council to adopt the resolution increasing the living wage rate for full and part-time employees and increasing the applicability of the living wage provisions to all City employees regardless of full or part-time status, including temporary/seasonal employees.

Councilman Davis supported living wages for full- and part-time employees. However, he raised concerns about extending it to temporary and seasonal employees because some options will need to be instituted by departments to account for this and may include the scaling back the number of hours for employees. He noted that some employees would rather have the hours rather than having the living wage. Using the U.S. Cellular Center as an example, they are trying to reduce the subsidy and it may have to be by cutting one day out of the box office hours and that may not be good for business.

City Manger Jackson responded to Council by explaining the budget impact, specifically stating that there was $250,000 built in the budget for expenditures by various departments but there was no increase in revenues to retain cost recovery for programs and services. The revenue and cost recovery will be reviewed during the budget process.

When Vice-Mayor Hunt asked for public comment, no one spoke.

Councilman Smith moved to adopt Resolution No. 15-185. This motion was seconded by Councilwoman Wisler and carried on a 5-1 vote, with Councilman Davis voting "no."

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III. PRESENTATIONS & REPORTS:

A. FINANCIAL RATING ANALYSIS

Mr. Doug Carter, the City's Financial Advisor, updated City Council on their upgraded to triple-A bond rating. He reviewed the (1) importance of highest credit ratings and the S&P AAA; (2) what highest ratings say about Asheville; (3) City infrastructure improvements key to continuing success; (4) Economic Development - Whatever you have done keep doing it; (5) maintaining the rating; and (6) role of strong management.

Mr. Carter responded to questions raised by the Council regarding what kind of benefit will the City and taxpayers enjoy from the higher AAA bond rating.

B. BOARDS & COMMISSIONS MANUAL

Business Services Manager Jamie Matthews provided Council with an updated Boards & Commission Manual. The Manual consists of an overview of the boards and commissions; the rules and procedures for boards and commissions; roles and responsibilities of board chairs, board members and staff support; and templates.

It was the consensus of Council to (1) approve the manual as a guide for board and commission members and staff; (2) staff plan a second annual board chair meeting for mid-January prior to Council retreat; and (3) develop a long-term plan to provide regular comprehensive training to staff and board and commission members.

C. LEGISLATIVE UPDATE

Vice-Mayor Hunt updated City Council on some highlights from the legislature affecting the City of Asheville as follows: (1) **Budget-** H97 2015 Appropriations Act. - Sales Tax Redistribution - The final budget agreement does not include a redistribution of currently collected sales taxes, but provides new sales tax revenue through the expansion of the sales tax base to the repair, maintenance, and installation of tangible personal property. That new revenue will be distributed to 79 counties based on percentages found in the budget; (2) Historic Taxes - The budget includes a historic preservation tax credit with a sunset expiration date on Jan. 1, 2020. The provision creates a tax credit of 10 to 20 percent of rehabilitation expenses for qualifying buildings and homes. In poorer Tier 1 and Tier 2 counties and for projects under $10 million, the higher percentage would apply; (3) MSDs - Legislators adopted compromise language on Municipal Service Districts (MSDs) in the final budget. This revised language set parameters on the contracts cities make with private entities to provide services within an MSD; required all moneys raised in these districts meet the needs of the district; and directed an interim study regarding whether district property owners should have the right to petition for removal from that district; (4) Body Cams - Legislators have set aside $5 million in the state budget to provide matching grants to local law enforcement agencies in order to equip them with police body-worn cameras. The maximum grant that an agency can receive is $100,000 and the grants require a 2-to-1 local match; and (5) **JDIG** - H117 NC Competes Act - JDIG - Compromise langue would increase the cap on incentive awards to $20 million a year. The cap would be increased to $35 million for any year in which the state has a "high-yield" jobs deal where a company invests at least $500 million and adds at least 1,750 jobs.

Councilman Smith said that there there will be a huge human cost to pay for the tax cuts in Raleigh, with mental health being one piece.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 95 CHARLOTTE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR FOR ADAPTIVE REUSE OF AN HISTORIC STRUCTURE FOR OFFICE USE AND THE CONSTRUCTION OF A NEW RESIDENTIAL BUILDING, WITH CONDITIONS RELATING TO LANDSCAPING AND BUILDING DESIGN

ORDINANCE NO. 4454 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 95 CHARLOTTE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO OFFICE DISTRICT/CONDITIONAL ZONING FOR FOR ADAPTIVE REUSE OF AN

HISTORIC STRUCTURE FOR OFFICE USE AND THE CONSTRUCTION OF A NEW RESIDENTIAL BUILDING, WITH CONDITIONS RELATING TO LANDSCAPING AND BUILDING DESIGN

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located on 95 Charlotte Street from RM-16 Residential Multi-Family High Density District to Office District/Conditional Zoning for the adaptive reuse of an historic structure for office use and the construction of a new residential building, with conditions relating to landscaping and building design. This public hearing was advertised on September 11 and 18, 2015.

The project site consists of a single parcel, 1.23 acres in size. The parcel is located at 95 Charlotte Street (PIN 9649.63-1039, owned by 95 Charlotte Street, LLC) on the southeast corner of East Chestnut Street and is zoned RM-16. Adjacent zoning includes CBII (vacant) and RM-16 (vacant and multi-family apartments) with Office, CBI and CBII (retail, restaurant) zoning in the immediate area. The Charlotte Street corridor is largely commercial in this vicinity with some residential to the north and there is a residential neighborhood to the east, immediately adjacent.

The site is the location of the historic Patton Parker House - built in 1868-9 and a designated local historic landmark as well as a contributing resource within the Chestnut Hill National Register Historic District. Additionally, there are restrictive covenants on the house and site that will be managed by the Preservation Society of Asheville & Buncombe County.

Phase One - The applicant is proposing to convert the existing structure from a residential to an office use and make supporting site improvements related to access, accessibility and parking. The structure is approximately 4,931 square feet in size and two stories in height (38 feet nine inches).

Phase Two - The second phase is to construct a new building on the rear of the property. It is proposed to be approximately 2,350 square feet, two-stories in height (31 feet six inches) and will contain two residential units. The exterior design of this structure is ultimately subject to approval by the Historic Resources Commission (HRC).

Access to and from the site is currently in three locations and each will remain. The existing driveway loops from an opening on Charlotte Street across the front lawn and over to East Chestnut Street. The loop is proposed to be expanded interior to the site to create a circular drive in front of the property with parallel parking spaces in two locations. The Charlotte Street driveway would be ingress-only and the driveway onto East Chestnut would provide both egress and ingress.

The driveway cut into the rear of the site from East Chestnut will be enlarged and will provide access to a new surface parking area behind the historic structure and the accessible entrance.

Twelve parking spaces are shown in the surface lot and room for six additional spaces are proposed along the circular driveway on the front of the property, for a total of 18 parking spaces. The office use requires between 14 to 19 spaces. Due to the proximity of the residential use to downtown, designated parking is not required for the residences but should be able to be accommodated on the site with the number of spaces provided.

There are historic brick sidewalks along East Chestnut Street (six feet wide) that will be protected and remain. There are also existing concrete sidewalks along Charlotte Street that will remain in place. There is a northbound bus stop in front of project site.

Landscaping is required for this project and includes a property line buffer, street buffer, street trees, parking lot and building impact landscaping. The HRC will be evaluating the

landscaping plan according to the Local Landmark designation and has provided guidance at several meetings. The plan deviates from the UDO requirements to create a more site-specific, historically appropriate landscaped setting, preserving character defining trees and shrubs and meeting the intent of the code requirements but presenting planting areas in a somewhat "softer," less linear layout.

The change in zoning is required because office uses are not permitted within the existing residential zoning.

The current proposal includes the following conditions that will need to be approved by City Council with a recommendation from the HRC:

1. The landscape plan does not meet the exact UDO requirements but has been evaluated and recommended for approval by the HRC based on the historical nature of the property and creating a landscape that respects the character of the site while meeting the intent of the ordinance. The plan includes a portion of the driveway (existing) and one parking spaces encroaching into the buffer area.
2. The final exterior design of the new residential building will be subject to approval by the HRC and reviewed against the Secretary of the Interior's Standards.

As a Conditional Zoning request, this project requires a recommendation from the Planning & Zoning Commission and approval by City Council. The Planning & Zoning Commission unanimously voted to support the proposal at their meeting on September 2, 2015. The Technical Review Commission issued and approval with conditions at their meeting on August 17th and final TRC review is needed prior to issuance of a zoning permit.

Additionally, review and approval by the HRC is also required due to the historic landmark status of the property. The HRC is reviewing the site design, building alterations and new construction against the Secretary of the Interior's Standards for Rehabilitation which will result in the issuance of a Certificate of Appropriateness upon approval of the rezoning. Preliminary reviews with the HRC were held on May 13th, August 12th and September 9th.

A Conditional Zoning was recently approved in the vicinity (1 Sunset Parkway, BP 15-0486). There have been several Level I projects underway or recently completed along the Charlotte Street corridor for new businesses.

The mix of office and residential proposed for the parcel is consistent with other uses along the Charlotte Street corridor and the mix of new landscaping material with preservation of existing plants will aid in mitigating the potential visual impact of the parking along the rear of the site.

The preservation and adaptive reuse of the historic structure allows for the historic character of this important site to remain while incorporating new uses and structures in a way that is sensitive to the history and integrated into the surrounding area.

This proposal is aligned with numerous aspects of the *City Development Plan 2025* including encouraging mixed-use and infill developments, tailoring neighborhood compatibility through the design review process and adaptive reuse of an historic structure.

This project supports goals in City Council's 2014-2015 strategic plan, most notably in the area of *Economic Growth & Sustainability* with both the infill redevelopment aspect as well as the adaptive reuse of an historic structure to accommodate a contemporary use. The preservation of the historic Patton Parker House adds to the area of a *High Quality of Life* with the safeguarding of a significant piece of local history, retaining the character along this corridor.

Based on the above findings and the analysis provided in the staff report and as stated in the recommendation below, staff finds this request to be reasonable, consistent with the comprehensive plan and within the best public interest.

Considerations:

- The change in zoning allows for adaptive reuse and preservation of a local landmark, National Register historic structure.
- Multiple design review meetings with the Historic Resources Commissions ensures a proposal that is historically appropriate and compatible with the character of the area.
- Construction of the new building to the rear of the site provides a residential use adjacent to the residentially-zoned neighboring lot and minimizes impact to the historically significant features on the front and middle of the site.

Staff recommends approval of the proposed conditional zoning for the adaptive reuse of this historic structure and the new construction to add two residential units to the rear of the property.

Vice-Mayor Hunt opened the public hearing at 6:03 p.m.

Mr. Mark Wilson, representing the applicant, said that they are working with the Historic Resources Commission and expect to reach consensus with them soon.

Mr. Richard Liston questioned how any archeological items found will be handled and how will traffic be managed during renovations.

Mr. Frank Thomson, Director of The Preservation Society of Asheville and Buncombe County, was excited to see the project move forward. He said there would b very low impact on the rehabilitation of the existing structure and understood the work will not impede any area outside the boundary of the property, expect for tree removal.

Vice-Mayor Hunt closed the public hearing at 6:10 p.m.

In response to Councilman Bothwell, Mr. Wilson stated that the mature hardwood trees will be preserved. He did note that there are two pine trees at the intersection of East Chestnut Street and Charlotte Street that will have to be removed as they are affecting the stability of the wall. In addition, there is a maple tree at the top of the loop in the circular driveway whose branches are intertwined with a Buncombe County Treasure Tree. That may also have to be removed.

Director of Historic Resources Stacy Merten said that because this is a local landmark, if any archeological findings are located, they will be assessed and a state local historical representative would be contacted.

Vice-Mayor Hunt said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to recommend approval of the conditional zoning request for 95 Charlotte Street from Residential Multi-family High Density (RM-16) to Office Conditional Zone (O-CZ) including the requested conditions on landscaping and final building design and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that the proposal supports goals found in the City's comprehensive plan of promoting adaptive reuse of existing structures, historic preservation and using design review to ensure neighborhood compatibility. This motion was seconded by Councilwoman Wisler and carried unanimously.

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B. **PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 40, 50 AND 60 GERBER ROAD TO INCREASE THE TOTAL NUMBER OF UNITS IN PHASES II AND III BY 22 FOR A TOTAL OF 142 UNITS**

ORDINANCE NO. 4455 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 40, 50 AND 60 GERBER ROAD TO INCREASE THE TOTAL NUMBER OF UNITS IN PHASES II AND III BY 22 FOR A TOTAL OF 142 UNITS

Assistant Director of Planning & Urban Design Alan Glines said that this is the consideration of an ordinance to consider an amendment to the previously approved conditional zoning at 40, 50 and 60 Gerber Road to increase the total number of units in Phases II and III by 22 for a total of 142 units. This public hearing was advertised on September 11 and 18, 2015.

The applicant, Givens Estates, Inc., proposes to develop a multi-family senior housing complex consisting of total of 262 units. The parcel is currently zoned HBCZ having received conditional zoning approval for 240 units of senior housing in 2012. It was under this original approval that the first 120 units included Phase I were issued permits and the site is now currently under construction. Now that financing for Phases II and III are secured, the developer has submitted an application for a conditional zoning amendment that is substantially similar to the 2012 plan but differs with a proposed increase in density for an additional 22 units for a total of 262 units of senior housing, along with some modest layout changes proposed in the development. More specifically, Phases II and III will be increased from 120 to 142 units, split into two phases and two buildings. The following is a breakdown of the properties and phases:

Tract 1 – 40 Gerber Rd. (Pin 9655.26-3627)		
Phase I (2012 plan)	120 units	94 1-BR; 26 2-BR
Tract 2 – 50 Gerber Rd. (Pin 9655.26-7600)		
Phase II (2015 plan)	82 units	60 1-BR; 22 2-BR
Phase III (2015 plan)	60 units	45 1-BR; 15 2-BR
	Total: 262 units (20.5 units/acre)	

Although density is only modestly increased, it had been limited to 240 units by the original 2012 CZ and requires re-consideration and approval by the City Council. Additionally, the affordability details are now better understood with the two new phases which had been included as a consideration demonstrating support for city adopted goals and plans.

All buildings are proposed to be 4 stories and range in overall height between 39 feet up to 43-feet, 4-inches. Collectively, the project includes 262,826 square feet of gross floor area.

All units in Phases I and III are to be affordable and a number of sustainable features are proposed for the multi-family development. Phase II is not included in the affordable unit count but will be made available at "workforce" rates (61-100% of AMI).

The subject property consists of two parcels/tracts totaling 12.75 acres located at 40 & 50 Gerber Road in South Asheville. The large majority of the site had been previously graded and slopes gently up from the front of the property. The site is bordered by properties zoned CBII (Gerber Village and a vacant property to the south) and Industrial (containing a warehouse

distribution facility and accompanying access). The recently approved Palisades multi-family development is located to the south of this site.

Principal access to the site is from Gerber Road with vehicular access to the Gerber Village development to the northwest. Pedestrian connectivity to Gerber Village is also proposed. Sidewalks are provided along Gerber Road in addition to the pedestrian walkways provided throughout the site. 337 vehicular parking spaces are shown with provisions for 18 bicycle parking spaces being noted.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping, and tree save area. Landscaping shown on the submitted plans appears to comply. The project is also required a minimum of 15% of open space be provided. The submitted plans satisfy this requirement with a combination of active open space located at the center of the project and passive open space around the perimeter.

This property was previously zoned HBCZ (2012) for a similar sized multi-family development. Prior to the passage of the 2012 conditional zoning ordinance the property was zoned Urban Village; it was a part of the original Gerber Village proposal. Property to the south that was once part of the same parcel as the subject property was recently (2012) rezoned from Urban Village to Community Business II.

Permits for Phase I have been issued under the original 2012 approval and is currently under construction.

The proposal was approved with conditions by the Technical Review Committee on August 17, 2015. A number of TRC comments have been addressed in the submittal received by the Planning & Zoning Commission, and this plan was approved unanimously (6:0) by the Commission at their September 2, 2015, meeting. Additional revisions will be worked out before the final TRC review and before final zoning approval and permit issuance.

No communication had been received from the public at the time of the completion of the staff report.

Adjacent uses include the Gerber Village mixed-use development, a warehousing/light industrial facility, suburban retail strip center, and vacant land. The zoning and use proposed are compatible with other zoning/uses in the immediate area.

Section 7-7-8(d)(2) of the Unified Development Ordinance (UDO) states that planning staff shall evaluate conditional zoning applications on the basis of the criteria for conditional use permits set out in Section 7-16-2. Reviewing boards may consider these criteria; however, they are not bound to act based on whether a request meets all seven standards.

The proposed development supports several goals stated in the *Asheville City Development Plan 2025.* These include: (1) The goal to provide affordable housing; and (2) The goal of providing higher density development in areas close to transportation corridors and services.

The proposal is aligned with the second focus area of the Strategic Plan, *Affordability and Economic Mobility*. The 82 units included in Phase III of the Givens Gerber Park project received 2015 Tax Credits and will remain affordable for a minimum of 30 years. In addition to Phase III, the 120 units in Phase I are also committed to affordability resulting in 202 affordable senior housing units in a locationally efficient area. All of the affordable units are priced to be affordable to those earning below 60% AMI with set asides for those earning below 50% and 30% respectively. The 60 units in Phase II are designed to provide needed housing to an underserved group of seniors earning between 61-100% of AMI and who would not otherwise qualify for any kind of assistance.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations

- 202 affordable units will be created for those earning 60% or less of AMI.
- 60 units will be created for those earning 61-100% of AMI.
- The proposal furthers the goals and objectives of the City's comprehensive plan (infill, locationally efficient, affordable, multi-modal amenities, green space, etc.).
- The project meets City goals of providing affordable infill development in a strategically located area.

Staff recommends approval of the request to amend the current HB-CZ Ordinance allowing minor changes to the site plan along with an increase in density to raise the total number of units from 240 to 262.

Vice-Mayor Hunt opened the public hearing at 6:19 p.m.

Ms. Teresa Stephens, representing Givens, asked City Council for their support.

Vice-Mayor Hunt closed the public hearing at 6:20 p.m.

Vice-Mayor Hunt said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell move to approve the Highway-Business Conditional Zoning Amendment with the new proposed site plan and density allowances, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Places density in strategically located area with close and easy access to employment, transportation, goods and services; (2) The Conditional Zoning will provide 202 affordable units will be created for those earning 60% or less of AMI; and (3) The Conditional Zoning will provide 60 units for those earning 61-100% of AMI. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 155

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-187 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A REVISED LAND USE INCENTIVE GRANT POLICY

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a revised Land Use Incentive Program Policy.

The Land Use Incentive Program (known as the Land Use Incentive Grant, or LUIG) was originally adopted by the City in November 2010; it was amended in March 2011, in 2012 to expand the eligible geographic area, and in 2014 to align more directly with statute and to remove a grantee contingent liability to hold the City harmless if the policy was challenged.

The LUIG was minimally applied for in its first three years; but since 2014 two applications have been approved, and more applications are expected The interest of Council

members in potentially expanding and evaluating the effectiveness of the City's financial investments in affordable housing has led to an assessment of the policy and its goals.

Staff has discussed the program with HCD and PED Committees, the Affordable Housing Advisory Committee, developers and advocates; and has viewed comments on social media. The main point of agreement among all parties was that the policy needed to focus on affordable housing production as its goal, and the revised policy does that. Additional review was provided by the City Attorney.

Key proposed revisions include:

- Added reference to NC Statute allowing for incentives for affordable housing;
- The proposed policy does not allow waiver of eligibility requirements.
- Increase to 15 years minimum affordability, and requirement that units be leased to income eligible households.
- Flexibility on defining an eligible location: The proposed policy removes the .25 mile distance to a named corridor as a threshold, and instead suggests a definition for location and allows for a case to be made if the applicant wishes to deviate from that definition.
- Significant increase in points for affordable housing: As many as 100 points could be awarded for affordable housing
- "Workforce" housing is redefined as housing affordable to, and leased to, households making 100% or less of median income.
- Elimination of eligibility requirement and points for energy efficiency and green building.
- Elimination of points for mixed-use developments.
- Elimination of points for brownfield developments, but statement of flexibility in grant payment when used in conjunction with State Brownfield grants.
- Additional points for "superior" locations.
- Additional points for longer term affordability.
- Clarity regarding rent increases (only in line with City's published affordable and workforce rents).
- Increase maximum grant term to 15 years.
- Grant application process and reporting more clearly defined.

The Housing and Community Development Committee recommends adoption.

Pros:

- The proposed changes would significantly increase the incentive to create affordable housing.
- The scoring process becomes much more simple and predictable.
- Developers may find the program more attractive because of significantly greater incentives to provide affordable housing.

Cons:

- Projects earning more points will pay fewer taxes, having an impact on funds available for the general fund.
- Private developers may find the incentive less attractive because rental income and future value may be reduced due to the longer time period of required affordability.
- While more predictable, the opportunity to negotiate points is reduced.

The nature of the fiscal impact is twofold: first, it supports affordable housing development by delaying the availability of new taxes created by that development, and therefore delaying the general fund benefit of the growth in the City's taxable property base. Secondly, the

rebate of fees would result in a decrease of fee revenue in the year the project received its certificate of occupancy.

Staff recommends adoption of the revised Land Use Incentive Program Policy.

In response to Councilwoman Wisler, Mr. Staudinger if the project is not in compliance within 30 days of being out of compliance, the Land Use Incentive Grant agreement will become null and void and all prior grant funds must be returned to the City.

In response to Councilman Pelly, Mr. Staudinger said that there will be an annual report to City Council providing both a complete rent roll and income and household size of income qualified tenant, and unit number correlated to rent roll, establishing compliance with the Land Use Incentive Grant requirements.

Councilman Smith was pleased to see this piece of the broad comprehensive affordable housing strategy that will create some predictability for builders and also some flexibility on where the land is located.

Mr. Richard Liston felt the numbers are out of line with reality.

Vice-Mayor Hunt said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-187. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 275

B. BOARDS & COMMISSIONS

Regarding the Buncombe County Tourism Development Authority, the following individuals have applied for this vacancy: Kelly Prime, Gary Froeba, Michael Adams, John Luckett, Himanshu Karvir and Dennis Hulsing. This vacancy must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with more than 100 rental units. It was the consensus of Council to interview Mr. Froeba, Mr. Luckett, Mr. Karvir and Mr. Hulsing on October 13, 2015.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Richard Liston commented on the Tourism Development Authority and the need to fix intersections on state roads.

Councilman Davis recognized the Asheville Tourists for being runner up in the South Atlantic League Championship.

Councilman Smith announced early voting begins on September 24 and that the Board of Elections Main Office has moved to 77 McDowell Street.

Results of the September 21, 2015, Civil Service Board Employee Elections

One copy of the results of the Civil Service Board employee election held on September 21, 2015, is to be filed with the City Manager and one with the City Clerk, who shall present such certification to the City Council at its next regular meeting. The Board of Canvassers provided the following certified certificate on September 22, 2015: We do hereby certify, having opened, canvassed, and determined the original returns of the Civil Service Board employee election, the results of the Civil Service Board Employee Election held on September 21, 2015, noting the

name of each person voted for and the number of votes cast for each person as follows: Alan Coxie - 89; Edward M. Hahn 85; Virginia Robinson – 56; and Sean Aardema - 1.

Closed Session

At 6:47 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Pelly and carried unanimously.

At 7:24 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Hunt adjourned the meeting at 7:24 p.m.

Magdalen Bullock
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – October 13, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 22, 2015

B. RESOLUTION NO. 15-188 - RESOLUTION AMENDING THE CITY COUNCIL 2015 MEETING SCHEDULE TO INCLUDE THE ORGANIZATIONAL MEETING OF CITY COUNCIL ON TUESDAY, DECEMBER 1, 2015, AT 4:00 P.M. IN THE COUNCIL CHAMBER, LOCATED ON THE 2ND FLOOR OF CITY HALL

RESOLUTION BOOK NO. 37 - PAGE 282

C. RESOLUTION NO. 15-189 - RESOLUTION TO ESTABLISH AN OPEN DATA POLICY FOR THE CITY OF ASHEVILLE FOR SUSTAINING PUBLIC DATA AVAILABILITY USING OPEN DATA STANDARDS

Summary: The consideration of a resolution adopted an open data policy for the City of Asheville for sustaining public data availability using open data standards.

The City of Asheville has long been committed to using technology to create open, transparent, and accessible government. Furthermore, City staff has led the way in open data since 2012. In fact, the City participated in one of the country's first "Open Data Day" activities, and has been recognized as being the first city in the South to implement a publicly-accessible repository of automated open records.

Open data is the automation of data records that are already considered "open" by state law. Open data removes the manual labor associated with providing data and makes city government more efficient by creating a self-service portal that serves interested parties, such as media, business, and interested citizens.

It is well known that open data is helpful with economic development, commerce, entrepreneurship, and a higher level of civic engagement in the community. Open data allows city staff and others to analyze and visualize data in ways that can help the community. For example, the "Asheville Budget App" (avlbudget.org) was created by interested Asheville citizens, not by city staff. Several community events, such as RerouteAVL, OpenHousing, and Hack For Food, were all assisted by the 24x7 availability of open city data. These weekend events would not have been possible if data was only available through city staff, Monday through Friday, 8:30-5:00.

Staff seeks to have City Council endorse open data efforts at the City of Asheville. Interested citizen groups have also expressed interest in seeing City Council pass an Open Data Resolution.

The City Council Governance Committee reviewed this action on August 25, 2015, and supported it moving forward for full Council consideration.

The following are recommended best practices:

1. The most frequently requested structured datasets (that is, data that have rows and columns, rather than document format) shall be prioritized for release.
2. The City's Information Technology Services (ITS) Department will facilitate the process of open data release with all City departments, and will both identify high value data sets for City departments, as well as assist departments in publishing data sets that are identified by each department.
3. When data sets are published, the originating city department, with assistance from ITS, should provide descriptive information (i.e. metadata) about each dataset to facilitate the search and understanding of the content of open datasets

Pros:

- Compliance with state law regarding open records
- Efficiency regarding fulfillment of open record requests
- Creates opportunities for the community to collaborate with City government
- Increased customer service, decreased turnaround time through self-service access to City data
- Low cost of implementation

Cons:

- None noted

It is difficult to precisely assess the impact of open data on both the economy and on the City budget. However, it is fairly obvious that manually satisfying record requests is dramatically more expensive in terms of labor than an automated process. Moreover, tools that take advantage of open data (such as SimpliCity) have been reported to save local business significant labor over time.

City Staff recommends City Council direct the City Manager to adopt a resolution establishing an open data policy for the City of Asheville for sustaining public data availability using open data standards.

RESOLUTION BOOK NO. 37 - PAGE 283

D. RESOLUTION NO. 15-190 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR A GRANT TO FUND YEAR 3 OF THE MULTI-JURISDICTIONAL DWI TASK FORCE INVOLVING THE ASHEVILLE POLICE DEPARTMENT AND THE BUNCOMBE COUNTY SHERIFF'S OFFICE

ORDINANCE NO. 4456 - BUDGET AMENDMENT FOR THE THIRD YEAR OF A GRANT FOR MULTI-JURISDICTIONAL DWI TASK FORCE

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund year 3 of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (APD) and Buncombe County Sheriff's Office (BCSO); and (2) a budget amendment in the amount of $411,331 to establish a budget for the third year of the grant.

In Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher.

In reviewing these statistics, the NCGHSP contacted APD and suggested a DWI Task Force with a goal of reducing the number of DWI related collisions, injuries and deaths in Asheville and Buncombe County, as well as educating the public on impaired driving and its effects. A request for continuation of year 3 of a 4 year grant in the amount of $411,331 in FY 2016 that would cover the of cost, to pay for six officers on DWI enforcement and training. These six officers would conduct targeted DWI enforcement throughout Asheville and Buncombe County and conduct DWI, seat-belt and night-time traffic safety checking stations throughout the County. Under this grant, APD would supply one sergeant and three officers while BCSO would supply two officers. The appointed officers would also hold educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving and seat-belt compliance. The City of Asheville and Buncombe County are responsible for a total grant match of 30% or $123,399. The City's share of this match will total $80,197 in FY 2016.

This grant proposal was reviewed at the Finance Committee meeting on September 22, 2015, and recommended it be forward to the full Council.

Pros:

- NCGHSP grant funds used to pay for training and pay 70% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond the first year.
- In year three (3), the City of Asheville will be required to match 30% of the personnel costs. The grant funding will incrementally decrease each year and after the four-year funding period, 100% of the personnel costs will be the City of Asheville's responsibility.

As noted above, the general fund impact in FY 2015-16 is $80,197. This amount is already included in the Police Department's adopted FY 2015-16 budget. At the end of the grant, the general fund impact would be approximately $267,325 per year to permanently add one sergeant and three officers to the APD roster, and to provide their equipment as needed. The chart below outlines the general fund impact over the remainder of the grant.

Year 3	FY 2016	$80,197
Year 4	FY 2017	$133,662
Year 5	FY 2018	$267,325

City staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of $411,311 to establish a budget for the third year of the grant.

RESOLUTION BOOK NO. 37 - PAGE 285

ORDINANCE BOOK NO. 30 - PAGE 163

E. RESOLUTION NO. 15-191 - RESOLUTION APPROVING CO-SPONSORSHIP OF THE AFFORDABLE CARE ACT OPEN ENROLLMENT KICK-OFF SPEARHEADED BY PISGAH LEGAL SERVICES

Summary: The consideration of a resolution approving co-sponsorship with Pisgah Legal Services and other partners for the Affordable Care Act Open Enrollment event on November 7, 2015, at the US Cellular Center.

In November of 2014, the City of Asheville co-sponsored the Affordable Care Act Open Enrollment Event at the US Cellular Center. The event will again be hosted by The ACA Partners of WNC (Blue Ridge Community Health Services, Council on Aging of Buncombe County, Legal Aid of North Carolina, Mountain Projects, Inc., Pisgah Legal Services, Western Carolina Medical Society and Western North Carolina Community Health Services).

Pros:
- Continued partnerships with outside agencies.
- Opportunity for residents of Asheville and Buncombe County to get information about health insurance coverage.

Cons:
- None

Pisgah Legal Services is paying $500 which is $1000 less than the standard rate for the room during a normal event. All of the City's 'hard costs' are covered with this.

City staff recommends City Council approval of a resolution authorizing the City Manager to co-sponsor the Affordable Care Act Open Enrollment event on November 7, 2015, at the US Cellular Center.

RESOLUTION BOOK NO. 37 - PAGE 286

F. RESOLUTION NO. 15-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH J & E CONCRETE CONSTRUCTION LLC FOR THE CONCRETE MAINTENANCE AND ADA IMPROVEMENTS FOR FISCAL YEAR 2016

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $165,448.50 with J & E Concrete Construction, LLC. for the project known as Concrete Maintenance and ADA Improvements FY16, City of Asheville Project #CPM-15-16-001, and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $200,000.

This contract is our annual Concrete Maintenance Contract. It will be used to address sidewalk issues primarily along Merrimon Avenue and its adjacent streets. This area has a number of issues and has not been heavily addressed with previous contracts. The project was advertised on July 30, 2015, and bids were opened on August 27, 2015, with the following results:

J & E Concrete Construction, LLC, Harmony, NC	$165,448.50
Patton Construction Group, Arden, NC	$233,176.00
Armen Construction, Charlotte, NC	$237,749.00
Appalachian Paving and Concrete, Swannanoa, NC	$287,280.00

Pros:

- Will correct a number of sidewalk issues, primarily on the Merrimon Avenue corridor.
- Addresses pedestrian safety by providing the required sidewalk maintenance.

Cons:

- Project management and contract administration will consume staff time.
- Will not address the complete backlog of sidewalk maintenance work orders.

$200,000 was budgeted for concrete repair and maintenance in the general fund. This amount was approved by City Council and included in the Fiscal Year 2015-16 budget.

City staff recommends City Council adopt the resolution awarding the contract to J & E Concrete Construction, LLC. and authorizing the City Manager to execute a contract in the amount of $165,448.50 with J & E Concrete Construction, LLC for the project known as Concrete Maintenance and ADA Improvements FY 16 and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $200,000.

RESOLUTION BOOK NO. 37 - PAGE 287

G. RESOLUTION NO. 15-193 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH MCGILL ASSOCIATES PA FOR THE 2015 MEDIAN MAINTENANCE PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with McGill Associates, PA, for the amount of $58,200.00 plus 10% contingency and any change orders within the project budget for the project known as 2015 Median Maintenance Project, City of Asheville Project # CPM-14-15-012.

The City of Asheville has many median and bulb-out locations in City rights-of-way that need landscape improvement and maintenance. This project will address these locations in stages, beginning with locations located within the City's Central Business District and with additional locations within the City addressed in subsequent years. For each site this project includes a basic schematic, an assessment of the existing vegetation, recommendations for appropriate plants, and development of a maintenance plan including care and maintenance of existing and proposed plantings. The maintenance plan will serve as the basis of a subsequent and separate landscape maintenance bid package.

A request for qualifications (RFQ) for this project was initially advertised on April 17, 2015, and responses were received from design teams led by the firms listed below.

Design Workshop	Asheville, NC
Equinox Environmental	Asheville, NC
McGill Associates	Asheville, NC
The Jaeger Company	Athens, GA

Following an evaluation process as described in the RFQ, McGill Associates was selected based on their company's experience and qualifications, the experience of their project manager and key personnel, and the company's project understanding and approach. Fee negotiations between the City and McGill Associates resulted in the contract price of $58,200.00. Adding a 10% contingency, the total required budget for construction is $64,020.00. The work produced from this contract would resolve issues associated with driving safety and pedestrian facilities. The work complies with the City of Asheville's Strategic Operating Plan Focus Area 1 Goal 2, and Focus Area 3 Goal 1.

Pros:

- Ensures pedestrian and driver safety.
- Confirms investment in community infrastructure

Con:

- Project management and contract administration will consume staff time.

Funding for this contract was included in the FY 2015-16 adopted Public Works Department general fund budget.

City staff recommends City Council adopt the resolution awarding the contract to McGill Associates, PA, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $58,200.00 plus a contingency of 10% ($5,820.00), for a total of $64,020.00, with McGill Associates, PA for the project known as 2015 Median Maintenance Project.

RESOLUTION BOOK NO. 37 - PAGE 288

H. RESOLUTION NO. 15-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grants administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

This funding makes possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, and to develop programs required by the Federal Transit Administration for recipient and subrecipients to ensure compliance with federal regulations.

FY 2015-16 funding totals $75,000. The subject grant will provide 80% of the anticipated funding ($60,000), the North Carolina Department of Transportation will provide 10% ($7,500), and the City will provide the remaining 10% ($7,500). The grant funding and the City's local match in the amount of $7,500 are currently budgeted in the Transportation Department's approved budget for the current fiscal year.

The Transit Committee supports the subject action.

Pros:

- The subject grant supplements funding for two existing positions.
- The subject grant enables the City of Asheville to use $67,500 in Federal and State funds for transit planning activities. Transit planning activities include but are not limited to: analysis of transit data, implementation of the transit master plan, route development and scheduling; operational improvements, development of the Title VI and DBE programs;

development of specifications related to transit products; bus stop program and shelter installation.

Con:

- A 10% local match in the amount of $7,500 is required.

The total grant funding for Fiscal Year 2015-16 is $75,000. The City is required to provide a 10% local match in the amount of $7,500. The anticipated grant funding and the City's local match in the amount of $7,500 are currently budgeted in the Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2015-16.

RESOLUTION BOOK NO. 37 - PAGE 289

I. ORDINANCE NO. 4457 - BUDGET AMENDMENT FOR ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES FEDERAL GRANT, SECTION 5310

Summary: The consideration of a budget amendment in the amount of $444,299 to set up the project budgets for the Enhanced Mobility of Seniors and Individuals with Disabilities Federal grant, Section 5310.

The City of Asheville is the designated recipient of the Enhanced Mobility of Seniors and Individuals with Disabilities program, which is a program of the Federal Transit Administration (FTA). This is a formula grant program oriented to improve mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options.

The projects to be funded include: the Call a Ride, Council on Aging program; the Senior Companion, a Land of Sky program; supplemental elderly and disabled transportation assistance, a Buncombe County program; paratransit services, a City of Asheville program, and the City of Asheville's administrative costs.

This is a new program of the Moving Ahead for Progress (MAP) 21 transportation bill passed by Congress in 2012 that consolidated the Elderly and Disabled program that distributed funds to the states and the New Freedom program that was a formula program in which the City was the region's designated recipient.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization (MPO), Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals.

The plan was approved on March 29, 2012, by the French Broad River MPO's governing body (the Board), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the region's priorities and identifies needs; the projects were selected on April 23, 2015, through a competitive process led by the MPO.

The projects below were selected as city's sub-recipients for the 5310 program. The projects are listed as follows:

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Buncombe County	Supplemental elderly and disabled assistance	$66,126	$66,126
Council on Aging	Call a Ride	$27,548	$27,548
Land of Sky	Senior companion program	$54,000	$54,000
City of Asheville	ADA paratransit	$99,401	$24,850
City of Asheville	Program Administration	$24,700	N/A

The city needs to set up project budgets in order to pass through the funds and will seek reimbursement directly from the FTA. The sub-recipients will be responsible for the match.

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use $24,700 for administration purposes, which will cover the program management expenses for a period of one year.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The city can use $24,700 for administration purposes.

Con:

- The project cost is $444,299, of those $271,775 are federal funds and the city will seek reimbursement from FTA.

The total financial impact for the subject projects is $444,299 and it will be funded with Federal Funds. $24,700 will be reimbursed to the city for administrative costs.

Staff recommends that City Council adopt a budget ordinance amendment in the amount of $444,299 from Federal Funds to setup the project budget for Job Access and Reverse Commute project, including the administrative costs.

ORDINANCE BOOK NO. 30 - PAGE 165

J. RESOLUTION NO. 15-195 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO AN INTERLOCAL AGREEMENT WITH THE CITY OF ROCKY MOUNT FOR THE PROCUREMENT OF TRANSIT BUSES

Summary: The consideration of a resolution authorizing the Mayor to inter into an inter-local agreement with the City of Rocky Mount for the procurement of buses.

Local governments may team up with each other under the interlocal cooperation authority contained in Chapter 160A, Article 20, Part 1 of the North Carolina General Statutes. Under this authority, local governments can accumulate their requirements and obtain lower prices on buses that would not be affordable for one unit acting alone. .

The City of Rocky Mount Transportation Authority will issue an invitation for bids to procure replacement buses for its public transit fleet. The City of Asheville and its Management Company, First Transit has communicated with Rocky Mount as to the specifications and requirements for the City of Asheville transit fleet. Rocky Mount has incorporated the City of Asheville specifications and requirements into the cooperative bid document.

The City of Rocky Mount will act as the lead procuring agency and will handle the bid opening and award the contract o the successful Vendor in accordance with applicable North Carolina and Federal law.

This matter was presented to the Transit Committee on October 6, 2015, and they recommended to pursue this alternative. The matter will be presented to the Multi-Modal Commission on October 28, 2015.

Pros:

- Partnering with the City of Rocky Mount will save staff time and resources and will allow city staff to purchase a 35 foot bus immediately after the bid is awarded, as the city has already received funding to acquire the first one of these.
- The city is not committing financial resources in pursuing this opportunity and has the option to reject the award.

Con:

- None at this time.

This action does not have any fiscal impact.

City staff recommends City Council adopt the resolution authorizing the Mayor to enter into an Interlocal Agreement with the City of Rocky Mount to procure transit buses.

RESOLUTION BOOK NO. 37 - PAGE 290

K. RESOLUTION NO. 15-196 - RESOLUTION ACCEPTING THE ANNUAL REPETITIVE LOSS AREAS ANALYSIS REPORT

Summary: The consideration of a resolution accepting the annual Repetitive Loss Area Analysis report which identifies actions staff has taken since becoming a member of the Community Rating System (CRS) Program.

The City of Asheville joined the Community Rating System (CRS) program administered by the Insurance Services Office (ISO) last year. As required by the CRS program, a Repetitive Loss Area Analysis (RLAA) to supplement the Buncombe's County-wide All Hazards Mitigation Plan was prepared last year by the consultation firm of Brown and Caldwell.

A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than $1,000 that have been paid by the National Flood Insurance Program (NFIP) within any 10-year period since 1978). The RLAA is a mitigation plan developed for those areas with the purpose of reducing damages and increasing awareness from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to reduce the consistent increase in flood insurance premiums that has been occurring for a number of decades.

The Community Rating System (CRS) is a program administered by the Federal Emergency Management Agency (FEMA). It provides lower insurance premiums under the National Flood Insurance Program. The premium reduction is in the form of a CRS Class. A 5 percent reduction is received by policy holders for each class reduction the community obtains. The classes are obtained by actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. The benefits of joining the Community Rating System has been a reduction of flood insurance premiums paid for by those citizens who have flood insurance. Currently, the citizens of Asheville receive a 10 percent reduction in their flood insurance premiums because Asheville is a participant in the CRS program.

In order to maintain the current status in the CRS program, staff is required to provide to council the annual report of the Flood Mitigation Actions Items that were part of the RLAA report from Brown and Caldwell adopted by Council on December 10, 2013. As highlighted in the report, staff continues to look for ways to reduce flooding and damage from floods through community awareness through our website and flyers, staff is working with the Army Corps of Engineers on opportunities within the Swannanoa River Basin for flood mitigation opportunities and city staff works with developers and property owner on ways to protect their properties from flooding.

Pros:

- The citizens of Asheville will continue to receive a 10 percent reduction on their flood insurance program.
- Provides higher level of protection through our current flood ordinance
- Promotes public education of the Special Flood Hazard Areas

Con:

- Considerable amount of staff time is necessary to maintain these requirements.

There is no additional fiscal impact to continuing the efforts necessary for the CRS program, staff time is currently programmed into the annual budget.

City staff recommends City Council adopt a resolution accepting the annual Repetitive Loss Area Analysis.

RESOLUTION BOOK NO. 37 - PAGE 291

L. ORDINANCE NO. 4458 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR A NEW TRAFFIC SIGNAL POLE IN BILTMORE VILLAGE

Summary: The consideration of a budget amendment in the General Fund in the amount of $10,526.40 from insurance recovery funds from a damaged traffic signal pole to utilize towards the purchase of a new traffic signal pole.

On March 24, 2015, a City of Asheville (City) traffic signal pole was knocked down by a third-party in the Biltmore Village after which a temporary traffic signal control was installed for traffic safety purposes. Recently, the City settled the property damage claim for $10,526.40 and the Transportation Department seeks to utilize the settlement funds to purchase a permanent traffic signal pole.

Pro:

- Provides funding for Transportation Department traffic signal pole purchase.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the General Fund, from which the traffic signal pole purchase will be made.

Staff recommends City Council adopt the budget amendment in the General Fund in the amount of $10,526.40 from insurance recovery funds to be utilized towards the purchase of a traffic signal pole.

ORDINANCE BOOK NO. 30 - PAGE 167

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SIMPLICITY

Director of Information Technology Jonathan Feldman recognized Business & Public Technology Manager Scott Barnwell, Analyst Cameron Carlyle and Media Specialist Dan Phairas for their assistance in the City's winning Technology Award for its SimpliCity search engine during the Code for America Summit Oct. 2 in Oakland, Calif.

Mr. Feldman then explained that launched in June, SimpliCity makes city data easy to find. SimpliCity's tagline is "city data simplified" and it provides easy access to city data through a single search bar.

Powered by open data and developed with Lean Startup and usability principles, the focus of SimpliCity is to answer questions of interest in the simplest manner possible. Citizens can track crime and development near their home, and get answers to simple questions. City employees can quickly determine if an address falls within city limits before issuing a permit. Both the citizen and employee experience is designed to be quick, simple, self-service and easy.

In the past, cities provided an overwhelming amount of information through dense and frustrating portals and PDFs. SimpliCity is so easy that anybody with a smart phone can use it.

B. LEGISLATIVE UPDATE

Mayor Manheimer said that the 2015 Long Session ended on September 30, 2015.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 852 (9999) HENDERSONVILLE ROAD FROM HIGHWAY BUSINESS DISTRICT AND OFFICE DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION FO A SELF-STORAGE FACILITY, WITH CONDITIONS MODIFYING REQUIREMENTS FOR THE LOCATION OF STREET TREES, REDUCING PARKING COUNTS, AND REDUCING BUILDING SETBACKS

At the applicant's request, Councilman Bothwell moved to continue this public hearing until November 10, 2015. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 509 BILTMORE AVENUE FOR THE CONSTRUCTION OF A 12-STORY TOWER ADDITION TO THE MISSION HOSPITAL FACILITY

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use permit hearing process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 5:20 p.m.

Urban Planner Jessica Bernstein submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Bernstein said that the applicant, Mission Health Inc. & Memorial Mission of Western North Carolina, is requesting review of site plans for the construction of a 12-story, 681,000 square foot tower addition to the Mission Hospital facility (Attachment to Exhibit 3 - Location Map). This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates review for institutional projects with more than 100,000 square feet of gross floor area. Level III projects are reviewed as Conditional Use Permits.

The site consists of three parcels with a combined area of over 30 acres (PINs 9648.43-8750; 9648.43-3912; 9648.44-5476), located at 509 Biltmore Avenue (Attachment to Exhibit 3 - Overall Master Plan). The project area (approximately 7.6 acres) has frontage on multiple City streets (Biltmore Avenue, Hospital Drive, Victoria Road) as well as internal private drives (Lily Carmichael Drive, Anna Woodfin Drive, Rose Chapman Drive) and is occupied by multiple hospital buildings and parking structures. The site and surrounding parcels are zoned Institutional.

The applicant is proposing to demolish several existing parking areas and structures to construct a new 12-story medical tower (10 levels above ground). The building is shown as 681,000 square feet with a height of approximately 214 feet. The proposal includes several new points of access into the site from Victoria Road as well as reconfiguration of internal vehicular flow, patient drop-off points and new parking for the emergency department and main hospital entrance.

Currently, access to the emergency department is from Biltmore Avenue and the primary entrance for the hospital by the public is from Victoria Road. The proposal creates a completely new emergency department in the new tower with a relocated vehicular entrance from Victoria Road (in the location of the current access off of Victoria Road). There would be a new main entrance for all other hospital users southwards on Victoria, across from Livingston Street (the City is undertaking an intersection improvement in this location as part of a separate project). This proposed main hospital entrance allows access to the new emergency department, to the surgery drop-off area, and to Lily Carmichael Drive, Anna Woodfin Drive and the main (west) parking deck.

Ambulances and emergency vehicles are shown to have an entrance/access to the emergency department that is separate from the main public entrance, and will enter via the MAHEC bridge over Biltmore Avenue (existing access points).

There is also a proposed access for service and delivery vehicles from Hospital Drive into the lower levels of the tower.

According to submitted plans, this project results in a net loss of approximately 130 parking spaces. The proposal adds approximately 101 public spaces at the new emergency department, eight spaces at the main entrance and 30 spaces at the ambulance drop-off, primarily for ambulances, doctors and emergency personnel (a total of approximately 139 spaces created). Plans indicate that the overall hospital parking count will be 4,070 at the completion of this project. Because the UDO does not provide an off-street parking category for hospital campus uses, an interpretation has been created using peer data and the American Planning Advisory Service Report Number 432 (Off-Street Parking Requirements, following the process in Section 7-11-2(c)(1) and as a result, parking is considered adequate and compliant.

There are existing sidewalks along all project frontages (Biltmore Avenue, Hospital Drive and Victoria Road). Additionally, there are new walkways shown into the site from Victoria Road to route pedestrians along the new main entrance. Currently the S1, S2, S3 and S5 bus routes serve the hospital and are proposed to remain.

Landscaping required for the project includes street trees, parking lot, parking deck and building impact landscaping as well as retaining wall screening.

The proposal includes significant new retaining walls along the Biltmore Avenue and Hospital Drive frontages for the new emergency department parking area as well as another significant wall around the new main entrance drop-off (up to 20 feet in height). Walls as shown along Biltmore Avenue and Hospital Drive reach up to approximately 28 feet in height and will be reviewed for detailed technical compliance at the Final Technical Review Committee (TRC) submittal.

The project proposes to comply with urban open space standards in the UDO, which require five percent of the project area to be designated and this is being accommodated in a number of hardscaped and landscaped plazas, courtyards and waiting areas around the new development.

A detailed staging plan has been provided, showing the anticipated phasing of vehicular and pedestrian access as well as crane locations. The phasing and construction staging will be an ongoing discussion between multiple City departments as the project continues through the review and permitting processes.

The site is currently zoned Institutional; the use proposed is permitted by-right and the applicant is proposing to meet the standards of the District with this development proposal.

This proposal was approved with conditions by the TRC on August 17, 2015, and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval (Attachment to City Exhibit 3 - Building Perspectives); (Attachment to City Exhibit 3 - Proposed Public Plaza Design); and (City Exhibit 4 - Marked Drawing No. 1 - Sketch of Corner of Biltmore Avenue).

The Planning & Zoning Commission reviewed the proposal at their meeting on September 2, 2015, and several Commissioners expressed concerns about the lack of activity and interaction of the proposal with Biltmore Avenue and Hospital Drive and the impact to the pedestrian experience on these frontages. Ultimately there was a unanimous recommendation to support the project but with added conditions to better conform with numbers four and five of the

conditional use permit standards. These are: 1) that the applicant work to address the pedestrian access from Biltmore Avenue; and, 2) that the applicant should address the proposed structure walls along Hospital Drive and Biltmore Avenue.

In response to staff and the Planning & Zoning Commission concerns, the applicant has revised the area along the corner of Biltmore Avenue and Hospital Drive to include a redesigned plaza with wider sidewalks, a planting strip along a portion of Biltmore Avenue, hardscaped courtyard areas with seating and wayfinding as well as space for a transit shelter. Staff's assessment of the overall project, including the proposed plaza, as related to the conditional use standards is described in further detail below.

Staff met with the applicant on numerous occasions in order to address the conditional use standards as described in further detail below.

Conditional Use Findings: Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff has concerns with the project's ability to fully comply with the following conditional use permit standards:

- *Standard One: That the proposed use or development of the land will not materially endanger the public health or safety.*
    - Staff has some concerns with pedestrian safety around the southernmost and eastern perimeters of the project area.

- *Standard Two: That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant.*
    - There are grade changes in the immediate vicinity and in order to coordinate and connect the internal workings of the proposed tower with the existing hospital buildings, the proposed plan results in the building being set back from Biltmore Avenue/Hospital Drive 30-60', leading to retaining walls up to 28' with the raised parking surface above. Mitigation measures are needed to better integrate the proposed grade changes with the existing pedestrian environment.

- *Standard Four: That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located.*
    - The character of area is institutional in nature and largely consists of medical and hospital uses and related offices. These uses flank both sides of Biltmore Avenue, Hospital Drive, Victoria Road and McDowell Street. Residential neighborhoods are located between McDowell and Biltmore, as well as behind the commercial and office uses that are located along the main arterials. Asheville High School is located southwest of the subject site. Biltmore and McDowell are connectors between the commercial nodes of the Central Business District and Biltmore Village and experience large vehicular volumes, and contain multiple transit routes. There is also considerable pedestrian traffic flowing along the Biltmore Avenue corridor, as well as related to the neighborhoods and the employees and visitors at the hospital and surrounding offices. This level of activity results in a character for the area that is busy throughout the day. The development in the areas varies from urban-style buildings at the back of the sidewalk as well as medical offices that follow a more suburban pattern with

parking in between the building and the street. There are larger parcels along Biltmore Avenue heading north towards downtown, currently larger expanses of surface parking, where redevelopment is anticipated in the future.

- The proposed development faces internally, along Victoria Road, leaving an undeveloped, un-activated corner at Biltmore and Hospital Drive. While there are some examples of larger setbacks and inactive frontages in the general area, these are more from an outdated development pattern and do not reflect the active nature of this urban neighborhood corridor.
- The tower building is proposed to be approximately 214 feet in height, or 12-stories (10-levels above ground) and approximately 681,000 square feet. This structure is significantly larger than any building in the vicinity. The adjacent hospital building is 5-7 stories and most of the buildings in the area vary between one and five levels. This proposal can be considered as out of scale with the area in which it is located but staff recommends mitigating the increase in scale by ensuring a human-scale is respected at the ground level. There are large, vegetated setbacks and retaining walls up to 28 feet along Biltmore Avenue, Hospital Drive and Victoria Road which limits integration of the project with the pedestrian realm.

- *Standard Five: That the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the city.*
  - The land use and transportation section of the 2025 Asheville City Development Plan notes that Biltmore Avenue at this location is considered an "Urban Neighborhood Corridor" which "connects neighborhoods with each other, with employment centers, with institutional uses and with major thoroughfares. Mixed-use structures, typically 2-4 stories in height, contain retail, office and residential uses that serve and are completed by adjacent neighborhoods. Sidewalks, streetscape and building design acknowledge and provide a safe environment for the significant pedestrian users of the urban/neighborhood corridor". Also, the smart growth policies throughout the comp plan highlight infill development, mixed-use buildings and thoughtful use of spaces for pedestrians and transit users as well as encouraging "human-scale design, compatibility with the existing urban context". Development along the corridor is encouraged to be mixed-use, buildings permitted to front on the street, follow urban-style of architecture and provide a high-quality intentional streetscape design.

- *Standards, Two, Four and Five:*
  - Related to the ability to comply with standards two, four and five, staff has concerns with the void of pedestrian activity or human-scale interest created by the large setbacks and tall structure walls along Biltmore Avenue and Hospital Drive and how that impacts character, scale, compatibility and interconnectivity especially from the pedestrian perspective along this urban neighborhood corridor as described in multiple sections of the 2025 Comprehensive Plan.

- *Standard Six: That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities.*
  - There are multiple routes in the immediate area but no existing shelters.

To lessen the impacts of this development and to better comply with the standards referenced above:

- Staff recommended the redesign of the southwest corner of Biltmore Avenue and Hospital Drive in order to allow for greater activation and interaction, such as a liner building, an urban plaza space and aesthetic treatments to the retaining walls to maintain a consistent and more urban streetscape along Biltmore

Avenue, improve the pedestrian experience, and mitigate the large scale of the proposed tower and associated retaining wall at this location. Understanding the challenges with providing a liner building at this time, the applicant has agreed to work with the city to evaluate future opportunities along the Biltmore Avenue corridor that enhance the pedestrian environment, street-level activity and human-scale interest.

- In response to this recommendation, the applicant has proposed a hardscaped public plaza with widened sidewalks, street trees within a buffer planting strip between the sidewalk and street, seating opportunities with specialty paving and benches, possible wayfinding and public art, and an integrated bus shelter. Staff acknowledges that creating a direct pedestrian access from the street level up into the parking area above is problematic on several levels including topographic challenges, security and pedestrian safety, and as such, this has not be included in the applicant's redesign.

- Staff suggests that regarding the retaining/structural walls along Biltmore Avenue, Hospital Drive and Victoria Road, for sections of wall with a height greater than 10 feet, not less than 40 percent of the wall area will be treated with aesthetic measures to mitigate the mass and scale (treatments may include, but are not limited to, green-screen, change in materials, articulations or variations in the plane of the face of the wall, fenestrated openings, etc.)

- Staff suggests that the applicant create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south.

- Staff recommended that a transit shelter be incorporated into the design on Biltmore Avenue, south of Hospital Drive. The applicant currently shows this shelter on the proposed plaza drawing.

- Additionally, because the main entrance to the hospital will be from Victoria Road, staff recommends that the hospital partner with the City and provide a transit shelter at the stop at Livingston Street to address the transit needs from this side of the project area.

Staff's finds that the project as proposed can be considered technically compliant with the UDO (or can be made so through the clarifications as listed in the TRC staff report). However, as noted above, there have been concerns expressed regarding context, character and compatibility along the Biltmore Avenue corridor and Hospital Drive and staff has provided suggested mitigation conditions above as allowed for in Section 7-16-2 of the UDO.

When Mayor Manheimer suggested a stairwell from the parking area to the urban plaza space at the intersection of Biltmore Avenue and Hospital Drive, Ms. Bernstein said that staff met with the developer to see how that could be accomplished.. However, it would be approximately 28 feet from the parking area to the plaza, which would require significant stairwells and a challenge to get those stairs in within the allotted space. In addition, the second challenge would be that the top of the pedestrian stairs would dump pedestrians into the Emergency Room parking lot, which would cause safety and security challenges.

In response to Vice-Mayor Hunt, Ms. Bernstein showed how pedestrians have to access the Emergency Room, which is no change from now from Biltmore Avenue (approximately a 5 minute walk). However, there is another transit line on Livingston Street and with the proposed changes to Livingston Street, staff proposed to the applicant if they would fund a transit shelter at that location and they were amenable to that. There are other opportunities to get to the Heart Center from other locations on Biltmore Avenue, but not to the Emergency Room.

When Vice-Mayor Hunt asked which of staff's recommendations are still outstanding, Ms. Bernstein said that it was her understanding the only outstanding item is the suggestion that the applicant create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south.

City Attorney Currin confirmed that a number of the suggested conditions of staff appear in City Exhibit 4 (Drawing No. 1). Ms. Bernstein said that the only suggested conditions not reflected on the official submitted plan documents are (1) the green screen treatment; (2) the crosswalks at the driveway entrance at Granby, etc.; and (2) the transit center on Livingston Street, because it is actually off-site.

Councilman Bothwell felt that the City should revisit the way parking is calculated for large (in this case, hospital campus uses) in the future.

Mr. Derrick Allen, attorney representing Mission Hospital, asked to submit City Exhibit 4 (Drawing No. 1) as a part of the conditions that they want a part of their conditional use permit application.

Ms. Sonya Greck, Senior Vice-President of Operations at Mission Hospital, explained that this is a replacement hospital to provide the best patient care possible.

Mr. Allen explained the replacement project, noting that it will be better from a pedestrian, vehicular, visual, and inside of the building state of the art technology standpoint. He explained that their directive was to activate the corner of Biltmore Avenue and Hospital Drive, which City Exhibit 4 addresses. In addition, he also reiterated Ms. Bernstein's concerns regarding having a stairway from the plaza space up to the Emergency Room parking lot. He then reviewed the seven condition use standards and why the project met those conditions.

In response to Councilwoman Wisler, Mr. Toby Kay, project director, said that they are willing to add a condition that they create crosswalks at the driveway entrances at Granby, including ADA curb ramps along this section where there is currently no accessibility for continuing south. The plans will be modified to address that condition.

Mr. Allen agreed to the condition that the retaining/structural walls along Biltmore Avenue, Hospital Drive and Victoria Road, for sections of wall with a height greater than 10 feet, not less than 40 percent of the wall area will be treated with aesthetic measures to mitigate the mass and scale (treatments may include, but are not limited to, green-screen, change in materials, articulations or variations in the plane of the face of the wall, fenestrated openings, etc.) and plans will be modified to address that condition.

Ms. Bernstein noted that the Livingston Street transit shelter is off-site and cannot be shown on the site plan. Mr. Allen agreed to the condition that the applicant provide transit improvements on Livingston Street or the surrounding area based on actual costs, not to exceed $30,000, paid to the City upon issuance of the Certificate of Occupancy.

Mayor Manheimer explained how the City is trying to move Biltmore Avenue into an urban corridor, with pedestrian friendly corridors. Mr. Allen agreed with the concept, however, this is a very special building in terms of how it is being used and how it is integral into other hospital buildings.

Councilman Bothwell felt that this project is lowering the carbon footprint of Asheville; and hoped that the St. Joseph's site can include a mixed use project.

Mayor Manheimer closed the public hearing at 6:01 p.m. after no one from the public commented.

Councilman Bothwell moved to recommend approval of the conditional use permit for Mission Hospital Tower located at 509 Biltmore Avenue, including the conditions discussed, agreed upon by all parties, and added to the site plan, including the funding of the transit stop on Livingston Street, because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Smith and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the October 27, 2015, agenda.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Councilwoman Wisler moved to continue this public hearing until November 24, 2015. This motion was seconded by Councilman Pelly and carried unanimously.

V. UNFINISHED BUSINESS:

A. CONFIRMATION OF PLANNING & ZONING COMMISSION CANDIDATES

Vice-Mayor Hunt said that the following individuals have applied for a vacancy on the Planning & Zoning Commission and have completed the essay question responses: John S. Brigham, Joseph Archibald, Joshua Nielsen, Tony Hauser, Guillermo Rodriguez, Thomas Edward Muncy, Barber Melton, Robert Moore and Sage Turner.

After City Council reviewed all applications and essay question responses, it was the consensus of Council to interview Tony Hauser, Guillermo Rodriguez, Thomas Edward Muncy and Sage Turner. Those interviews will be on Tuesday, October 27, 2015. Because Ms. Turner will be unavailable on October 27, Council suggested she contact Council members individually to discuss her interests.

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-197 - RESOLUTION ADOPTING A NEIGHBORHOOD SIDEWALK POLICY

Mr. Jim Grode, Chair of the Multimodal Transportation Commission said that City Council has created a neighborhood sidewalk project line item in the capital budget, and staff was directed to create a policy to use in choosing new sidewalk projects for the funding. Before coming to this body, this proposed policy was reviewed and recommended for full Council consideration by the Council Planning and Economic Development Committee, and endorsed by the Multimodal Transportation Commission (MMTC) and Neighborhood Advisory Committee (NAC).

City Council has created a neighborhood sidewalk project line item in the capital budget, and in order to prioritize the potential projects in an objective and transparent way, the policy is being proposed.

The policy identifies initial and secondary screening factors for the selection process. Initial screening is done using elements that can be obtained and quantified via geographic information systems (GIS). The elements selected as the initial screening factors are: proximity to transit stops and community destinations, areas zoned for small lot or multi-family residential use, prevalence of low-income households and of households without motor vehicles, and two measures of safety: traffic volume and pedestrian crash history.

A set of secondary screening factors will be applied to the top-ranking projects as determined by the initial screening process. The secondary screening criteria are not ones that can be reliably screened via GIS. They are: connectivity to the transportation system, whether sidewalk is already present on one side of the street, construction feasibility, and if a choice must be made from two or more similarly ranking projects, geographic distribution of projects.

The policy proposed was created under the direction of a four-person Neighborhood Sidewalk Committee, made up of members of the MMTC, and including the NAC representative to the MMTC. Considerable committee member and staff time and energy have been invested in this project, including by Information Technology Department staff. All involved believe that the policy achieves the goal of clearly identifying sidewalk projects that would be included in the universe of potential projects, and outlining the factors that will be used to prioritize those potential projects.

This work was advised by public input in the form of a survey and interaction with residents and representative groups. Input was gathered at the NAC Festival of Neighborhoods via face-to-face input and a short survey to complete and return. Additional survey opportunities were promoted via the city's neighborhood, transit and bicycle and pedestrian mailing lists, and through other contacts.

Pro:

- The policy provides guidance for project selection for neighborhood sidewalk construction and allows staff to move to selection of projects under the program.

Con:

- This policy, like all that guide a selection process, has limitations; however, the policy includes provisions for review and revision if needed.

He, along with City staff, recommends City Council adopt a resolution authorizing the City Manager to have staff implement the policy for selecting neighborhood sidewalk projects.

In response to Councilman Bothwell, Mr. Grode said that there is $350,000 budgeted for this coming year, which is enough for 1,000 feet of sidewalk (approximately 90 miles needed). If the City has to buy right-of-way, the project would be bumped out of this program.

Mayor Manheimer said that this special program is intended to fit in missing linkages in neighborhoods, and not the state roads where we need to partner with the N.C. Dept. of Transportation. She also noted that there are sidewalks associated with different capital improvement projects.

Councilman Pelly was concerned about the density consideration, fearing that it would knock out some less tightly packed areas from consideration. Mr. Grode acknowledged amended language would make sure to reflect that those areas could qualify, they just might not be at the top of the list.

In response to Councilman Pelly's concern, Director of Transportation Ken Putnam asked for the following three amendments to the policy: (1) Under the minimum requirements for consideration, the first sentence read "This policy applies to all residential streets that are identified as a needed linkage in the approved Pedestrian Master Plan"; (2) Under the initial screening factors, the first sentence read "Streets that meet the minimum requirements for consideration above will then be screened t prioritize the factors described below; and (3) Under public input, the second sentence read "The public shall be consulted at reasonable intervals to ensure that the Policy continues to reflect the community's vision."

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Wisler moved for the adoption of Resolution No. 15-197, with amendments suggested by Mr. Putnam. This motion was seconded by Councilman Pelly and carried unanimously.

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B. BOARDS AND COMMISSIONS

Regarding the Affordable Housing Advisory Committee, the following individuals have applied for the vacancies: Eric McDaniel, Kama Ward, Zachary Eden, Sage Turner, Laura Collins, Charlene Jones, Arthur Myers and Emily Coleman-Wolf. It was the recommendation of the Boards & Commission Committee, and consensus of City Council, to postpone appointments until after the Affordable Housing Summit in mid-November, at which time the vacancies will be re-advertised with a specific interest in appointing development professionals, along with diversity in the community.

Regarding the Homeless Initiative Advisory Committee, the following individuals have applied for the vacancy: Eric McDaniel, Charlene Jones and Arthur Myers. It was the recommendation of the Boards & Commissions Committee, and consensus of Council, to re-advertise and wait for a recommendation from the Homeless Initiative Advisory Committee.

RESOLUTION NO. 15-198 - RESOLUTION APPOINTING MEMBERS TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Due to a conflict of interest, Councilman Smith moved to recuse Mayor Manheimer from participating in this issue. This motion was seconded by Councilman Davis and carried unanimously.

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Buncombe County Tourism Development Authority.

The term of Bob Patel (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less more 100 rental units) expired on August 30, 2015. Mr. Patel is not eligible for reappointment.

Session Law 2015-128, House Bill 347, amended the membership of the Buncombe County Tourism Development Authority, to allow City Council to appoint two members who must be an owner or operator of hotels, motels, bed and breakfasts, or vacation rental management companies with more than 100 rental units.

The following individuals have applied for this vacancy: Kelly Prime, Gary Froeba, Michael Adams, John Luckett, Himanshu Karvir and Dennis Hulsing.

On September 22, 2015, it was the consensus of Council to interview all eligible candidates - Mr. Froeba, Mr. Luckett, Mr. Karvir and Mr. Hulsing. Mr. Hulsing and Mr. Froeba were unable to attend the interview.

Councilman Smith moved to appoint Himanshu Karvir to the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with more than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2018, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Pelly moved to appoint John Luckett to the Buncombe County Tourism Development Authority (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with more than 100 rental units) to serve a three-year term, term to begin immediately and expire on August 30, 2018, or until his successor has been appointed. This motion was seconded by Councilwoman Wisler and carried on a 5-1 vote, with Councilman Smith voting "no".

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RESOLUTION NO. 15-199 - RESOLUTION APPOINTING REPRESENTATIVES TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Hunt said that the Neighborhood Advisory Commission has requested Philip Lenowitz be appointed as their non-voting, ex-officio representative to the Multimodal Transportation Commission (replacing Robert Roepnack), to serve until July 1, 2016. The Sustainability Advisory Committee on Energy & the Environment (SACEE) felt that their vacant non-voting, ex officio seat left by Lael Gray (term to expire July 1, 2016), on the Multimodal Transportation Committee, is not necessary. The Boards & Commissions concurred with the Neighborhood Advisory Committee recommendation to appoint Mr. Lenowitz; however, it was their recommendation to have the seat remain open for a SACEE representative, said open seat to be reviewed at a later date.

Councilman Pelly moved to (1) appoint Philip Lenowitz (representative of the Neighborhood Advisory Committee) as a non-voting, ex officio on the Multimodal Transportation Committee, to serve the unexpired term of Mr. Roepnack, term to expire July 1, 2016, or until his successor has been appointed; and (2) have the non-voting ex officio SACEE seat on the Multimodal Transportation Commission remain open to be reviewed at a later date. This motion was seconded by Councilman Davis and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Helaine Greene, along with Mr. Jonas Gerard, presented City Council with a petition for the City to revisit the RADTIP 65% plans in order to accommodate the existing Riverview Station's parking plans as prepared by SiteWorks Studios. City Attorney Currin said that she is working with the attorney for Riverview Station.

Mr. Christopher Chiaronmonte spoke on various topics, one being the loss of the water lawsuit.

Councilman Bothwell was concerned about the City's enforcement on short term rentals and homestays, especially since the homestay issue is still being reviews.

Councilman Smith said that there is some interest in seeing Asheville consider a local renaming of Columbus Day to "Indigenous Peoples Day." As part of that effort he has reached out to Cherokee Chief Lambert for his perspective.

Closed Session

At 7:15 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to

which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to a lawsuit with the following parties: State of North Carolina and the City of Asheville; The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); (3) To consider the qualifications, competence, performance, character, fitness, or conditions of appointment of an individual public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:55 p.m., Councilwoman Wisler moved to come out of closed session. This motion was seconded by Councilman Davis and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:55 p.m.

Magdalen Burleson
CITY CLERK

Esther Manheimer
MAYOR

Tuesday – October 27, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Councilman Christopher A. Pelly

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING NOVEMBER, 2015, AS "ADOPTION AWARENESS MONTH"

Mayor Manheimer read the proclamation proclaiming November, 2015, as "Adoption Awareness Month" in the City of Asheville. She presented the proclamation to Ms. Angie Garner, Foster Care Program Manager for Buncombe County Health and Human Services, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request Mayor Manheimer, Consent Agenda Item "E" was removed from the Consent Agenda to be rescheduled on November 10, 2015.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 13, 2015

B. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR 509 BILTMORE AVENUE FOR THE CONSTRUCTION OF A TOWER AT MISSION HOSPITAL FACILITY

C. RESOLUTION NO. 15-200 - RESOLUTION APPROVING THE COMMUNITY CLEAN ENERGY POLICY FRAMEWORK

Summary: The consideration of a resolution to adopt a Community Clean Energy Policy Framework in response to City Council's adoption of Resolution 13-22, Supporting Clean Energy Economy.

On October 23, 2013, Asheville City Council adopted the Resolution 13-228 Supporting Clean Energy Economy which includes the following six action items:

1. Support a local clean energy future for the City and the region;
2. Call on Duke Energy Progress to partner with the City to help meet its carbon reduction goals by decreasing reliance on fossil fuels including transitioning from coal to electricity provided by clean, renewable energy sources while continuing to meet the company's obligation to provide affordable and reliable electricity to all customers 24 hours a day, 7 days a week;
3. Call on Duke Energy to continue and expand its investments in and programs supporting renewable energy, energy efficiency and energy conservation;

4. Call on Duke Energy to stop the spread of coal ash pollution and remediate existing coal ash pollution;
5. Develop a Clean Energy Partnership Progress Report that documents the achievements of this new partnership with Duke Energy, and;
6. Seek input from a variety of stakeholders when identifying collaboration opportunities for this partnership, which was adopted as an amendment to the Resolution as it was presented (this was added as an amendment to the resolution by Mayor Terry Bellamy as reflected in the meeting minutes).

After the resolution was adopted, the Sustainability Advisory Committee on Energy & the Environment (SACEE) formed a Clean Energy Task Force and invited stakeholders to participate in a community input process. Two sessions were held in August and September 2014, and a final session in July 2015. During the first input session participants were asked to brainstorm action items on what a community clean energy plan would address; including areas of focus in policy, programming, education outreach and projects. Participants were able to prioritize action items through a survey and results were vetted during the second session. The final session in July 2015, the participants were give the framework in which the prioritized action items were developed into the Community Clean Energy Plan.

The Community Clean Energy Plan is a guide for ongoing policy decisions and City staff workplans; consistent with City Council's Resolution to Support a Clean Energy Economy. Adoption of the Community Clean Energy Plan will guide City staff's work and upcoming planning processes, including updating the City's Comprehensive Plan. A near term action item included in the Community Clean Energy Plan is to launch a collaborative partnership with Duke Energy Progress to build a foundation for a longer term community energy efficiency, clean renewable energy sources; decreasing the City's reliance on fossil fuels.

This direction aligns with the City's 2014-2015 Strategic Plan, Economic Growth and Sustainability (FA1, G4): *"Continued sustainability efforts including carbon footprint reductions and clean energy economy – Clean Energy Partnership with Duke Energy."*

Council's Planning and Economic Development unanimously approved the framework on October 20, 2015. The Governance Committee recommended the letter to Duke Energy Progress at their October 13, 2015, meeting.

Pros:

- Aligns with City's 2014-2015 Strategic Plan, Economic Growth and Sustainability
- Funding for the temp/seasonal staff is available in the Green CIP

Con:

- None

Based on the Resolution 13-22 adopted by City Council, City staff evaluated the resources necessary to implement the Community Clean Energy Plan. A part time hourly position, funded from Fiscal Year 2016 Green Capital Improvement Program, will be used to help implement the short term goals of the plan that have a timeline of 12 -18 months for implementation.

	12 Months		18 Months	
Temporary/Seasonal $16.00/hr.	Salary	$16,640	Salary	$24,960
	FICA	$1,273	FICA	$1,910
	Total	$17,913	Total	$26,870

Long term goals within the plan will be factored into the update of the City's Comprehensive Plan.

Staff recommends Council accept the PED recommendation to adopt the Community Clean Energy Policy Framework in order to continue sustainability efforts including carbon footprint reductions and clean energy economy through a partnership with Duke Energy.

Councilman Bothwell was pleased to see this action taken and hoped that we encourage Duke Energy Progress to get off of fossil fuels. The planned expansion of the Lake Julian Plant and the conversion to gas is not getting us away from fossil fuels.

Ms. Kelly Martin, representing the Sierra Club, highlighted some particular items out of the Policy Framework that she hoped Council would support and provide resources to move forward. She also urged Council to reiterate their support for clean renewal energy development in the area.

RESOLUTION BOOK NO. 37 - PAGE 301

D. ORDINANCE NO. 4459 - BUDGET AMENDMENT FOR AN ALLOCATION FROM THE N.C. DEPT. OF COMMERCE FOR THE WNC NATURE CENTER ANNUAL GRASSROOTS COLLABORATIVE GRANT AWARD

Summary: The consideration of a budget amendment in the amount of $67,336 for an allocation from the N.C. Dept. of Commerce (Department of Commerce) for the Western North Carolina Nature Center (Nature Center).

Each year the Department of Commerce allocates funds to museums, science centers and zoos in North Carolina. The Nature Center is eligible to annually receive an allocation to be used for capital improvements, animal exhibits, materials, and goods and services.

The allocation, intended to support the 20/20 Vision Site Plan for the WNC Nature Center, will be used to support the purchase of animal health care equipment, small deferred maintenance projects and minor upgrades to exhibits within the Appalachian Station area.

Pros:
- Provides funds to support improvements at the Nature Center.
- Provides funds to support improvements in animal care.
- Provides funds to enhance special projects and services to Nature Center visitors.
- Provides funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums.

Con:
- None

The budget for one-time equipment purchase and facility improvements at the WNC Nature Center will increase by $67,336.00. Since this increase is funded by an allocation from the State of North Carolina Department of Commerce, there is no impact to the City's General Fund budget.

Staff recommends City Council approval of a budget amendment authorizing the City Manager to (a) accept funds from the North Carolina Department of Commerce, and (b) establish a budget by $67,336.00 for equipment and facility improvements at the WNC Nature Center.

ORDINANCE BOOK NO. 30 - PAGE 169

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE ECONOMIC DEVELOPMENT COALITION

This item was removed from the Consent Agenda, to be considered at the November 10, 2015, meeting.

F. RESOLUTION NO. 15-202 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH BROWN AND CALDWELL FOR THE WATER TREATMENT PLANT UPGRADES PROJECT

Summary: The consideration of a resolution by City Council (Council) authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with Brown and Caldwell for the proposed amount of $354,000 plus a contingency amount of $10,000 for a total project budget in the amount of $364,000 for the Water Treatment Plant Upgrades Project.

On August 11, 2014, the Water Resources Department (WRD) issued a Request for Qualifications (RFQ) for On-Call Professional Services for Water Treatment Plant (WTP) Projects. In response to the RFQ, seven engineering firms submitted Statements of Qualifications (SOQ). A WRD review team selected three engineering firms with proven experience and expertise to provide professional and engineering services for various water treatment plant repair, replacement, and/or expansion projects: Brown and Caldwell, CDM Smith, and GHD Consulting Services. With guidance from the City's Legal and Purchasing Departments, the WRD executed Master Agreements with all three firms to establish initial contractual terms. Specific projects would be authorized under a separate Supplemental Agreement between the WRD and individual engineering firm. The WRD desires to enter into its first Supplemental Agreement with Brown and Caldwell for the WTP Upgrades Project.

The purpose of the WTP Upgrades Project is to conduct a variety of upgrades at the North Fork and Mills River WTP's. The various upgrades will be investigated, designed, and then constructed. Upon execution of a Supplemental Agreement, Brown and Caldwell will perform the following tasks for existing conditions at the WTP's: (1) an evaluation of the existing leaking seal at the clearwell inffluent pipe; (2) a structural evaluation and provide initial repair recommendations for select locations at the North Fork WTP; (3) engineering services to prepare bidding documents for the repair of the clearwell seal, filter valve and actuator replacement, extension of the existing high pressure water supply distribution system at the North Fork WTP, and for the installation of open channel flow meters at the backwash lagoons at the North Fork and Mills River WTP's; (4) assistance during the bidding process; (5) construction administration services and design engineer services; and (6) project administration and management during the performance of this project. All tasks are expected to be completed within one year of contract execution.

Pro:

- This project will identify problems, design solutions, and oversee repairs that need to be made to the North Fork and Mills River WTP's in order to operate the plants at the most efficient level possible.

Con:

- A delay in award of an engineering services agreement for this project would postpone needed repairs to the North Fork and Mills River WTP's.

The funding needed for this agreement is currently allocated within the Water Treatment Plant Improvements Project in the Water Resources Capital Improvement Projects (CIP) Fund.

Staff recommends Council approval of a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with Brown and Caldwell

for the proposed amount of $354,000 plus a contingency amount of $10,000 for a total project budget in the amount of $364,000 for the Water Treatment Plant Upgrades Project.

RESOLUTION BOOK NO. 37 - PAGE 313

G. RESOLUTION NO. 15-203 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR 2016 EMERGENCY SOLUTIONS GRANT FUNDS FROM THE N.C. DIVISION OF AGING AND ADULT SERVICES, HOUSING AND HOMELESS UNIT

Summary: The consideration of a resolution to apply for Fiscal Year (FY) 2016 Emergency Solutions Grant funds in order to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services, Housing and Homeless Unit.

The City of Asheville has been the fiscal sponsor for Emergency Solutions Grant funding since the 2012 ESG grant cycle. Through the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit these funds are made available to a regional fiscal sponsor to fund local agencies with capacity to provide emergency shelter and rapid rehousing services for individuals and families. Funding recommendations are made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations follow a process that includes submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

We have been informed that for the FY 15-16 ESG Grant cycle, the City of Asheville is eligible to apply for $118,965. In the FY14-15 cycle, the City of Asheville received an initial allocation of $144,492, and 2 additional allocations totaling $80,188 to further expand Rapid Re-housing services and provide Homeless Management Information System (HMIS) support.

Staff has made an inquiry to the State regarding the amount of this year's allocation ($118,965), since it is less than last year's. A different formula was used for this year's eligible allocations across the State, causing a variation in amounts in multiple Continua Care, including Asheville-Buncombe.

Award of funds is conditional on the application being approved by the State. These conditions will include, but are not limited, to adequate documentation of required matching funds. These matching funds are provided by the individual agencies (and not the City), except in the case of the proposed allocation to the City. That allocation will support the administration of the Homeless Information Management System (HMIS), and the City provides matching funds through its annual allocation of general funds for the Homeless Initiative.

Pro:

- ESG funding is a key funding resource for emergency shelter and for rapid rehousing of persons experiencing homelessness.

Con:

- FY16 base funding level is less than last year's. Unless this grant is supplemented during the year (as it has been in other years), funded agencies will have fewer resources to assist homeless households.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the Housing and Community Development Committee's recommendation to adopt the resolution authorizing the City to apply for Emergency Solutions Grant funding in order to provide those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

RESOLUTION BOOK NO. 37 - PAGE 314

H. RESOLUTION NO. 15-204 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXERCISE THE THIRD-YEAR OPTION OF A CONTRACT WITH LANDMARK LANDSCAPES FOR GROUND MAINTENANCE SERVICES AT VARIOUS PARKS, GREENWAYS AND FACILITIES IN THE CENTRAL PARK DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to exercise the third-year option of a contract with Landmark Landscapes for ground maintenance services at various parks, greenways and facilities in the City of Asheville (City) Central Park District for the third year renewal based on contractor performance in the cumulative amount of $143,040.

The City's Parks and Recreation Department (Department) contracts with multiple vendors for ground maintenance services for the six districts within the City's park system. On August 12, 2013 the City issued an Advertisement for Bids for ground maintenance services within the districts that comprise the City's park system to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest responsive and responsible bidders. Landmark Landscapes, located in Arden was awarded a one-year contract with option to renew for two consecutive years based upon contractor performance for the Central Park District. By electing to exercise the third and final year of the three-year contract based on the contractor's performance, the cumulative amount of the contract, $143,040, exceeds the City Manager's authority to execute the third-year contract. All existing mowing contracts in the six park districts continue through Fiscal Year 2015-2016 at which time will be put back out to bid.

Pro:
- Supports the efficient delivery of core park maintenance services.

Con:
- None

The funding required to support this ground maintenance contract is budgeted in the Fiscal Year 2015-2016 Department operating budget as part of the Parks Maintenance division budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to exercise the third-year option of a contract with Landmark Landscapes to provide ground maintenance services in the various parks, greenways and facilities in the City's Central Park District for the third-year renewal in the cumulative amount of $143,040.

RESOLUTION BOOK NO. 37 - PAGE 315

I. RESOLUTION NO. 15-205 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXERCISE THE THIRD-YEAR OPTION OF A CONTRACT WITH DALTON'S LAWN & LANDSCAPING FOR GROUND MAINTENANCE SERVICES AT VARIOUS PARKS, GREENWAYS AND FACILITIES IN THE WEST I PARK DISTRICT

Summary: The consideration of a resolution authorizing the City Manager to exercise the third-year option of a contract with Dalton's Lawn & Landscaping for ground maintenance services at various parks, greenways and facilities in the City of Asheville (City) West I Park

District for the third year renewal based on the contractor's performance in the cumulative amount of $97,150.

The City's Parks and Recreation Department (Department) contracts with multiple vendors for ground maintenance services for the six parks districts within the City's park system. On August 12, 2013 the City issued an Advertisement for Bids for ground maintenance services within the districts that comprise the City's park system to include mowing, trim and edge, and leaf and debris removal. Four vendors were the lowest, responsive and responsible bidders. Dalton's Lawn & Landscaping, located in Asheville, was awarded a one-year contract with option to renew for two consecutive years based upon contractor performance for the West I Park District. By electing to exercise the third and final year of the three-year contract based on the contractor's performance, the cumulative amount of the contract, $97,150, exceeds the City Manager's authority to execute the third-year contract. All existing mowing contracts in the six park districts continue through Fiscal Year 2015-2016 at which time will be put back out to bid.

Pro:
- Supports the efficient delivery of core park maintenance services.

Con:
- None

The funding required to support this ground maintenance contract is budgeted in the Fiscal Year 2015-2016 Department operating budget as part of the Parks Maintenance division budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to exercise the third-year option of a contract with Dalton's Lawn & Landscaping for ground maintenance services at various parks, greenways and facilities in the City's West I Park District for the third year renewal in the cumulative amount of $97,150.

RESOLUTION BOOK NO. 37 - PAGE 316

J. RESOLUTION NO. 15-201 - RESOLUTION AMENDING THE 2015 CITY COUNCIL MEETING SCHEDULE TO ADD A REGULAR FORMAL MEETING ON NOVEMBER 17, 2015, AND CANCEL THE REGULAR FORMAL MEETING ON NOVEMBER 24, 2015

Summary: City Council will (1) A regular formal meeting will be held on Tuesday, November 17, 2015, in the Council Chamber, located on the 2nd floor of City Hall, at 5:00 p.m. In addition to other City Council matters, the following public hearings will be held on November 17, 2015: (a) Public hearing to consider an amendment to Chapter 7 of the Code of Ordinances to establish requirements for utility substations; and (b) Continuation of public hearing to consider amending Sections 7-2-5, 7-8-1, 7-16-1(c)(9) and 7-18-2(b) of the Unified Development Ordinance relating to the definition of "Homestay" and the districts in which Homestays are permitted in the Table of Permitted Uses; and the standards required for Homestays which are designated as a use by right subject to special standards; and (2) The regular formal meeting on Tuesday, November 24, 2015, has been cancelled.

Councilman Bothwell was disappointed that the seated Council did not manage to conclude the homestay issue before the election as there seems to be mixed messages going to our residents. He asked that the last City Council Planning & Economic Development Committee minutes be posted as soon as possible.

RESOLUTION BOOK NO. 37 - PAGE 312

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SISTER CITIES UPDATE

Ms. Karon Korp provided City Council with their 2015 Annual Report, which highlighted the many activities and projects throughout the year.

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 15-206 - RESOLUTION APPOINTING MEMBERS TO THE PLANNING & ZONING COMMISSION

Vice-Mayor Hunt said that the terms of Holly Shriner and Joe Minicozzi, as members on the Planning & Zoning Commission, expired August 14, 2015.

After an extensive process, on October 13, 2015, City Council voted to interview Thomas Muncy, Guillermo Rodriguez, Tony Hauser and Sage Turner. Ms. Turner has withdrawn from consideration.

Council thanked Ms. Shriner and Mr. Minicozzi for their dedication to the Planning & Zoning Commission.

After Council spoke highly of all candidates, Mr. Muncy received 1 vote; Mr. Hauser received 6 votes; and Mr. Rodriguez received 5 votes. Therefore, Mr. Hauser and Mr. Rodriguez were appointed as members of the Planning & Zoning Commission, terms to expire August 14, 2018, or until their successors have been appointed.

RESOLUTION BOOK NO. 36 – PAGE 317

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jerry Sternberg spoke about the need to preserve property rights and business operations in the River Arts District and provided Council with a resolution from the Asheville Area Riverfront Redevelopment Commission regarding form based code zoning in the River District. Said resolution supported the River District property owners and requested removal of the part of the property contained in the code based planning lying west of the Norfolk Southern railroad tracks and fronting on and/or adjacent to the French Broad River be removed from consideration for any zoning changes at this time.

Closed Session

At 5:33 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1);

(2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: State of North Carolina and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Councilman Bothwell and carried unanimously.

At 6:55 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:55 p.m.

Magdalen Bowleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – November 10, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 27, 2015

B. RESOLUTION NO. 15-207 - RESOLUTION NAMING FIRE STATION 8 IN MEMORY OF CITY OF ASHEVILLE FIREFIGHTER JIMMIE EDWARD TRENT

Summary: The consideration of naming Fire Station 8 in memory of former City of Asheville Firefighter Jimmie Edward Trent.

City of Asheville Firefighter Jimmie Edward Trent died November 13, 1975, after suffering a heart attack fighting a fire at the Red Chair Restaurant at 1 North Pack Square. The Asheville Fire Department requests that Firefighter Trent be honored by naming City of Asheville Fire Station 8 in memory of Jimmie Edward Trent. Firefighter Trent's family has requested Fire Station 8 as he was primarily assigned to that station during his career. Fire Station 8 is located at 904 Tunnel Road and serves East Asheville. This will be the second fire station named in memory of a City of Asheville Firefighter who has died in the line of duty. There have been a total of seven line of duty deaths in the City of Asheville Fire Department's history.

Pro:

- Having a City of Asheville owned facility that has been named to honor a public servant who has died in the line of duty is an ultimate recognition of their public service and sacrifice.

Con:

- None have been identified or known at this time.

The purchase of a plaque commemorating the naming would be the associated expense to this consideration and would be paid for out of the existing Fire Department budget.

Staff recommends that the Asheville City Council name Fire Station 8 in memory of Jimmie Edward Trent.

The son of Mr. Trent thanked City Council for this recognition.

RESOLUTION BOOK NO. 37 - PAGE 318

C. ORDINANCE NO. 4460 - BUDGET AMENDMENT FROM THE FEDERAL TRANSIT ADMINISTRATION FRO THE EXISTING JOB ACCESS AND REVERSE COMMUTE PEDESTRIAN SIGNAL GRANT

Summary: The consideration of a budget amendment, in the amount of $$47,854, to increase grant funding for the existing Job Access and Reverse Commute (JARC) pedestrian signal grant.

In 2010, the city successfully applied to the French Broad River Metropolitan Planning Organization (MPO) for Federal Transit Administration (FTA) JARC funding to install pedestrian signals at four busy intersections at an anticipated cost of $124,900: (1) Haywood Road and Louisiana Avenue; (2) Clingman Avenue and Hilliard Avenue; (3) Choctaw Street and McDowell Road; and (4) Biltmore Avenue and Southside/South Charlotte Street.

The project's original plan and cost estimates were based on the traffic engineering and signal work being carried out by the North Carolina Department of Transportation (NCDOT) and/or it's contractors under a reimbursable agreement between NCDOT and the city. Ultimately, that proved impossible, though NCDOT was able to provide signal plans for one of the intersections, Clingman Avenue and Hilliard Avenue. The city then had a contractor install the pedestrian signals at Clingman Avenue and Hilliard Avenue using the JARC funding. The city also proceeded with design for the remaining three signals using the JARC grant, but insufficient funding remained to purchase and install the signals at the three intersections.

On June 23, 2015, Council approved a budget amendment moving $13,063 from the general fund to the project to supplement the project budget. Additional JARC funding in the amount of $47,854 was identified to supplement the project budget, and FTA recently approved moving the funds to this project. The funds transferred in June will serve as the required match for the new FTA funds. With the new FTA funding, the total project budget is $184,837.

The existing and new funding is expected to be enough to install the pedestrian signals at the intersection of Haywood Road and Louisiana Avenue and at the intersection of Choctaw Street and McDowell Road. It is not anticipated that there will be enough funding at this time to install the signals and pedestrian refuges at the last and most expensive intersection on Biltmore Avenue, so other capital funding is being sought for that project.

Pros:

- Allows planned pedestrian safety improvements to continue
- Adds additional federal funding to the city's budget

Cons:

- One intersection will remain to be done

This will bring $47,854 more in new capital investment to Asheville's pedestrian network. The required 20% grant match will come from amounts already in the project budget. NCDOT will maintain the signals, so there is no increase in ongoing city costs. This grant does not affect the city's regular FTA transit system funding.

With this amendment, the total project budget will be $184,837. To date, $84,272 has been spent on the project: $37,772 to install the pedestrian signals at Clingman and Hilliard Avenues, $24,000 for a reimbursable agreement with NCDOT to review signal plans and inspect installations, and $22,500 for three signal designs (signals 1, 3, and 4, above). With this budget amendment, $100,565 will remain in the project budget.

City staff recommends City Council adopt the budget ordinance amendment to increase grant funding for the existing JARC pedestrian signal grant.

ORDINANCE BOOK NO. 30 - PAGE 171

D. RESOLUTION NO. 15-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SELL CITY PROPERTY LOCATED AT 600 SKYLOFT DRIVE - UNIT A-201, TO AUBREY RAY

Summary: The consideration of a resolution directing the City Manager to sell City property located at 600 N. Skyloft Drive, Unit A-201 to Aubrey Ray for $140,000.

In 2008, the City established a deferred Housing Trust Fund Loan on property at 600 N. Skyloft Drive, Unit A-201 (PIN 9648-68-1640-C201) in the amount of $30,000. In July 2014, the City of Asheville purchased this condominium at a foreclosure auction in order to resell it and protect the City's original investment. The City's total purchase price at auction was $100,438.00. Thereafter, the Housing and Community Development Committee approved marketing this property to City Employees with affordable housing restrictions placed on the deed, specifically: potential buyers could not earn over 100% of median household income; the Skyloft condo must be their primary residence; and the affordability restrictions would apply to any resale. There was little interest in the property from City employees and the marketing was extended to all county employees and then to all government employees. As of October 31, 2015, the City has paid out $4,730 in bills to include an unpaid property tax bill, utility bills and condominium owner fees. Including the original Housing Trust Fund loan, the City has invested a total of $135,168 in this property. The unit was advertised for sale at $140,000. This price would allow the City to break even if the sale included buyers' agent fees and some closing costs and still maintain affordability for income eligible buyers. In October of 2015, the marketing effort was extended to the general public and Aubrey Ray submitted a qualifying application.

North Carolina General Statute 153A-163 authorizes a city that acquires a property by foreclosure in order to secure a debt due to the city, to sell said property by private sale for not less than the amount of its bid. According to NCGS 160A-267 (private sale procedure) the City Council can authorize the appropriate City official to dispose of property by private sale at a negotiated price. The resolution provides authorization for the City Manager to sell the property at 600 N. Skyloft Drive, Unite A-201 to Aubrey Ray for $140,000, subject to income eligibility, permanent deed restrictions concerning long-term affordability of the unit, and a requirement that the unit must be the primary residence of the owner. If the following resolution is adopted, a public notice summarizing the resolution will be published and the transaction will not take place until at least 10 days after publication.

Pros:

- Sale of an affordable unit to an income eligible buyer.
- Deed restrictions will preserve the property as permanently affordable.
- Private sale will recoup funds spent by the Housing Trust Fund to further affordable housing goals.

Con:

- None

Because this property is associated with the Housing Trust Fund Loan Program, the financial proceeds are to benefit that program as managed by the Economic and Community Development Department.

City staff recommends City Council adopt a resolution directing the City Manager to sell the property located at 600 N. Skyloft Drive, Unit A- 201A to Aubrey Ray for $140,000, subject to income eligibility, permanent deed restrictions concerning long-term affordability of the unit, and a requirement that the unit must be the primary residence of the owner.

RESOLUTION BOOK NO. 37 - PAGE 319

E. RESOLUTION NO. 15-209 - RESOLUTION SETTING A PUBLIC HEARING ON DECEMBER 8, 2015, TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF JARRETT ROAD

Summary: The consideration of a resolution of intent to permanently close an unnamed alley off of Jarrett Street and setting a public hearing on December 8, 2015.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, T.S. Investments, LLC, owners Thomas and Catherine Durham, owners of parcel 9638-25-1024, and Ira Bernstein, parcel 9638-25-0070, and David Chambers, parcel 9638-25-1177, have requested the City of Asheville to permanently close the unnamed alley off of Jarrett St. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission met on October 28, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley off of Jarrett Street and set a public hearing on December 8, 2015.

RESOLUTION BOOK NO. 37 - PAGE 320

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Pelly and carried unanimously.

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING ON PROPERTY LOCATED AT 39 ELM STREET FROM COMMUNITY BUSINESS II DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING, WITH CONDITIONS TO BUILDING SIZE, IMPERVIOUS AREA AND SETBACK, FOR THE CONSTRUCTION OF A 5-STORY HOTEL WITH PARKING

On October 20, 2015, a letter was received from Mr. Craig D. Justus, attorney representing the applicant, asking that their conditional zoning request be withdrawn.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING FOR PROPERTY LOCATED AT 852 (9999) HENDERSONVILLE ROAD FROM HIGHWAY BUSINESS DISTRICT AND OFFICE DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE CONSTRUCTION OF A SELF-STORAGE FACILITY, WITH CONDITIONS MODIFYING REQUIREMENTS FOR THE LOCATION OF STREET TREES, REDUCING PARKING COUNTS, AND REDUCING BUILDING SETBACKS

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to conditionally zone property located on 852 (9999) Hendersonville Road from Highway Business District and Office District to Highway Business/Conditional Zoning for the construction of a 3-story, 89,700 square foot self-storage facility on 1.89 acres, with conditions modifying requirements for the location of street trees, reducing parking counts and reducing building setbacks. This public hearing was advertised on October 3 and 9, 2015.

The subject site measures 1.89 acres, is currently vacant and includes two parcels, which would be reassembled into one parcel. The property is currently split zoned between the HB (approximately 0.75 acres) and Office (approximately 1.1 acres) zoning districts. The project site is located within the Shiloh neighborhood.

The applicant is seeking to construct a three-story, 89,700 square-foot self-storage facility. The proposed use is not permitted in the Office zoning district; therefore, the applicant is requesting a conditional zoning designation to HB-CZ. The building would include 700 storage units staffed by two employees in an 812 square-foot office located on the second floor. The building footprint would measure 29,900 square feet.

Access to the property is proposed from both Forest Street and Cornell Street with two driveways on Forest Street and one on Cornell Street. There is no ingress/egress proposed from Hendersonville Road.

Nineteen parking spaces will be provided, which has been determined to be appropriate for the proposed use.

A new sidewalk is proposed for both Forest and Cornell Streets. There is a northbound bus stop (S3) located on Hendersonville Road at Forest Street.

The site is required to comply with the provision of street trees, street buffer, parking lot landscaping, building impact, and open space. In total, 67 trees and 148 shrubs are required for the site. The project meets the 15% of lot area for required open space by providing three separate open space areas totaling 0.28 acre. In addition the developer has agreed to add a 30-foot property line buffer to mitigate the impacts of the development to the Office and residential zoning along the east side of the development.

There is a stand of four older pine trees at the northeastern part of the parcel that appear to be in healthy condition and located in the area that is designated on the plan to be open space. Staff is requesting that the applicant retain these trees.

There would be two bio-retention swales provided, one on the north and one on the south part of the property.

Conditions Modifying Development Standards:

1. Street trees. The City's Unified Development Ordinance (UDO) requires that street trees

be placed within 20 feet from the edge of pavement. In this case there is an existing sewer line and associated sewer buffer that precludes tree placement within 20 feet. Street trees along Hendersonville Road will be allowed to be placed no further than 30 feet from edge of pavement.

2. Front setback. The required setback for buildings in the HB zoning district is 35 feet, unless located in a pedestrian-oriented environment, which allows for a reduction to only a five foot setback. Staff encouraged the applicant to reduce the front setback in order to allow for more room on the eastern part of the property to include the planted buffer between the subject site and the residential uses immediate to the east. The front setback was reduced to approximately 25 feet on the site plan.
3. Parking shall be reduced to 19 spaces, consistent with staff interpretation of parking standards for indoor self-storage, as stated below in the compatibility analysis.

As per UDO Section 7-7-8.(d), a conditional zoning application shall be reviewed by the City's Technical Review Committee (TRC), and the Planning and Zoning Commission shall hold a public hearing to review the application and make a recommendation to City Council for approval or denial.

This project was reviewed by the City's Technical Review Committee (TRC) on July 7, 2015. The Planning and Zoning Commission reviewed the proposal and voted unanimously to deny approval on August 5, 2015. City Council is the final approval body for this proposal. If the project is approved by City Council, it then returns to TRC for final zoning approval.

Pursuant to UDO Section 7-7-8.(c), it is strongly recommended that the applicant meet with representatives of the surrounding property owners and of the surrounding neighborhood to discuss the proposed development.

It is staff's understanding that representatives from the project development team met with the Shiloh Community Association on September 14, 2015 to discuss the project. The project development team may discuss the outcome of that meeting at the City Council public hearing.

The parcel is split with approximately 40% of the area (0.75 acres) located within HB and 60% (1.1 acres) within Office. HB allows for self-storage, as well as single-tenant buildings that total a maximum of 100,000 square feet, whereas the Office zoning district does not permit self-storage facilities and allows a maximum 8,000 square foot building. The proposed facility would be located approximately evenly split between HB and Office, thereby allowing approximately 45,000 square feet in each zoning district.

As described in the purpose section of the Office zoning district in the UDO, the intent of this district is to reserve areas for development of small scale office uses adjacent to residential uses. This district may serve as a transition between residential and commercial areas.

As per UDO Section 7-7-8.(d)(5), City Council's consideration of a conditional zoning application may consider any relevant information in its deliberations, and consideration shall be given to adopted land use plans, small area plans, other land use policy documents, and to the surrounding land uses. Further, UDO Section 7-7-8.(a) states that additional standards and regulations may be attached to a proposed development to ensure compatibility with surrounding uses and with applicable adopted plans.

Staff's compatibility analysis is as follows:

1. Building size and scale: Staff believes the combination of the size and scale of the encroachment of the facility into the Office zoning district and the building's higher-impact use would result in a project that is incompatible with the adjacent residential neighborhood. New structures in the Office zoning district shall not exceed 8,000 square

feet for multiple story buildings, with a maximum footprint of 4,000 square feet. With approximately 45,000 square feet proposed to encroach into the Office zoning district, the proposal would result in five times the permitted gross floor area in this district.

Context, areas zoned HB along Hendersonville Road do not project an equal distance into the residential districts; the HB district contains jagged lines that move in and out. In some areas, the HB district encroaches further into the residential neighborhood. As a result of this type of commercial encroachment into the adjacent residential neighborhoods, the Shiloh Community Plan 2025 (adopted by City Council in September 2010) recommends that along Hendersonville Road the City allow "no additional commercial incursion (to) occur in the community.". The proposed project would further encroach Highway Business activity into an Office zoning district and into the adjacent residential neighborhood. This is contradictory to the purpose of the Office zoning district, which was placed between Highway Business zoning and Residential zoning to soften the scale of development and to mitigate negative commercial impacts. The proposed 89,000 square foot building adjacent to residential uses appears to be unreasonable at this location. If approved, staff recommends that the proposed building be scaled back.

It should be noted that the existing parcel zoned HB would allow for the proposed building and the applicant has acknowledged that some version of this proposal could be viable by using only the existing HB part of the parcel.

2. Parking: According to the UDO, there needs to be one parking space per 10 storage units, plus one space per two employees, plus one space per 250 square feet of office, which totals 75 spaces. This rule is useful for smaller storage facilities but would be excessive for the proposed 700 unit storage facility.

UDO Sec 7-11-2 (c)(1) states that for uses not covered in the table of off-street parking requirements, the appropriate number may be selected from the American Planning Association (APA) Advisory Service Report Number 432. In this case a self-storage facility is covered in the UDO but it is not appropriate because it is not consistent with the data for how large self-storage facilities operate. The APA Service Report recommendation, however, is not helpful because its examples range from one space per 10 storage units to one space per 100 storage units. Staff recommends using the Institute for Transportation Engineer's (ITE's) Parking Generation manual instead, which reviews peak demand from similarly-scaled self-storage facilities and is therefore more applicable. The applicant is requesting to use ITE's Average Peak Parking Demand (1.39 vehicles per 100 spaces), which totals to 15 spaces for this project. Staff recommends ITE's conservative standards, which would require 19 spaces.

3. Materials: The material choices for the building are visually simplistic and would create the effect of a blank wall, especially as seen from the east and north where metal siding is proposed for the majority of the exterior. Except for the Hendersonville Road elevation, the majority of the structure is windowless and although there are no design guidelines for this district, the project could use architectural detail to improve the compatibility with surrounding buildings and residences, and to soften this building's impacts on the neighborhood.

4. Self-storage development activity: Staff is currently reviewing proposals for two other similar indoor self-storage facilities that are located on parcels where this use is permitted as-of-right, without changes to zoning. The proposed self-storage facility at the subject location is the only such self-storage project to date that would require a conditional zoning approval.

The proposed project does not comply with the Comprehensive Plan because it (Goal 1, Strategy 4) does not provide a mix of uses at underdeveloped commercial nodes where public facilities exist; (Goal 1, Strategy 11) fails to provide a mix of uses along a key transit node; and (Goal 1, Strategy 14) it does not support the enhancement and strengthening of existing neighborhoods, in this case by proposing a large-scale self-storage facility adjacent to an existing residential neighborhood. Although the Comprehensive Plan calls for "appropriately-scaled non-residential uses (to) be allowed in appropriate locations", staff believes the current proposed project is not appropriately scaled.

The proposed project does not align with Focus Area 3: High Quality of Life; Goal 4: Continue to develop City Council communications and partnerships with citizens, community leaders, the media and elected officials; Action Item: Evaluate and implement best practices to improve effective community engagement. The currently proposed site plan is inconsistent with the Shiloh Community Plan 2025, which states that "it is strongly felt that commercial incursion should be prevented in the Shiloh community".

Based on the above findings and the analysis provided in the report and as stated in the recommendation below, staff finds this request to be unreasonable.

Staff does not recommend the conditional zoning request as currently proposed based upon the intent of Office zoning to buffer residential neighborhoods from larger-scale buildings that are less compatible with neighborhood scale, and due to the project's inconsistency with the City's Comprehensive Plan and Shiloh Community Plan 2025. The Planning and Zoning Commission also voted to deny the conditional zoning request.

Mr. W. Louis Bissette, attorney representing the developer, showed the site of the subject property, along with views of the project from different views. He said that most of the units are accessed from inside the building and are climate controlled. The building will look like a nice office building. He said that this is a low impact project and feared what other projects could go into that site by right with the designation of Highway Business District in the front portion. He then showed a picture of the core of the Shiloh community, noting that they are not in the core. He presented a letter from Ms. Hicks (owner of the property directly behind the site) who was not opposed to the project. He also presented letters of support from Colton Mattress and Mission Health.

Mr. Chris Day, representing Civil Design Concepts, explained how they designed the building to look like a 2-story office building, noting one side 2-stories can be seen, and 3-stories can be seen on the other side. Access is with through the current Mission Health Driveway. He then explained the loading and parking areas. He said the project does propose sidewalks along Forest Street, Cornell and Hendersonville Road. They also created a larger landscape buffer than is required in the rear of the property with an additional berm for Ms. Hicks to screen her from the project and traffic on Hendersonville Road. He explained there is no outdoor storage, as it is a fully enclosed self-storage project.

Mr. David Ellison, with the development company, described the operations of this facility. He said the office building is staffed by 2 on-site office managers. The office will be open from 9:30 a.m. - 6:00 p.m. and people can access their units (via a keypad) from 6:00 a.m. - 10:00 p.m. He noted that when they came to the City with their pre-submittal meeting, at that time there were no objections, so they moved forward in good faith. In July they received an e-mail from Planning staff indicating concerns about the size and encroachment into the Shilch community. They have reached out to the neighborhood on three different occasions and urged Council to approve this conditional zoning.

Mayor Manheimer then opened the public hearing at 5:36 p.m.

The following individuals spoke against the conditional zoning for several reasons, with the major objections surrounding: commercial encroachment into the historic Shiloh community; non-compliance with the Shiloh Community Plan; project will not benefit the Shiloh community as it will not provide jobs and people cannot afford the monthly rent for a unit; additional traffic on Forest Street; and project will not increase noise or traffic in the area:

Ms. Norma Baynes, Liaison to the Shiloh Community Association
Mr. Vinnie Norman McIntosh, member of the Shiloh Community Association
Mr. Charlie Owen, co-owner of the property - presented petition with 28 names
Mr. Walter Taylor, senior member of the development team
Mr. Joe Brummit

The following individuals spoke in support of the conditional zoning for several reasons, some being, but are not limited to: the project will benefit the Shiloh Community; nice building that will be well-maintained and well-landscaped; project will have a low impact on the community; and fear of what might be built on the property is this project is denied:

Ms. Faye Reynolds, Shiloh resident
A Shiloh homeowner
Ms. Phyllis Williams Green, Assistant Secretary for the Shiloh Community Association

At 6:03 p.m. Mayor Manheimer closed the public hearing.

In response to Vice-Mayor Hunt, Mr. Todd Okolichany, Director of Planning & Urban Development, reiterated staff's concerns regarding the size and scale of the project, in that it is out of compliance with the City's Comprehensive Plan and the Shiloh Community Plan. Without a specific site plan layout, staff cannot assess an alternative use; noting that the traffic impact of a retail use would result in more traffic than a self-storage facility. The maximum building height would be 40 feet on a use by right under the Office District zoning.

Councilman Pelly stated that other neighborhoods are encouraged to design neighborhood plans similar to what the Shiloh community developed. Knowing that changes will come, they need to find a vision on how they want to grow and evolve over time. The Shiloh community has that plan and he felt this development violates some of aspects of their plan.

Vice-Mayor Hunt emphasized that a Highway Business District project on that property will be a use by right and will not come before City Council for any conditions. He felt this lot is high in demand and will have a large impact use, opposed to this low impact use.

Councilman Bothwell felt that the same building could be built vertically with the same square footage on the existing Highway Business lot - five stories with one underground. That would be about the same height as the Mission Health building. That would also allow the lot in the rear to soften the impact into the residential area.

Councilman Smith moved to deny the conditional zoning request from Highway Business (HB) and Office to Highway Business Conditional Zone (HB-CZ) for the construction of a three-story, 89,700 square-foot self-storage facility to be located at 852 Hendersonville Road with the requested conditions, and find that the request is not reasonable, is not in the public interest, and is not consistent with the Comprehensive Plan and other adopted plans in the following ways: the proposed plan does not provide a mix of uses along a key transit node where public facilities exist, it does not support the enhancement and strengthening of existing neighborhoods, and it would allow large scale commercial incursion to occur in the adjacent residential community, which is contrary to the recommendations contained in the area's community plan. This motion was seconded by Councilman Bothwell and carried on a 5-2 vote, with Vice-Mayor Hunt and Councilman Davis voting "no."

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 15-210 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A MEMORANDUM OF UNDERSTANDING WITH THE ECONOMIC DEVELOPMENT COALITION

Mr. Ben Teague, Executive Director of the Asheville-Buncombe Economic Development Coalition (EDC) provided Council with a brief update on the Asheville 5x5 Campaign.

There was considerable discussion, initiated by Councilman Smith and responded to by Mr. Teague, regarding arts and culture not being included in the vision 2020 plan. Mr. Teague summed it up by saying that they spent $75,000 over 5 years to bring arts and culture together, and that the EDC will continue to meet with arts leaders asking what they want to accomplish. With a number of the topics they brought up, the EDC can help them with research and numbers, but there are a number of items that they can partner more broadly with, i.e., the Chamber of Commerce and other organizations, to accomplish what they want. The EDC still has arts and culture as part of their plan in recognition that it is very important to our community.

Upon inquiry of Councilman Smith, Mr. Teague also responded about how the EDC offers help with downtown homegrown companies to preserve them.

Vice-Mayor Hunt, member of the EDC, spoke in support of the EDC and how the City's investment is extremely valuable in their role. He felt that growing arts and culture deserves funding from the City, feeling that the EDC is not vehicle to fund it with.

Councilman Bothwell agreed the work of the EDC is valuable; however, he felt it often appears that a concerted effort like the Asheville 5x5 Campaign gets credit for things that would have happened otherwise, citing New Belgium and Linamar.

Ms. Kitty Love, Executive Director of the Asheville Arts Council, said that she is looking for a partnership with the EDC, and if they are not the avenue, she hopes that the Chamber will be that avenue to upfit and grow jobs in arts and culture.

Councilman Smith supports bringing more wealth in the community with the new focus on higher wage jobs. He will support the motion with the promise that everyone will come together on the arts and culture piece and be able to examine the numbers to find a strategy for arts and culture.

Mayor Manheimer said that this is funding for the EDC to grow quality jobs in Asheville which means new businesses locating here or the growth of existing businesses. We need to focus on growing higher paying jobs and need to better understand how the arts community impacts our overall economy and how to support them in the context of our total economy.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Hunt moved for the adoption of Resolution No. 15-210. This motion was seconded by Councilwoman Wisler and carried on a 6-1 vote, with Councilman Bothwell voting "no".

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B. MOUNTAIN HOUSING OPPORTUNITIES EAGLE MARKET PLACE REQUEST

Mr. Wyatt Stevens, attorney for Eagle-Market Place, LLC, gave a brief update on the background of this project and explained in detail why they are now requesting a way to move

forward without asking for additional City funds into the project. He said that in order to secure an additional bank loan to ensure completion of the Eagle-Market Place project, Eagle Market Place LLC requests the following modifications to the City loans: (1) Convert 24-30 of the 62 residential housing units to workforce housing units, affordable to households with incomes at 120% of Area Median Income; (2) Disburse the balance of the Urban Redevelopment Loan ($2,867,618) at 50% completion (release of funds will follow all inspections and approval of satisfactory percent of completion by the bank and the City of Asheville's appointed representative(s), as well as project architect and structural engineer. Inspections will certify proper structural design and construction as well as all other elements required to certify successful 50% completion.) (3) Of the $718,000 of committed Section 108 Funds, disburse $218,000 at or no later than 10 days past the new construction closing date, then $50,000 by July 26, 2016, and the balance of $450,000 when the certificate of occupancy is issued; and (4) Modify the interest rate on the Housing Trust Fund Loan from 2% to 0% effective immediately. City Council is requested to authorize City staff to review, revise, approve and sign specific agreements within these authorizations and previous authorizations of City Council. Updated pro formas, updated financial commitments and other due diligence will be provided to City staff for their review and approval prior to construction loan closing.

Councilman Bothwell asked if the Mountain Housing Opportunities (MHO) is successful in recovering more money through the mediation, would it be possible to return the 2% interest on the Housing Trust Fund loan rather than return the 24-30 units from workforce housing units to affordable housing units. Mr. Stevens said that they would be willing to consider that.

Community Development Director Jeff Staudinger responded to Councilwoman Wisler regarding the Section 108 funds. He said that those funds were already pledged to the project and the request is to change the disbursement schedule.

In response to Councilman Smith, Mr. Staudinger said that City Council has waived the interest rate in the Housing Trust Fund for projects that generally serve the lowest income households.

In response to Councilwoman Wisler, Mr. Stevens said that they will sign a change order with the general contractor that will be very specific and they have included $631,000 contingency. They sincerely hope that they never have to come back in front of Council to complete this project.

Mr. Scott Dedman, Executive Director of MHO, explained the broad range in the number of affordable units vs. the workforce units.

Executive Director of Planning & Multimodal Transportation Cathy Ball said that the City Attorney's Office and City Manager's Office has been working on a number of conditions for your consideration should Council choose to approve this modification. She read them as follows:

A. Prior to disbursement, the following must be approved:

1. Certification from project architect and engineer that the building is at "50% completion" as that term has been defined in EMP's 11-3-15 request to Council.

2. Copies of all inspection reports from City inspectors reflecting approval of all components of the completed project along with a statement from the City's Development Services Office that all work inspected by the project architect and structural engineer evidencing 50% completion have been inspected by the City and approved.

3. Certification from General Contractor and/or architect identifying any outstanding or anticipated change orders to complete the project.

4. Confirmation from all contractors (general contractor, architect, engineer) and lenders that all payments due to them at the time, in accordance with the terms of their contracts or loan agreements, are current.

B. Prior to Agreement by City:

5. Evidence that all financing commitments necessary to complete the project have been obtained.

6. EMP's attorney must review any and all contracts between EMP and any other entity regarding the project inclusive of the contract between EMP and the General Contractor, and all banking loans.

7. EMP's attorney must review all design and construction contracts relating to the Project and certify that there is insurance coverage consistent with industry standards.

8. EMP's attorney is to modify the HTF loan documents to represent a 0% interest rate vs. a 2% interest rate, such modification to be retroactive to April 2015 and modify the urban redevelopment loan to reflect the agreed upon changes.

9. The GC must continue to maintain the performance and payment bond currently in effect on the Project.

10. Commitment by EMP that any project cost overages shall be covered by additional non-city financing.

11. With the exception of annual application request for CDBG/Home/HTF monies, upon 50% completion and release of funding, neither MHO nor Eagle Market Street Development Corporation shall request any additional funding from the City for the Project.

12. EMP will use good faith efforts to ensure that HOME units are completed and leased no later than January 2017.

13. To the extent required, EMP will obtain approval from the Buncombe County Board of Commissioners to modify it's agreement with the County to allow for the 24-30 units to be converted to workforce units. EMP will obtain confirmation from the County that the County's funding commitment for the project is still in place.

Councilman Bothwell didn't see where we can afford not to finish this project at this point.

Mr. David Nutter, Board Secretary of Eagle Market Street Development Project, spoke in support of the request and thanked Council for preserving a living block with an African American presence.

Mr. Rich Lee felt that the highest priority in this project was affordable units and hoped that any additional funds received though mediation be used to return the workforce housing to affordable units.

Ms. Dee Williams urged Council to approve the loan modifications and requested space be reserved in the project for African American entrepreneurs.

Mr. Gene Ellison, attorney in Asheville, was grateful to the efforts of MHO to make this project work and thanked the City for standing behind them.

Mr. Gene Ellison, attorney in Asheville, was grateful to the efforts of MHO to make this project work and thanked the City for standing behind them.

Ms. Joslin Reece wondered if there is something else that can be done without reducing the number of affordable units.

Mr. Dedman explained that when they reformulated their financial plan, they started with the assumption was that they don't' come back to the City and ask for more funds. The mix of workforce and affordable housing is a healthy mix, noting that MHO has over 600 apartments in this community which are all deeply affordable. They have never done a mix, but we are willing to borrow approximately $3 Million of new funds to make the project work so we don't have to come back and ask the City for approximately $3 Million in new funds. The cash flow required to pay the monthly payments on the new debt will need the higher rents. If they receive funds from arbitration, and within bank underwriting requirements, they would be happy to repay some or all of the $16,000 a year in interest in Housing Trust Fund because that money would go toward other affordable units. They also will try to build back in affordability.

Councilman Smith said that the intentions of this project went beyond housing. There is 8,000 square feet of commercial space and as important - the preservation of the historic nature of the neighborhood.

Councilwoman Wisler said that she would like to see the Eagle Market Street project go forward. She applauded MHO for continuing to seek recovery of funds through mediation. She also understands that MHO and the general contractor have foregone fees in an attempt to keep this project going. However, she still has some major concerns. First, with funding at 50% level. The City has already contributed $2.7 Million to this project and additionally guaranteed federal grants of $440,000. These figures include the purchase of The Block property, consulting fees and monies that went directly to building the project. Now the City is being asked to fund $2.9 Million and forgive all interest payments. To pay these remaining monies before the project is 100% complete is highly risky. She noted that the County is paying all of its financial commitment only when the project is 100% complete. She understood that MHO has committed not to ask the City for more funds, but it's not clear to her that if the project needs more funds, where those would come from. At 50% completion levels, there will remain a lot of uncertainties. While the funding at 50% completion is risky. She is also uncomfortable with the reduction in affordable housing units. When the City first committed to this project, the cost of each of the 62 deeply affordable units was approximately $83,000 while the City normally spends less than $20,000 when we contribute to affordable units. Therefore, we were already spending quite a bit more per unit for the Eagle Market project. That commitment reflected how important and transformational this project is for the City and recognizes the difficulties with the soil conditions and preservation work. As Mr. Stevens pointed out, the original commitment of 62 affordable units was a significant issue in the original negotiations. Today, in order to get financing for this project with its substantially increased costs resulting from the construction problems, the project will reduce its deeply affordable housing units to between 30 and 38 units. With this change in the mix of affordable units, the City will be contributing between $135-175,000 per unit. That is 7 to 10 times our typical contribution per affordable housing unit. She was not sure this is the best use of taxpayers' money. And given that there is no guarantee that the project can be completed at the original total cost, the City may be asked to spend even more per unit, even though she realized they are committing not to. She would like the City to fulfill its original commitment under the original terms to the Eagle Market Street Project.

Councilman Bothwell moved to approve the loan modifications for Eagle Market Place, LLC, as requested with the conditions read by Ms. Ball outlined above. This motion was seconded by Vice-Mayor Hunt and carried on a 6-1 vote, with Councilwoman Wisler voting "no."

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Homeless Initiative Advisory Committee, the following individuals have applied for the vacancy: Eric McDaniel, Charlene Jones, Arthur Myers, Seth Connelly and Dale Davidson. It was the consensus of the Boards & Commissions Committee and City Council to re-advertise for a position and wait for a recommendation from the Homeless Initiative Advisory Committee of a City resident.

RESOLUTION NO. 15-211 - RESOLUTION APPOINTING MEMBERS TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the terms of Edward Hay and Robin Cape as members on the Alcoholic Beverage Control Board, expire on November 13, 2015.

No individual filed for the vacancies.

The Boards & Commission Committee recommended reappointing Edward Hay and Robin Cape.

Councilman Bothwell moved to reappoint Edward Hay and Robin Cape to each serve an additional three-year term respectively, terms to expire November 13, 2018, or until their successor have been appointed. This motion was seconded by Mayor Manheimer and carried unanimously.

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RESOLUTION NO. 15-212 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that Tracey Rizzo has resigned as a member of the Asheville-Buncombe Historic Resources Commission, thus leaving an unexpired term until July 1, 2018.

The following individuals have applied for the vacancy: Craig Cline, Guy Cothran, Leslie Klingner, and Helen Glenn Court.

The Boards & Commission Committee recommended appointing Leslie Klingner.

Councilman Pelly moved to appoint Leslie Klingner to serve as a member of the Asheville-Buncombe Historic Resources Commission to serve the unexpired term of Ms. Rizzo, term to expire July 1, 2018, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 15-213 - RESOLUTION APPOINTING A MEMBER TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Hunt, Chair of the Boards & Commissions Committee, said that the term of Steven Obremski, as an at-large member of the Multimodal Transportation Commission, has resigned, thus leaving an unexpired term until July 1, 2017.

The following individuals have applied for the vacancy: Mike Zukoski, Kelly Prime, Meredith Gregory, Eric Workman, Richard Rozzelle, Edward Keaton, Seth Connelly, Michael Speciale, Devin Clancy and Rich Lee.

The Boards & Commission Committee recommended appointing Rich Lee.

Mayor Manheimer moved to appoint Rich Lee to serve as an at-large member of the Multimodal Transportation Commission, to serve the unexpired term of Mr. Obremski, term to expire July 1, 2017, or until his successor has been appointed. This motion was seconded by Councilwoman Wisler and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

At the suggestion of Councilman Smith, it was the consensus of Council to review the downtown development review guidelines as outlined in the Downtown Master Plan referencing "After a pilot period, evaluate the success of these review process changes and amend them as appropriate prior to permanent adoption. A four-year pilot period is recommended to allow sufficient time for economic recovery and significant project proposals to occur, while keeping the timeframe finite." City Manager Jackson said that he will provide Council with a staff analysis, together with some suggested alternatives, for Council's review on December 8, 2015. It was also the consensus that the City Manager report to Council on the small business focus and how to address the national/international chains popping up in downtown.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:30 p.m.

Magdalen Bowleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – November 17, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Marc W. Hunt; Councilman Cecil Bothwell; Councilman Jan B. Davis; Councilman Christopher A. Pelly; Councilman Gordon D. Smith; Councilwoman Gwen C. Wisler; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer asked for a moment of silence for those affected by the terrorist attacks in Paris.

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RESOLUTION NO. 15-215 - RESOLUTION OF APPRECIATION FOR JAN B. DAVIS

Mayor Manheimer read the resolution.

Resolution No. 15-215 was adopted by acclamation.

Mayor Manheimer thanked Councilman Davis for his service to Asheville and presented him with an appreciation resolution, a plaque, his name plates, a City pen, and other mementos of his service to the City of Asheville.

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B. RESOLUTION NO. 15-216 - RESOLUTION OF APPRECIATION FOR MARC W. HUNT

Mayor Manheimer read the resolution.

Resolution No. 15-216 was adopted by acclamation.

Mayor Manheimer thanked Vice-Mayor Hunt for his service to Asheville and presented him with an appreciation resolution, a plaque, his name plate, a City pen, and other mementos of his service to the City of Asheville.

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C. RESOLUTION NO. 15-217 - RESOLUTION OF APPRECIATION FOR CHRISTOPHER A. PELLY

Mayor Manheimer read the resolution.

Resolution No. 15-217 was adopted by acclamation.

Mayor Manheimer thanked Councilman Davis for his service to Asheville and presented him with an appreciation resolution, a plaque, his name plates, a City pen, and other mementos of his service to the City of Asheville.

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II. CONSENT AGENDA:

At the request of Councilman Smith, Consent Agenda Item "J" was removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 10, 2015

B. RESOLUTION NO. 15-214 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH H&M CONSTRUCTORS FOR THE 200 BINGHAM ROAD UPFIT AND RENOVATION PROJECT

ORDINANCE NO. 4461 - BUDGET AMENDMENT FOR THE 200 BINGHAM ROAD UPFIT AND RENOVATION PROJECT

Summary: The consideration of the following items relative to the 200 Bingham Road Up-fit and Renovation Project ('Project'): (1) a resolution authorizing the City Manager to enter into a construction agreement with H&M Constructors for the bid amount of $2,658,417, with (a) an additional $43,890 for bid alternate #E-2 for installation of a security camera system; and (b) a contingency amount of $270,231 for a total project budget in the amount of $2,972,538; and (2) a budget amendment in the amount of $1,972,538.

On February 19, 2015, the Water Resources Department (WRD) purchased the property located at 200 Bingham Road to relocate its Water Maintenance and Meter Services Divisions and the Finance Department's Central Stores Division to the site. This Project consists of the construction and installation of all materials, labor, incidentals, and equipment necessary to: (1) remodel and renovate approximately 37,000 Square Feet of existing structure at 200 Bingham Road; (2) replace 35% of the existing roof; (3) install new HVAC systems; (4) install environmental mitigation systems; (5) construct a new covered stone shed; (6) install a new camera security system; and (7) relocate and replace the existing entrance gates.

In response to an Advertisement for Bids for the construction project on October 7, 2015, the WRD received four bids. Companies responding were:

1. American South General Contractors, Inc. – Asheville, NC
2. Cooper Construction Company, Inc. – Hendersonville, NC
3. H&M Constructors, a Division of MB Haynes Corporation – Asheville, NC
4. SIMCON Company, LLC – Mount Airy, NC

American South General Contractors, Inc., was identified as the initial apparent low bidder. On October 7, 2015, American South General Contractors, Inc., pursuant to G.S 143-129.1, requested to withdraw its bid due to a calculation error in the submitted bid. Following review of the request to withdraw the bid by City Staff and Project Architect, Clark Nexen, American South was notified that its bid withdraw would be allowed on October 14, 2015.

Following a review of the remaining three bids by City Staff and the Project Architects, Clark Nexen, the second lowest bidder, H&M Constructors was selected as the lowest responsible, responsive bidder for the bid amount of $2,658,417. It is recommended that alternate #E-2 for installation of a security camera system be included for the amount of $43,890.

A contingency amount of $270,231 has been added for a total project budget in the amount of $2,972,538.

Pros:

- This project will allow the WRD Divisions of Water Maintenance and Meter Services to relocate from the existing facility at 174 South Charlotte Street, which has existing building safety issues.
- This project will allow the Finance Department's Central Stores Division to relocate from the existing facility at 2 Hunt Hill Place to provide them with more adequate spacing needs.
- This project supports the City of Asheville's economic development goal to relocate and expand business.

Con:

- Failure to award a construction contract would prevent the completion of this project, which is required to relocate all divisions involved and could defer the option to market properties.

Approximately $1 million of the funding needed for the construction agreement is currently allocated within the 200 Bingham Road Up-fit and Renovation Project in the Water Resources Capital Improvement Projects fund. The remaining funds of $1,972,538 needed for the construction agreement will be transferred from the General Projects Capital Project, which accrues funds from completed, closed capital projects. In order to transfer the funds, a budget amendment is necessary.

Amount Available for Construction Agreement	$1,000,000
Additional Amount Needed	$1,972,538
Total Amount Needed for Construction Project Budget	$2,972,538

The transfer of $1,972,538 is necessary to compensate for a low budget estimate which was established upon preliminary evaluation of the renovation project. An amount of $1,100,000 was included in the Fiscal Year 2015/2016 capital budget to fund this project. While the estimate was meant to be comprehensive and reflect the entire cost of the renovation, several factors have contributed to the higher project costs. Changes which have impacted this estimate are detailed below:

- Addition of 6,500 SF of programmed space including (2) mud/locker rooms with associated showers, sinks and ceramic tile finishes; lab classroom, testing wet lab, storage room, conference room, exercise room, media room, inventory staff toilet rooms, backflow lab toilet rooms and (3) additional staff offices.
- Addition of 6,500 SF section of roof has also been identified as needing replacement after roof cores were evaluated by the design team.
- Site investigation revealed a need for a more extensive underground soil gas abatement which required a more elaborate gas extraction system.
- Miscellaneous site and building improvements also include fence relocation and new motorized gates, guard shed relocation, roof drain replacement and (1) additional roof-top unit replacement.

Water Resources staff have met with the contractor and the architect to investigate cost savings for the project, however, the changes to the project will need to be minor in order to avoid a significant change in the scope of the project. It is anticipated that the savings from these modifications will be less than $100,000.

City staff recommends City Council authorize the following relative to the 200 Bingham Road Up-fit and Renovation Project: (1) the City Manager to enter into a construction agreement with H&M Constructors for the bid amount of $2,658,417, with (a) an additional $43,890 for bid alternate #E-2 for installation of a security camera system; and (b) a contingency amount of

$270,231 for a total project budget in the amount of $2,972,538; and (2) a budget amendment in the amount of $1,972,538.

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C. ORDINANCE NO. 4462 - FIRST READING OF ORDINANCE GRANTING A FRANCHISE TO OPERATE A LOW SPEED VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise agreement for the operation of a low speed vehicle shuttle service within the City of Asheville.

City staff has been working with an individual that is interested in starting a low speed vehicle shuttle service within the City of Asheville under the business name of Land of Sky Shuttle. The service would operate in the downtown Central Business District (CBD) on city-maintained and state-maintained streets that have a posted speed limit less than 35 mph.

By definition (NCGS # 20-4.01(27)h), a low speed vehicle is a four-wheeled electric vehicle whose top speed is greater than 20 mph but less than 25 mph. It is not a golf cart! The vehicle(s) must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. In addition, the vehicle(s) must be insured, registered and licensed in North Carolina.

The shuttle service will operate between the hours of 9:00 am and 3:00 am Monday through Friday and between the hours of 7:00 am and 3:00 am on Saturday and Sunday. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. The shuttle service will provide alternative transportation services to and from the various downtown hotels to various points of interest in the downtown central business district in an effort to minimize traffic congestion and the need for parking.

The individual has worked closely with the Transportation Department, the Legal Department, and the Asheville Police Department and at this time, all concerns have been addressed. The individual is very committed for the shuttle service to be successful and he intends to work closely with staff to make any necessary tweaks if needed.

This item has been reviewed by the Council's Public Safety Committee and it received the Committee's endorsement on October 26, 2015.

Pros:

- Supports diversified job growth and business development.
- Minimizes vehicular traffic congestion and the need for parking.
- Enhances the visitor experience to downtown Asheville.
- No direct fiscal impact to the City.

Con:

- Could impact vehicular traffic flow.

There is no known fiscal impact for the subject franchise agreement.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Land of Sky Shuttle for the operation of a low speed vehicle shuttle service within the City of Asheville.

Councilman Bothwell felt that this kind of shuttle vehicle has the potential to reduce parking downtown.

In response to Councilman Pelly, Mr. Putnam said that there is only one vehicle at this time that will probably carry 4-6 people.

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D. ORDINANCE NO. 4463 - BUDGET AMENDMENT FOR THE FISCAL YEAR 2015-16 SENIOR CENTER GENERAL PURPOSE FUNDING FOR THE SENIOR OPPORTUNITY CENTER AND HARVEST HOUSE

Summary: The consideration of a budget amendment in the amount of $3,800 for Senior Opportunity Center and $3,800 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to 1) Purchase program supplies and equipment for new classes, and 2) purchase furniture for main lobby area. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to purchase supplies and furniture for classrooms. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Pro:

- Equipment purchases will enhance the customer experience and expand programming opportunities provided

Con:

- None

The allocation will increase the City's General Fund budget by $7,600 in special project accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council approval of the budget amendment authorizing the City Manager to establish a budget in the amount of 1) $3,800 for Senior Opportunity Center, and 2) $3,800 for Harvest House for facility improvements and equipment.

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E. 2015 NEIGHBORHOOD ENHANCEMENT ENGINEERING DESIGN SERVICES

RESOLUTION NO. 15-218 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH MCGILL ASSOCIATES, FOR THE 2015 NEIGHBORHOOD ENHANCEMENT AREA 1 PROJECT

ORDINANCE NO. 4464 - BUDGET AMENDMENT FOR THE 2015 NEIGHBORHOOD ENHANCEMENT AREA 1 PROJECT

Summary: The consideration of the following items relative to the 2015 Neighborhood Enhancement Area 1 Project ('Project'): (1) a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with McGill Associates, PA, for the

not-to-exceed amount of $698,780; and (2) a budget amendment in the amount of $2,674,500 to combine four capital projects into one in order to save time and money in the bidding and contract administration process.

The Water Resources Department (WRD) has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance for this project. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville (City) standards. Area 1 projects include approximately 29,220 Linear Feet of predominately 6-inch, 8-inch and 12-inch water main and appurtenances along various streets within the Enka Lake Road, Lindsey Road, Starnes Cove Road, and Emma Road communities.

Through a Request for Qualifications (RFQ) process for engineering services, the City selected four engineering firms to provide on-call professional services for Water Distribution and Storage Projects. As one of the selected firms, the City executed a Master Agreement for On-Call Professional Services for Water Distribution and Storage Projects with McGill Associates, PA, on April 28, 2015. The Master Service Agreement process was conducted to prequalify firms for future projects. Future projects are to be awarded to selected firms through Supplemental Agreement to the executed Master Agreement. No work was awarded to any firm as part of the Master Service Agreement.

If approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement. Water Resources staff met with McGill Associates, PA, and negotiated an engineering services agreement for the not-to-exceed amount of $698,780.

Pros:

- McGill Associates, PA, has provided engineering services on City water system improvement projects. Their experience and knowledge of water systems will minimize staff support and input during the design process.
- This project will provide citizens with a more reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services agreement would prevent the WRD from completing this Neighborhood Enhancement Project in a timely manner and delay replacement of the aging existing water system.

This project will include several locations in order to save time and money when bidding the construction portion of the project. The budget amendment will combine four existing capital projects, which will fund the entire amount needed for the engineering agreement and a majority of the estimated amount for the construction portion of the project.

Lindsey Road Current Budget	$ 140,000	
Starnes Cove Road Current Budget		$ 242,000
Enka Lake Road Current Budget		$ 172,500
Gormon Bridge Road Current Budget	$2,260,000	
Subtotal		$2,814,500
Amount Needed For Engineer	($ 698,780)	
Amount Remaining for Construction		$2,115,720

All of the projects shown above were listed separately in the City's CIP budget. The projects are being consolidated so that they are efficiently and cost effectively designed and constructed. The budget amendment associated with this report consolidates the project under one project budget. Additional funds have been submitted on the Water Resources FY 16/17 CIP for the construction portion of the project.

City staff recommends City Council authorize the following relative to the 2015 Neighborhood Enhancement Area 1 Project: (1) the City Manager to execute a Professional Engineering Services Supplemental Agreement with McGill Associates, PA, for the not-to-exceed amount of $698,780; and (2) a budget amendment in the amount of $2,674,500 to combine four capital projects into one in order to save time and money in the bidding and contract administration process.

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RESOLUTION NO. 15-219- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH W.K. DICKSON & CO., FOR THE NEIGHBORHOOD ENHANCEMENT AREA 2 PROJECT

ORDINANCE NO. 4465 - BUDGET AMENDMENT FOR THE 2015 NEIGHBORHOOD ENHANCEMENT AREA 2 PROJECT

Summary: The consideration of the following items relative to the 2015 Neighborhood Enhancement Area 2 Project ('Project'): (1) a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with W.K. Dickson & Co., Inc., for the not-to-exceed amount of $567,100; and (2) a budget amendment in the amount of $1,650,000 to combine two capital projects into one in order to save time and money in the bidding and contract administration process.

The Water Resources Department (WRD) has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance for this project. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville standards. Area 2 project includes approximately 12,900 Linear Feet of predominately 6-inch water line and appurtenances along various streets within the Tiny Farms Subdivision and approximately 13,800 LF of predominately 6-inch water line and appurtenances along various streets within the Mount Carmel Acres Subdivision.

Through a Request for Qualifications (RFQ) process for engineering services, the City of Asheville (City) selected four engineering firms to provide on-call professional services for Water Distribution and Storage Projects. As one of the selected on-call firms, a Master Agreement for On-Call Professional Services for Water Distribution and Storage Projects was executed with W. K. Dickson& Co., Inc. on May 11, 2015. The Master Service Agreement process was conducted to prequalify firms for future projects. Future projects are to be awarded to selected firms through Supplemental Agreement to the executed Master Agreement. No work was awarded to any firm as part of the Master Service Agreement.

If approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement Water Resources staff met with W.K. Dickson & Co., Inc., and negotiated an engineering services agreement for the not-to-exceed amount of $567,100.

Pros:

- W.K. Dickson & Co., Inc., has provided engineering services on City water system improvement projects. Their experience and knowledge of water systems will minimize staff support and input during the design process.
- This project will provide citizens with a more reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services agreement would prevent the WRD from completing this Neighborhood Enhancement Project in a timely manner and delay replacement of the aging existing water system.

This project will include two large subdivisions in order to save time and money when bidding the construction portion of the project. The budget amendment will combine two existing capital projects, which will fund the entire amount needed for the engineering agreement and a majority of the estimated amount for the construction portion of the project.

Tiny Farms Current Budget	$ 750,000
Mount Carmel Current Budget	$1,650,000
Subtotal	$2,400,000
Amount Needed For Engineer	($ 567,100)
Amount Remaining for Construction	$1,832,900

All of the projects shown above were listed separately in the City's CIP budget. The projects are being consolidated so that they are efficiently and cost effectively designed and constructed. The budget amendment associated with this report consolidates these projects under one project budget. Additional funds have been submitted on the Water Resources FY 16/17 CIP for the construction portion of the project.

City staff recommends City Council authorize the following relative to the 2015 Neighborhood Enhancement Area 2 Project: (1) the City Manager to execute a Professional Engineering Services Supplemental Agreement with W.K. Dickson & Co., Inc., for the not-to-exceed amount of $567,100; and (2) a budget amendment in the amount of $1,650,000 to combine two capital projects into one in order to save time and money in the bidding and contract administration process.

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RESOLUTION NO. 15-220 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH CDM SMITH, INC. FOR THE NEIGHBORHOOD ENHANCEMENT AREA 3 PROJECT

ORDINANCE NO. 4466 - BUDGET AMENDMENT FOR THE 2015 NEIGHBORHOOD ENHANCEMENT AREA 3 PROJECT

Summary: The consideration of the following items relative to the 2015 Neighborhood Enhancement Area 3 Project ('Project'): (1) a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with CDM Smith, Inc., for the not-to-exceed amount of $672,572; and (2) a budget amendment in the amount of $792,500 to combine three capital projects into one in order to save time and money in the bidding and contract administration process.

The Water Resources Department (WRD) has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance for this project. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville (City) standards. Area 3 project includes approximately 26,500 Linear Feet of predominately 6-inch water main and appurtenances along various streets within the Kenilworth

and Malvern Hills neighborhoods. Additionally, the project will include approximately 1,000 LF of new 30-inch water main along Tunnel Rd near the Kenilworth neighborhood.

Through a Request for Qualifications (RFQ) process for engineering services, the City selected four engineering firms to provide on-call professional services for Water Distribution and Storage Projects. As one of the selected firms, a Master Agreement for On-Call Professional Services for Water Distribution and Storage Projects was executed with CDM Smith, Inc., on May 27, 2015. The Master Service Agreement process was conducted to prequalify firms for future projects. Future projects are to be awarded to selected firms through Supplemental Agreement to the executed Master Agreement. No work was awarded to any firm as part of the Master Service Agreement.

If approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement. Water Resources staff met with CDM Smith, Inc., and negotiated an engineering services agreement for the not-to-exceed amount of $672,572.

Pros:

- CDM Smith, Inc., has provided engineering services on City water system improvement projects. Their experience and knowledge of water systems will minimize staff support and input during the design process.
- This project will provide citizens with a more reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services agreement would prevent the WRD from completing this Neighborhood Enhancement Project in a timely manner and delay replacement of the aging existing water system.

This project will include several locations in order to save time and money when bidding the construction portion of the project. The budget amendment will combine three existing capital projects, which will fund the entire amount needed for the engineering agreement and part of the estimated amount for the construction portion of the project.

Kenilworth Road Current Budget	$ 542,000
Malvern Hills Current Budget	$ 650,000
Beaucatcher Road Current Budget	$ 142,500
Subtotal	$1,334,500
Amount Needed For Engineer	($ 672,572)
Amount Remaining for Construction	$ 661,928

All of the projects shown above were listed separately in the City's CIP budget. The projects are being consolidated so that they are efficiently and cost effectively designed and constructed. The budget amendment associated with this report consolidates these projects under one project budget. Additional funds have been submitted on the Water Resources FY 16/17 and FY 17/18 CIP for the construction portion of the project. Water Resource engineering staff estimate that the total construction cost of this project will be $ 3,376,425.

City staff recommends City Council authorize the following relative to the 2015 Neighborhood Enhancement Area 3 Project: (1) the City Manager to execute a Professional Engineering Services Supplemental Agreement with CDM Smith, Inc., for the not-to-exceed amount of $672,572; and (2) a budget amendment in the amount of $792,500 to combine three capital projects into one in order to save time and money in the bidding and contract administration process.

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RESOLUTION NO. 15-221- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH KIMLEY-HORN & ASSOCIATES FOR THE NEIGHBORHOOD ENHANCEMENT AREA 4 PROJECT

ORDINANCE NO. 4467 - BUDGET AMENDMENT FOR THE 2015 NEIGHBORHOOD ENHANCEMENT AREA 4 PROJECT

Summary: The consideration of the following items relative to the 2015 Neighborhood Enhancement Area 4 Project ('Project'): (1) a resolution authorizing the City Manager to execute a Professional Engineering Services Supplemental Agreement with Kimley-Horn & Associates for the not-to-exceed amount of $581,900; and (2) a budget amendment in the amount of $2,521,000 to combine eight capital projects into one in order to save time and money in the bidding and contract administration process.

The Water Resources Department (WRD) has prioritized this Neighborhood Waterline Replacement Project for the current fiscal year and is seeking engineering design and project management assistance for this project. This project will replace existing substandard and failing waterlines in favor of new waterlines, designed and constructed in accordance with the City of Asheville standards. Area 4 project includes approximately 25,600 Linear Feet of predominately 6-inch and 8- inch water main and appurtenances within various neighborhoods along Warren Wilson Road, Dogwood Court, Piney Mountain Road, Conestee Street, Waynesville Avenue, Willis Way Alley, North Street, and Hanover Street.

Through a Request for Qualifications (RFQ) process for engineering services, the City of Asheville (City) selected four engineering firms to provide on-call professional services for Water Distribution and Storage Projects. As one of the selected on-call firms, a Master Agreement for On-Call Professional Services for Water Distribution and Storage Projects was executed with Kimley-Horn & Associates on May 11, 2015. The Master Service Agreement process was conducted to prequalify firms for future projects. Future projects are to be awarded to selected firms through Supplemental Agreement to the executed Master Agreement. No work was awarded to any firm as part of the Master Service Agreement.

If approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement. Water Resources staff met with Kimley-Horn & Associates and negotiated an engineering services agreement for the not-to-exceed amount of $581,900.

Pros:

- Kimley-Horn & Associates has provided engineering services on City water system improvement projects. Their experience and knowledge of water systems will minimize staff support and input during the design process.
- This project will provide citizens with a more reliable drinking water source and much improved fire protection.

Con:

- Failure to award an engineering services agreement would prevent the WRD from completing this Neighborhood Enhancement Project in a timely manner and delay replacement of the aging existing water system.

This project will include several locations in order to save time and money when bidding the construction portion of the project. The budget amendment will combine eight existing capital

projects, which will fund the entire amount needed for the engineering agreement and is also expected to fund the estimated amount for the construction portion of the project.

Conestee Street Current Budget	$ 121,000
Waynesville Avenue Current Budget	$ 536,000
Hanover Street Current Budget	$ 625,000
North Street Current Budget	$ 360,000
Willis Way Current Budget	$ 150,000
College Street Current Budget	$1,000,000
Dogwood Court (East) Current Budget	$ 105,000
Piney Mountain Church Road Current Budget	$ 160,000
Subtotal	$3,057,000
Amount Needed For Engineer	($ 581,900)
Amount Remaining for Construction	$2,475,100

All of the projects shown above were listed separately in the City's CIP budget. The projects are being consolidated so that they are efficiently and cost effectively designed and constructed. The budget amendment associated with this report consolidates these projects under one project budget.

City staff recommends City Council authorize the following relative to the 2015 Neighborhood Enhancement Area 4 Project: (1) the City Manager to execute a Professional Engineering Services Supplemental Agreement with Kimley-Horn & Associates for the not-to-exceed amount of $581,900; and (2) a budget amendment in the amount of $2,521,000 to combine eight capital projects into one in order to save time and money in the bidding and contract administration process.

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F. RESOLUTION NO. 15-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER TO INCREASE THE ENGINEERING DESIGN SERVICES CONTRACT FO SCHNABEL ENGINEERING SOUTH, PC. FOR THE NORTH FORK DAM INTAKE TOWER AND CONDUIT REPAIRS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order in the amount of $175,000 to increase the engineering design services contract for Schnabel Engineering South, PC, (Schnabel) from a total in the amount of $302,400 to $477,400 for the North Fork Dam Intake Tower and Conduit Repairs Project (North Fork Dam Project).

On August 26, 2014, City Council (Council) authorized the City Manager to execute a professional engineering services agreement with Schnabel, for the proposed amount of $302,400 for bidding and construction oversight services for the North Fork Dam Project. The original contract included one bidding phase and a construction period lasting 150 calendar days from notice-to-proceed to substantial completion. Schnabel is requesting a time extension and increase in the contract amount for construction oversight services associated with the rehabilitation of the interior of the intake tower, concrete infilling of the outlet works conduit, and repairs to the tower bridge.

Schnabel was contracted to perform services for one bidding process. The project had to be bid three times before it was successfully awarded. The first bid only had one bidder and the second bid was contested by Haren Construction (Haren). As a result of this protest, the City decided to re-bid a third time rather than encounter potential legal challenges and schedule delays. Haren was awarded the contract as the successful low bidder on the third bid.

Based on requests from bidders, the construction contract time was extended by a total of 50 calendar days which requires Schnabel to reciprocate by also extending its contract time. Also, Schnabel anticipates that the project will not be completed until almost three months after Haren's current schedule. In order to continue its construction services to complete the construction oversight of Haren's work, a change order is needed to increase the contract amount by an additional $175,000.

Pro:

- Approval of the change order will allow the city to complete the engineering services for the project.

Con:

- If the change order is not approved, construction administration services will need to be performed through other means. This would require a contract with another consulting firm or internal performance of these services which are outside of the City scope of knowledge.

The funding needed for this change order is currently allocated within the North Fork Dam Project in the Water Resources Capital Improvement Projects (CIP) Fund.

Staff recommends Council adopt a resolution authorizing the City Manager to execute a change order in the amount of $175,000 to increase the engineering design services contract for Schnabel Engineering South, PC, from a total in the amount of $302,400 to $477,400 for the North Fork Dam Intake Tower and Conduit Repairs Project.

RESOLUTION BOOK NO. 37 - PAGE 334

G. ORDINANCE NO. 4468 - BUDGET AMENDMENT TO ALLOCATE COLLECTED AND ANTICIPATED REVENUE TO TOWER MAINTENANCE CAPITAL PROJECT

Summary: The consideration of a budget amendment in the amount of $167,000 to allocate collected and anticipated Fiscal Year 2015/2016 revenue from tenant leases to continue to fund the Tower Maintenance Capital Project.

This Towner Maintenance Capital Project, established in 2008 underwrite a cost savings plan for the City's own telecommunication operations, is funded by revenue from a limited number of telecommunication tower leases. This budget adjustment will continue to allocate that revenue as well as the anticipated revenue for Fiscal Year 2015/16 to the capital project.

These funds will be used to perform continuing maintenance on City-owned telecommunications towers as well as to fund a needed lifecycle tower replacement.

Pros:

- Continues specific revenue stream to support telecommunications tower maintenance.
- Reduces the impact on the city's general fund.
- Helps support public safety communications operations.

Con:

- None noted

Continuing to allocate these funds allows staff to better provide the necessary infrastructure to maintain and improve the City's public safety radio system. There is no impact to the General Fund budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment in the amount of $167,000 to continue to allocate revenue to the Tower Maintenance Capital Project.

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H. ORDINANCE NO. 4469 - BUDGET AMENDMENT TO ALLOCATE FUNDING TO THE DEVELOPMENT SERVICES TECHNOLOGY CAPITAL PROJECT

Summary: The consideration of a budget amendment in the amount of $320,000 to allocate funding to the Development Services Technology capital project.

Through fees associated with the development review process, the City receives Capital Improvement Program (CIP) funding for technology improvements that serve Development Services.

Examples of those improvements include:

- Fund ongoing software maintenance
- Replace/upgrade staff computers
- Electronic Plans review software and services
- Consulting services to further enhance the Accela software.
- Upgrade connection speed to City Hall
- Procure dedicated hardware to run Accela to increase performance.
- Document Management integration

This budget amendment will appropriate $320,000 in revenue that has already been collected and allocate it to the Development Services Technology capital project.

Pros:

- User fees are dedicated to funding technology improvements that will benefit them.
- Reduces demand on city's general fund.

Con:

- None noted

Allocating these funds allows us to made needed technology upgrades to the Development Services Function. There is no impact to the General Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to adopt a budget amendment in the amount of $320,000 to allocated collected revenue to the Development Services Technology capital project.

ORDINANCE BOOK NO. 30 - PAGE 191

I. RESOLUTION NO. 15-223 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO CONSTRUCT SIDEWALK ALONG NEW LEICESTER HIGHWAY FROM PATTON AVENUE TO THE CITY LIMITS

Summary: The consideration of a resolution authorizing the City Manager to sign and execute a locally administered project agreement with the N.C. Dept. of Transportation (NCDOT) for a project (identified as U-5190) to construct a sidewalk along US 63 (New Leicester Highway) from Patton Avenue to the city limits of Asheville.

This agreement will allow for the construction of sidewalk alongside New Leicester Highway. Currently, very little sidewalk exists on this road. The need for a sidewalk on this road is demonstrated by the "goat paths" that can be found on the shoulders of the road. Also, existing ART bus stops are not currently served by sidewalk.

Pros:

- Will lead to the installation of a badly needed sidewalk on New Leicester Highway.
- Will provide sidewalk access to existing ART bus stops.

Con:

- Project management and contract administration will consume staff time.

The City will be required to provide the non-federal match of up to $726,000 and cover all costs that exceed the total estimated cost. This project is already budgeted in the adopted Capital Improvement Program.

City staff recommends City Council adopt the attached resolution authorizing the City Manager to sign and execute a locally administered project agreement with the NCDOT to construct a sidewalk along US 63 (New Leicester Highway) from Patton Avenue to the city limits of Asheville.

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J. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION WITH FIRST TRANSIT FOR THE OPERATION OF THE ASHEVILLE TRANSIT SYSTEM

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Item J. This motion was seconded by Councilman Bothwell and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 15-224 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EXTENSION WITH FIRST TRANSIT FOR THE OPERATION OF THE ASHEVILLE TRANSIT SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to extend the mass transit management agreement with First Transit, Inc. (First Transit) until June 30, 2016, to continue managing the daily operation of Asheville Redefines Transit (ART) System.

First Transit has managed the transit system since July 1, 2008, through two separate management agreements, the first one from July 1, 2008 to December 31, 2011, and the second one from January 1, 2012, to date. The current contract with First Transit expires on December 31, 2015, and the City decided not to exercise the option to renew the agreement but requested

an extension until June 30, 2016, so that First Transit could negotiate the collective bargaining agreement which expires on January 31, 2016.

At the same time, the City will seek proposals from transit management providers to operate the City's transit system. The extension will allow staff to go through the procurement process and have a new contract in place once the collective bargaining agreement has been negotiated by the beginning of Fiscal Year 2017.

During this period First Transit will continue furnishing all management and supervisory services required and necessary for the efficient and economical operation of transit services under the policies, standards and procedures established by the City of Asheville until a new contract is in place, by July 1, 2016.

The Transit Committee reviewed this item but did not have quorum to vote at the time it was brought to them. The Multimodal Transportation Commission voted to exercise the option to renew for one more year and to have a new contract by January 1st, 2017.

Pros:

- The transit system will continue to operate in a safe and efficient manner.
- First Transit will negotiate a new collective bargaining agreement.

Con:

- Total cost of $141,552.54 ($23,592.09/month) as established in the compensation schedule for year 5 of the contract and agreed with First Transit.

The total project cost until June 30, 2016 is $141,552.54. These funds are budgeted in the current Fiscal Year in the Transit Services Fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to extend the mass transit management agreement with First Transit until June 30, 2016, to continue managing the operation of the City of Asheville Transit System and to negotiate a new collective bargaining agreement.

Ms. Sabrah n'haRaven, Ms. Diane Allen and a bus driver felt that a 6-month extension is too long as there are serious safety concerns now regarding the operation of the system.

In response to Councilman Bothwell, Mr. Putnam explained the reason for the 6-month extension and the Request for Proposals process. Primarily, staff wants to make sure that we have enough time to solicit all available contractor that want to be involved and vet the project as thoroughly as we can.

Councilman Smith hoped that staff will try to shorten the 6-month extension if possible.

In response to Councilman Bothwell, Mr. Putnam said that staff will re-double their efforts to insist on performance under the contract.

Councilman Smith moved for the adoption of Resolution No. 15-224. This motion was seconded by Vice-Mayor Hunt and carried unanimously.

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III. PRESENTATIONS & REPORTS: None.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Mayor Manheimer said that she has received a letter from Mr. Robert Sipes, General Manager of the Western Zone of Duke Energy, which stated in part that "At your request to keep looking for another location for the substation along Hill Street, next to the Isaac Dickson Elementary School, the company will agree to hold off submitting permits for these three substations until Jan. 2017. With this delay, we respectfully request that you wait and consider the ordinance after we can work with city leadership to attempt to locate another suitable site."

Councilman Davis moved to continue this public hearing until August 23, 2016. This motion was seconded by Councilman Pelly and carried unanimously.

B. PUBLIC HEARING CONSIDER AMENDING SECTIONS 7-2-5, 7-8-1, 7-16-1(C)(9) AND 7-18-2(B) OF THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE DEFINITION OF "HOMESTAY" AND THE DISTRICTS IN WHICH HOMESTAYS ARE PERMITTED IN THE TABLE OF PERMITTED USES; THE STANDARDS REQUIRED FOR HOMESTAYS WHICH ARE DESIGNATED AS A USE BY RIGHT SUBJECT TO SPECIAL STANDARDS

ORDINANCE NO. 4470 - ORDINANCE AMENDING SECTIONS 7-2-5, 7-8-1, 7-16-1(C)(9) AND 7-18-2(B) OF THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO THE DEFINITION OF "HOMESTAY" AND THE DISTRICTS IN WHICH HOMESTAYS ARE PERMITTED IN THE TABLE OF PERMITTED USES; THE STANDARDS REQUIRED FOR HOMESTAYS WHICH ARE DESIGNATED AS A USE BY RIGHT SUBJECT TO SPECIAL STANDARDS

Mayor Manheimer said that this is a continuation of the August 25, 2015, public hearing. A homestay is where you rent out some portion of your home for a short period of time. Homestays have been legal in Asheville since 2006. The short term rental issue is not before City Council at this time. A short term rental is the renting of a stand alone home for overnight stays less than 30 days and those have been illegal in residential districts for many years. She reiterated that the City of Asheville does not receive the room tax and City doesn't get any more sales tax.

Principal Planner Shannon Tuch said that this public hearing was held on August 25, 2015, at which time Council deferred consideration. On September 8, 2015, City Council referred the amendment to the City Council Planning & Economic Development Committee.

Ms. Tuch said that the City of Asheville has been engaged in a long and public conversation over the proliferation of short term rentals in the city's jurisdiction over the last two years. Most recently, the Asheville City Council reviewed an ordinance amending standards for *Homestays* on August 25, 2015. Significant public comment, both for and against, homestay operations was received at the hearing and Council delayed the vote to allow for additional research and input before a final decision is made. Specific concerns voiced by the Council during the public hearing included:

(1) Ensuring that homestay operations preserve the health and safety of both residents and visitors;
(2) Protecting the community's general welfare by preserving much needed housing and promoting housing security; and
(3) Minimizing impacts on the residential neighborhoods by integrating these non-residential uses in a manner that would preserve the harmony and character of the neighborhoods within which the homestay operations were located.

In discussing these concerns, several specific points related to the regulation of homestays were identified and Council directed staff to explore these points further with the Planning & Economic Development Committee. As a result of this research, analysis and committee discussion, staff is proposing a revised Ordinance for the Council's consideration. Also represented in the revised Ordinance is a recommendation to add language that would allow non-conforming properties that were legally established (but which subsequently became non-conforming due to changes to the UDO) to be eligible to apply for a homestay application, unlike other Uses-by-right, Subject-to-Special-Requirements (USSR's). While this is currently the standard and was not originally included in the changes, it is now better understood that without this addition as much as 30% of all residential properties would be ineligible for a homestay application. This is contrary to the goal of expanding the economic opportunity to more citizens in a way that could also improve housing security. No other USSR is thought to achieve the same opportunity nor are they controlled and regulated to the same extent that mitigates potential nuisance, harmony or welfare concerns.

This proposal is consistent with goals outlined n the Comprehensive Plan and City Council Strategic Plan, and because allowing and regulating homestays is a reasonable response to a social and economic phenomenon that effectively seeks to balance a variety of city adopted goals, staff recommends approval of the revised wording amendment modifying the city's *Homestay* standards.

There was considerable discussion amongst the Council while Ms. Tuch reviewed a comparison table of what the standard is, the current UDO requirement, the Planning & Zoning Commission recommendation, and alternative standards.

Mayor Manheimer opened the public hearing at 6:31 p.m.

Leaving out comments regarding short term rentals, the following individuals expressed concern about the proposed homestay regulations as follows: homestays should be self-regulated; don't require off-street parking for a homestay; allow accessory structures or accessory dwelling units to be used for any part of the homestay operation; there is no criteria for inspections and they place an unnecessary burden on City staff; request to postpone action until the new seated City Council takes office; free issuance of violations; allow non-conforming properties to be eligible for a homestay permit; and this ordinance is being amended based on only a few complaints received:

Lisa Shoemaker, representative of the Asheville Home Sharing Network
Jackson Tierney, resident on Magnolia Avenue
Kama Ward
John Farquhar
Helen Powell-Busch, Five Points neighborhood resident
Rita Hayes
A resident
Tom Gallo
A north Asheville resident
Eric Shank
Lonnie Blakeslee
Patrick Lockett
Charlie Soderquist
Matt Levitt
Laurie Fisher

The following individuals spoke in support of the proposed ordinance for several reasons, some being, but are not limited to: need actual proof of residency; there should be no commercial lodging in neighborhoods; suggest a cap on the number of homestays per

neighborhood; potential loss of housing units; neighbors don't want to live adjacent to non-transient tourists; and suggest a 500 foot separation requirement for each homestay:

Stuart Alford
Jane Mathews
David Rodgers

Mayor Manheimer closed the public hearing at 7:36 p.m.

Mayor Manheimer explained that in order for City Council to consider allowing accessory structures or accessory dwelling units to be used for any part of the homestay operation would require an ordinance amendment which would need to be reviewed by the Planning & Zoning Commission. Personally, she felt we need to look at expanding the definition of homestay to include accessory dwelling units.

The majority of the discussion surrounded (1) the 25% maximum floor area dedicated to homestay standard vs. the number of bedrooms allowed; (2) number of documents required to establish proof of residency from the full-time resident of the property; (3) off-street parking not being required for a homestay; (4) non-conforming properties being eligible for a homestay permit; (5) allowing concurrent home occupations (which home occupation is defined in the UDO) in a residence with an active homestay use; (6) the process a person would have to go through to get a permit for a homestay; (7) one homestay permit for person; and (8) the insurance requirement.

After hearing that there is only a very small percentage of complaints regarding homestays, Councilman Bothwell questioned how much does City Council want to regulate something that hasn't been causing a problem.

Mayor Manheimer was concerned about the integrity of the neighborhood - balancing what makes Asheville special, but allowing people to make their living experience more affordable. She hoped by expanding homestay usage to be as user friendly as possible, while still prohibiting whole house short-term rentals, we will try to find that balance.

Councilman Bothwell supported striking the 25% maximum floor area dedicated to homestay and instead allow up to three bedrooms; and strike the off-street parking requirement.

Councilwoman Wisler suggested not counting the number of bedrooms, but rather limit a total percent to the house - maybe 40%.

Councilman Smith felt that this issue is property rights vs. residential zoning and individual need vs. community needs. It's important that Council try to strike a balance. Our existing ordinance is too restrictive. What Council is considering is creating a fundamental change in our neighborhoods. He supported striking the 25% maximum floor area dedicated to homestay and instead allow up to two bedrooms. He did note that the Affordable Housing Advisory Committee does advise against short term rentals and accessory dwelling units but supports the homestay use. We do need to strike a balance and allow owners seeking to make it affordable for them to have that opportunity.

Councilman Pelly and Councilman Davis felt that home occupations should be permitted concurrently in a residence with an active homestay use. He felt the standard is too vague right now and there are many people who work at home that have a very low impact on the community.

Vice-Mayor Hunt felt the big question is whether we want to allow commercial enterprises into residential neighborhoods. He felt we need to be careful in crafting standards that would allow de facto short term rentals to occur under our ordinance. He didn't believe our inability to

limit multiple property ownership by one financial interest. The integrity of community life in our neighborhoods is important. He could not support ordinance changes that do not include either a two bedroom maximum, and either a 500 foot separation or a maximum of 100 nights per year. He felt if we go beyond that level we are inviting the cleaver investors to come in and start taking up housing stock and hollowing out our neighborhoods.

Councilman Bothwell noted the demand for this is not infinite. He felt we need to move forward with this amendment because of the enforcement piece, or if this is postponed, he would want to see a stay on all enforcement.

With all the discussion on these standards, Councilman Smith suggested Council move forward with as close to consensus on the standards as they can, with a provision that certain provisions be reviewed in 4, 8 and 12 months. During these reviews, Council will be looking for the number of complaints received, number of permits issued, and then staff concerns that have arisen since adoption.

In response to Councilman Davis, Ms. Tuch said that if nuisance complaints are filed, the City has the option to withdraw their homestay permit.

Councilwoman Wisler wanted the public to be aware that this ordinance may change after hearing the staff updates.

Councilman Smith moved to amend the definition of homestay as follows: "Homestay means a private, resident occupied dwelling, with up to two guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. A homestay is considered a 'Lodging' use under this UDO.", and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans by expanding an existing economic opportunity to more residents of Asheville. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Smith moved to approve the Planning & Zoning Commission recommendations with the following amendments: (1) subsection (c) be amended that two or more documents establishing residency shall be supplied from an approved list of documents and language defining "present and residing,"; (2) subsection (d) be stricken entirely to delete the 25% maximum floor area dedicated to homestay; (3) no change to subsection (f) as the current ordinance states that no additional off-street parking is required for a homestay; (4) delete reference to accessory structures or accessory dwelling units; (5) addition to restrict one permit per parcel/lot; (6) subsection (j) be stricken to delete the provision that home occupations shall not be permitted concurrently in a residence with an active homestay use; (7) addition to restrict one permit per owner; (8) addition to that non-conforming properties be eligible for a permit; and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans by expanding an existing economic opportunity to more residents of Asheville. This motion was seconded by Councilman Bothwell.

When Vice-Mayor Hunt clarified that there must be a full-time resident of the property must be present and residing in the home when lodgers are present, he stated that he could not support the motion.

The motion made by Councilman Smith and seconded by Councilman Bothwell regarding amendments to the current ordinance carried on a 6-1 vote, with Vice-Mayor Hunt voting "no."

Councilman Smith moved to receive a staff report on the ordinance in 4, 8 and 12 months as it relates to number of permits issued, complaints received and other staff concerns that have arisen over the course of the process. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Smith moved to approve the Table of Permitted Uses with respect to the homestay use and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans by expanding an existing economic opportunity to more residents of Asheville. This motion was seconded by Councilman Bothwell and carried unanimously.

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V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS:

A. MOTION TO APPROVE AN ADDITIONAL FULL-TIME EQUIVALENT POSITION FOR A DOWNTOWN/CENTRAL BUSINESS DISTRICT COORDINATOR

Community and Economic Development Director Sam Power said that action is being requested on an additional FTE for fiscal year 2015-16 for a Downtown/Central Business District coordinator, to be funded from Parking Fund and 50% from the Public Works Department within the General Fund.

The position will be funded from the Parking Fund and the Public Works Department of the General Fund; therefore, no budget amendment is being brought forth as the total impact is anticipated to be less than $50,000 to fund the salary, benefits and other miscellaneous expenses associated with the for the remainder of FY 2015-16. This ongoing position will be responsible for coordinating City initiatives in downtown and the south slope, establishing and maintaining relationships with the multiple stakeholder groups involved in downtown Asheville, and be available to work directly with stakeholders and citizens regarding downtown issues.

Downtown Asheville - Downtown Asheville is important to a number of stakeholder groups, including residents, property and business owners, hoteliers and restaurateurs, as well as visitors to the City. Staff recognizes that it is extremely important to coordinate City infrastructure and operational investment in downtown with the needs of residents, public safety, development activity, tourism interests and the business community. In order to accomplish this end, staff has identified that a full-time equivalent position should be added to as the point person to ensure that the City is addressing the needs of the different groups.

Because one of the key issues facing downtown is parking, 50% funding for the position from the Parking Fund, an enterprise fund of the City, is appropriate. This position will be responsible for continued tracking and analysis of parking in the downtown and south slope area in the interests of the stakeholder groups discussed above.

Parking Fund Revenue Growth - The Parking revenue performance is excellent. The newest parking deck, at 51 Biltmore (Aloft Hotel) downtown, is outperforming the pro forma estimates and is expected to continue to do so. While this deck is not self-supporting because of outstanding construction debt, the other parking decks belonging to the City of Asheville are also high performing and have no remaining outstanding debt associated with them. Below is a summary of the expected performance as of the Parking Fund for FY 2015-16.

Parking Fund

	Adopted Budget	Year End Estimate	Pos. (Neg.) Budget Variance
Revenue	4,625,144	5,000,000	374,856

Expenditure	4,625,144	4,486,390	138,754
Rev. Over/(Under) Exp.	0	513,610	--

All categories of parking revenues are exceeding projections for the first quarter, especially transient, after hours and monthly parking. Monthly parking demand has exceeded our capacity in all surface lots and in three of the four garages. Biltmore Avenue Garage still has a few monthly spaces available but is experiencing huge demand for transient (hourly) parking. Expenditures are expected to rise due to unforeseen roof repairs at Civic Center and Wall Street garages. In addition, new informational signage will be ordered for Rankin Avenue and Civic Center garages. These signs will provide needed information about the existing capacity of said garages; especially important at the intersection of Vanderbilt Place and Haywood Street.

The following is recommended for Council consideration and action:

- Authorize the addition of one full-time equivalent (FTE) position to be funded 50/50 General Fund and Parking Fund.

This action allows staff to move forward with plans to coordinate City initiatives in the downtown and south slope areas with stakeholder groups.

Pro:

- Increased expertise specific to the downtown and south slope areas
- Staff visibility and better coordination between City departments and stakeholder groups

Con:

- None.

The $50,000 additional expense will have minimal impact on the performance of the Parking and General Funds. As of the end of Quarter 1, Fiscal Year 2015-16 the Parking Fund is performing above expectations. The Public Works Department will fund the General Fund portion from existing budget intended for contract work.

City staff recommends City Council approve the addition of one full-time equivalent position for a downtown coordinator (title to be determined).

Councilman Davis said that the Downtown Commission does support this position but he felt they envisioned a stronger downtown manager position.

When Councilman Bothwell asked how this position fits in with actions already being tackled by the Transportation Department, Mr. Powers said that as with all other issues, having additional staff capacity has been identified as being helpful to those issues.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Davis moved to approve the addition of one full-time equivalent position for a downtown coordinator. This motion was seconded by Councilwoman Wisler and carried unanimously.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Regarding the homestay ordinance, Ms. Jane Mathews asked that during the 4, 8 and 12 month review that staff also look at the statistic regarding the loss of housing.

Councilman Smith updated the Council on the Housing Summit held on November 16, 2015, noting that a second one will be held in the spring.

PRIMARY ELECTION RESULTS – CITY OF ASHEVILLE – OCTOBER, 6, 2015; GENERAL ELECTION RESULTS – CITY OF ASHEVILLE – NOVEMBER 3, 2015

Attached hereto as Exhibit "A" is the abstract containing the number of legal votes in the Primary Election, City of Asheville, held on October 6, 2015. Also attached as Exhibit "B" is the abstract containing the number of legal votes cast in the General Election, City of Asheville, held on November 3, 2015.

CLOSED SESSION

At 8:41 p.m., Councilwoman Wisler moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Rebecca Robertson, Wann Near, Christal Weatherly and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Pelly and carried unanimously.

At 9:22 p.m., Councilman Davis moved to come out of closed session. This motion was seconded by Councilman Pelly and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:22 p.m.

Magdalen Pattison
CITY CLERK

Esther E. Manheimer
MAYOR

[redacted] [redacted] [redacted]

October 06, 2015 Primary Election Results by Contest

Contest	Choice	Party	Total Votes	Election Day	One Stop	Abs Mail	Provisional
CITY OF ASHEVILLE CITY COUNCIL -	Corey Atkins		782	634	136	12	0
	Joe Grady		147	117	26	4	0
	Brian Haynes		3,010	2,429	553	24	4
	Marc Hunt		2,938	2,351	561	20	6
	Rich Lee		2,393	1,882	493	17	1
	Richard Liston		64	54	9	1	0
	Julie Mayfield		3,468	2,700	730	29	9
	John P. Miall		1,291	1,041	241	8	1
	Ken Michalove		1,402	1,143	250	9	0
	Grant Millin		123	102	21	0	0
	Carl Mumpower		1,859	1,555	284	15	5
	Lavonda Nicole Payne		160	128	27	3	2
	Holly P. Shriner		109	88	20	0	1
	Lindsey Simerly		2,441	1,947	477	13	4
	Dee Williams		1,179	963	202	11	3
	Keith Young		2,759	2,162	575	15	7

Exhibit "A"

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November 03, 2015 General Election Results by Contest

(169) Exhibit B 1 of 2 pgs

Contest	Choice	Party	Total Votes	Election Day	One Stop	Abs Mail	Provisional
CITY OF ASHEVILLE CITY COUNCIL	Brian Haynes		6,271	4,517	1,699	40	15
	Marc Hunt		5,178	3,435	1,692	43	8
	Rich Lee		5,376	3,802	1,533	31	10
	Julie Mayfield		6,114	4,049	2,002	53	10
	Lindsey Simerly		4,765	3,296	1,432	27	10
	Keith Young		6,315	4,405	1,854	44	12
	Spencer Hardaway (Write-In)		377	279	94	3	1
	Write-In (Miscellaneous)		257	195	53	9	0
TOWN OF BILTMORE FOREST MAYOR	George F. Goosmann III		311	294	12	5	0
	James (Jim) Taylor		52	47	5	0	0
	Write-In (Miscellaneous)		1	1	0	0	0
TOWN OF BILTMORE FOREST COMMISSIONER	Fran G. Cogburn		346	327	14	5	0
	E. Glenn Kelly		327	310	12	5	0
	Doris P. Loomis		338	320	13	5	0
	Write-In (Miscellaneous)		5	3	2	0	0
TOWN OF BLACK MOUNTAIN ALDERMAN	Rachel Halbert Allen		272	262	9	0	1
	Don Collins		864	835	21	3	5
	Larry B. Harris		763	740	15	3	5
	Margaret (Maggie) Tuttle		826	799	19	4	4
	Write-In (Miscellaneous)		23	21	2	0	0
TOWN OF MONTREAT MAYOR	Tim Helms		265	112	132	21	0
	Write-In (Miscellaneous)		23	17	2	4	0
TOWN OF MONTREAT COMMISSIONER	Martha Dimmock Campbell		87	64	16	7	0
	Katheryn (Kitty) Fouche		242	97	126	19	0
	Bill Gilliland		242	97	126	19	0
	Write-In (Miscellaneous)		3	3	0	0	0
TOWN OF WEAVERVILLE TOWN COUNCIL	Patrick Fitzsimmons		132	125	6	1	0
	Andrew Nagle		123	117	5	1	0
	John V. Penley		139	130	8	1	0
	Write-In (Miscellaneous)		18	17	1	0	0
TOWN OF WOODFIN MAYOR	M. Jerry VeHaun		93	74	17	2	0
	Write-In (Miscellaneous)		11	9	2	0	0
TOWN OF WOODFIN ALDERMAN	James (Jim) Angel		75	61	12	2	0

ontest	Choice	Party	Total Votes	Election Day	One Stop	Abs Mail	Provisional
OWN OF WOODFIN ALDERMAN	Donald H. Honeycutt, Jr.		80	65	13	2	0
	Ronnie Lunsford		83	67	14	2	0
	Write-In (Miscellaneous)		13	7	6	0	0
VOODFIN SANITARY WATER AND SEWER DISTRICT TRUSTEE	Ivo Ballentine		189	108	78	3	0
	Sarah W. Gassaway		216	129	83	4	0
	Don Haynes		188	107	77	4	0
	Write-In (Miscellaneous)		23	17	6	0	0

"Exhibit B" 2 of 2 pgs
(167)

Tuesday - December 1, 2015 – 4:00 p.m.

ORGANIZATIONAL SESSION:

Mayor Manheimer welcomed everyone to the organizational session.

The Marine Corp JROTC led City Council in the Pledge of Allegiance.

Asheville Senior Firefighter Bentley Andrews sang the National Anthem.

Mayor Manheimer then introduced her father Dr. Ronald J. Manheimer who composed the invocation.

The Honorable J. Calvin Hill, Buncombe County Chief District Court Judge, administered the Oath of Office to the following:

Council Member Brian Douglas Haynes
Council Member Julie Virginia Mayfield
Council Member William Keith Young

ELECTION OF VICE-MAYOR

Councilman Gordon Smith moved to nominated Councilwoman Gwen Wisler as Vice-Mayor of the City of Asheville. This motion was seconded by Councilman Cecil Bothwell and carried unanimously.

SWEARING-IN ADDRESS

Mayor Manheimer gave a brief address about working together to build our community.

REMARKS - MEMBERS OF COUNCIL

Councilman Haynes, Councilwoman Mayfield and Councilman Young each expressed their honor to be allowed to serve the citizens, appreciated the support of their family and friends, and looked forward to working for and with City residents.

ADJOURNMENT:

Mayor Manheimer adjourned the organizational meeting at 4:25 p.m.

Magdalen Bowlson
City Clerk

Esther E. Manheimer
Mayor

Tuesday – December 8, 2015 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Boy Scouts from Troop 91 led City Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Manheimer asked for a moment of silence in memory of Taylor Hunt, son of former Vice-Mayor Marc Hunt.

Mayor Manheimer said Happy Hanukkah and since the City Council's next formal meeting will not be until January 12 2016, she wished all happy holidays.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER, 17, 2015, FORMAL MEETING; AND THE DECEMBER 1, 2015, ORGANIZATIONAL MEETING

B. MOTION ADOPTING ASSIGNMENT OF BOARDS & COMMISSIONS MEMBERS/LIAISONS FOR 2014-15

Summary: City Clerk Burleson has a complete listing of all appointments made for City Council liaison and mandatory seats for Council on the various boards and commissions.

C. RESOLUTION NO. 15 - 225 - RESOLUTION ADOPTING THE 2016 CITY COUNCIL MEETING SCHEDULE

Summary: City Council Formal Meetings will be held at 5:00 p.m. on the 2nd and 4th Tuesdays of each month in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C. The following meetings are hereby cancelled: Tuesday, July 12, 2016; Tuesday, August 9, 2016; Tuesday, November 22, 2016; and Tuesday, December 27, 2016.

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D. ORDINANCE NO. 4462 - SECOND AND FINAL READING OF ORDINANCE GRANTING A FRANCHISE TO OPERATE A LOW SPEED VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: See Minutes of November 17, 2015.

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E. RESOLUTION NO. 15-226 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CHARTWELL STAFFING SOLUTIONS FOR TEMPORARY SERVICES IN THE PARKING GARAGES, SURFACE PARKING LOTS AND OTHER FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to enter in to a contract with Chartwell Staffing Solutions, Inc. for temporary services in the City's parking garages, surface parking lots, and other facilities during the period of December 1, 2015 through June 30, 2016.

The City of Asheville, through the Parking Services Division, currently operates four parking garages and several monthly parking and pay-by-space surface parking lots downtown. Parking Services Division uses a combination of City employees and administrative contract temporary workers to provide service and customer assistance in these facilities and lots. Generally, City employees work during the business day and early evenings while contract temporary services are used for fill-ins, special events, and to extend garage and public restroom hours during late evenings, weekends, and holidays. Use of temporary workers allows the greatest flexibility as needs vary greatly depending on time of year and events booked at the U.S. Cellular Center, outside special events, and other large venues downtown. On some days Parking Services may only need one temporary service employee to fill in for a City employee sick or on vacation. At other times, Parking Services may need six to 15 to support a major event downtown.

In late March 2015 Parking Services requested and received bids from interested vendors in providing temporary service employees. Eight vendors responded. Chartwell Staffing Solutions provided the lowest bid for the service. They are located in Charlotte, North Carolina with local recruiters in the Asheville area servicing their existing clients.

City Council delayed action on this item at their meeting on July 28, 2015, in order to give staff an opportunity to improve overall garage cleanliness, to develop an action plan to improve customer service when exiting the garages when the booth attendants are not on duty, and to possibly increase the hours for the public restrooms.

The stairwells in all four parking garages are now power washed on a monthly basis (this work began in August), the Biltmore Avenue Parking Garage public restrooms have been power washed, the walls have been repainted, and the floors have been replaced, and the roofs for the stairwells in the Civic Center and Wall Street Parking Garages are currently being repaired. Once these repairs are completed, the stairwells in all four parking garages will be repainted (this work will be accomplished throughout the winter months depending on weather conditions). Staff has received positive feedback regarding this work.

Regarding a long-term solution to improve customer service when exiting the garages, staff is researching a call center business model that the City of Greenville, South Carolina uses and we plan on moving towards that model during FY 2016-17. In addition, staff will be issuing a Comprehensive Parking Study RFP during January 2016 to research and document all available new technologies including pros and cons and cost information including pay-on-foot options. It will also include a 10-year financial model that will help staff determine when more capital debt could be incurred including fee increases needed to support capital needs.

The issue regarding public restrooms throughout the Central Business District is currently being reviewed by staff and recommendations will probably be included in the overall budget process.

Pros:

- Provides safe and convenient facilities for residents and visitors parking.

- Using temporary service employees is the most cost effective and flexible manner to augment the Parking Services Division's staffing requirements.
- Allows parking Services to capitalize on extended weekend/nights/holiday hours and special event parking to provide better customer service and to bring in additional revenue.

Con:

- Total cost of $130,000.

The necessary funds for the contract are already budgeted in the Parking Services' Operating Budget for FY 2015-16.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign a contract with Chartwell Staffing to Solutions to provide temporary services in the City's parking garages and lots at a total maximum cost of $130,000.

RESOLUTION BOOK NO. 37 - PAGE 338

F. ORDINANCE NO. 4471 - BUDGET AMENDMENT FOR THE CONTINUED PARTNERSHIP EFFORTS WITH THE CORPS OF ENGINEERS FOR THE SWANNANOA RIVER FLOOD MITIGATION PROJECT

Summary: The consideration of a budget amendment in the amount of $360,000 from Stormwater Fund Balance which would allow the City to continue the partnership with the Corps of Engineers for the flood mitigation efforts along the Swannanoa River.

The Hurricane Recovery Act of 2005 (Senate Bill 7) allocated funds for planning and implementation of projects to aid in flood damage reduction for North Carolina communities hardest hit by the 2004 hurricane season. The Biltmore Village area of the City of Asheville (within the Swannanoa River watershed) was named as a recipient of this funding. The city previously hired a consultant (Brown and Caldwell) to perform the Swannanoa Flood Risk Management Project which identified potential flood mitigation projects.

City Council authorized the City Manager to enter into a Feasibility Cost Share Agreement (FCSA) with the US Army Corps of Engineers. This partnership with the Corps has allowed the City to continue the flood mitigation efforts and to focus on key projects that will be most effective in the flood mitigation efforts. The three key projects the Corps has identified is the removal of the flood plain fill near the Biltmore Avenue Bridge, reconfiguration of the Lake Craig Dam and the peak flow control structure at Warren Wilson College. In order to complete the feasibility report for the Swannanoa Flood Risk Management Project, additional efforts are needed to complete the report.

The City has a goal to continue to be stewards of the environment. Through this continued partnership the Corps of Engineers will finalize the flood mitigation efforts along the Swannanoa and will develop a recommendation for construction projects. The feasibility phase has to be complete prior to Construction activities beginning in order to receive Corps partnership funding.

The FCSA will recognize a majority of the work completed by the Brown and Caldwell and McGill on Phase 1 of the Lake Craig Project as "work-in-kind" matching to Section 205 funds allotted to the Project. However, in order to complete the work requested of the U.S. Army Corps of Engineers, agreement to a cash match of an additional $360,000 is required. In addition, once identified flood control projects have proceeded to the final design and construction stages and as additional study needs are identified, additional funding may be required.

Pros:

- The cooperation of the U.S. Army Corps of Engineers and execution of a Federal Cost Sharing Agreement will position our community to receive Federal investment in flood control projects for the construction of the measures
- Flood mitigation efforts will reduce the depth of flooding to businesses and infrastructure within the Swannanoa River area.
- By continuing this feasibility study, the City is a step closer to having projects implemented.

Cons:

- The project management and coordination will consume staff time and City Funds.
- Payment requires an appropriation from Stormwater fund balance.

The additional funds for the continuation of the partnership will come available from fund balance in the Stormwater Fund. The Stormwater Fund ended FY 2014/15 with approximately $2.0 million in available fund balance. After this appropriation, Stormwater will have available fund balance of approximately $1.64 million. City staff will coordinate with the Corps and participate in the continued development of future projects.

City staff recommends City Council a budget amendment for the continued partnership with the US Army Corps of Engineers for the Flood Risk Management Project.

ORDINANCE BOOK NO. 30 - PAGE 196

G. RESOLUTION NO. 15-227 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICES CONTRACT WITH PASSPORT PARKING INC. FOR ON-STREET METERED PARKING

Summary: The consideration of a resolution authorizing the City Manager to enter into a general services contract with Passport Parking, Inc. in order to enable customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experience in downtown Asheville.

Passport Parking is a "cloud-based" pay-by-phone with validation system that enables customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experiences in downtown Asheville. Customers simply access the system through their cell telephones by using voice, text, or a mobile "app" (with a smart phone). Individual accounts are secured with the specific telephone number and a unique PIN number (similar to using an ATM machine).

The system works with our existing parking meters without any needed changes or "add-ons"; therefore, there was **no** initial capital outlay. The existing parking meters continue to accept coins (the system simply provides other options for payment). City Council authorized City staff to charge a convenience fee of $0.25 per transaction on August 14, 2012 (Ord # 4105) and **no** complaints regarding the convenience fee have been received (Passport Parking has already agreed to leave the convenience fee at $0.25 per transaction). Although the anticipated annual expense of the contract is about $30,000 +/-, staff is seeking City Council approval because the total value of the contract will probably exceed $90,000 if the contract remains in effect for the initial 3-year time period and two 1-year extension time periods (the total maximum length of the contract is 5 years).

We began using Passport Parking during September 2012 as a test at 100 parking meters and then expanded the system to all of our parking meters during February 2013. We have now completed two full fiscal years (at full implementation); specifically, FY 2013-14 and FY 2014-15 and the results have been outstanding. Transactions have ranged from a low of 3,500 per month during July 2013 to a high of 8,600 per month during June 2015. During the past seven consecutive months, transactions have been greater than 8,000 per month and during two

of these months, we exceeded 9,000 transactions. 1,400 new users "came online" during September 2015! To date, Passport Parking has generated a total of $352,000 in net revenue in the Parking Enterprises Fund as shown below:

Gross Revenue =	$397,000
Convenience Fees =	-$45,000
Net Revenue =	$352,000

Based on this information and the positive comments that we receive about Passport Parking, I believe it is very successful and it provides a very good service to our customer base. The service is well established in our downtown area and I am confident that we will be expanding into other areas of the City during the next three to five years.

Pros:

- Enables customers to use credit/debit cards in addition to cash.
- Increases revenue.
- Customers pay a convenience fee.
- General Fund monies are not used.

Con:

- Credit/Debit card fees are an operating expense ($27,260 paid in FY 2014-15).

The contract amount is directly dependent on the amount of transactions that occur at a rate of $0.25 per transaction. For budgeting purposes, staff is assuming there will be 10,000 transactions per month which equates to an annual contract amount of $30,000. The appropriate amount is currently budgeted in the Parking Enterprises Fund operating budget and will be budgeted each fiscal year.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a general services contract with Passport Parking, Inc. in order to enable customers to use credit/debit cards in addition to cash to pay for their on-street metered parking experience in downtown Asheville.

RESOLUTION BOOK NO. 37 - PAGE 339

H. RESOLUTION NO. 15-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE U.S. GEOLOGICAL SURVEY APPLICATION TO NAME A CREEK IN WEST ASHEVILLE "FOX CREEK"

Summary: The consideration of a resolution authorizing the City Manager to sign the United States Geological Survey (USGS) application to name a creek in West Asheville "Fox Creek".

As a part of its "Name that Creek" program, RiverLink recently worked with city staff to perform a community engagement process to gather nominations and identify a preferred name for the short creek that runs through West Asheville's Falconhurst neighborhood, roughly parallel to Louisiana Avenue through to Patton Avenue. The neighborhood group identified the creek and the need to maintain and name it during the review process for the Craggy Park subdivision project.

The Falconhurst neighborhood proposed three names and the community-based engagement process initiated by RiverLink and supported by the City of Asheville (City) resulted in the selection of the name "Fox Creek" in honor of the fox and other wildland creatures that live in that area.

In order to complete the application to the United States Geological Naming Convention form to name this water body "Fox Creek", a local government official must sign the form to demonstrate support and to certify that the naming process followed USGS guidelines.

Because the request came from a Neighborhood Association and the creek is contained within a neighborhood, the request was referred to the City's Neighborhood Advisory Committee (NAC). On October 26, 2015, the NAC reviewed and unanimously approved the following motion: "We advise Council to support the proposed name of "Fox Creek" for the creek in West Asheville flowing through the Falconhurst neighborhood into Smith Mill Creek."

Pros:

- Naming of a creek or stream can bring attention to its existence, help identify it as a part of neighborhoods ecosystem, and encourage environmental stewardship that enhances quality of life.
- Supporting this community-driven effort further develops partnerships between groups like RiverLink, the Falconhurst neighborhood and the City.

Con:

- None identified.

There is no fiscal impact related to this item.

Staff recommends City Council authorize the City Manager to sign the USGS form to name the creek in West Asheville "Fox Creek."

RESOLUTION BOOK NO. 37 - PAGE 340

I. RESOLUTION NO. 15-229 - RESOLUTION APPROVING THE SUBMITTAL OF THE 2015-16 U.S. DEPT. OF HOUSING & URBAN DEVELOPMENT CONTINUUM OF CARE COMPETITION GRANT

Summary: The consideration of a resolution approving the submittal of the 2015-16 Department of Housing and Urban Development Continuum of Care (CoC) Competition Grant Application on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501).

The City of Asheville serves as the Continuum of Care Lead for the Asheville-Buncombe CoC. Each CoC Lead is responsible for submitting the community's application to be considered for grant funding from the CoC Competition. For 2015-16, the Asheville-Buncombe CoC is eligible to apply for $1,196,396 in renewal funding. The renewal projects currently assist in housing more than 300 formerly homeless individuals, including providing for case management funding, and includes the financial support necessary to operate the Homeless Management Information system for the entire NC-501 CoC. An additional $179,459 is available for a new Permanent Supportive Housing project and $35,892 is available for CoC Lead Planning costs.

The Homeless Initiative Advisory Committee (HIAC) appointed a Finance Subcommittee, compromised of individuals and agencies who did not apply for CoC funds, to review the Continuum of Care projects and application process and make recommendations to the HIAC. Their recommendations were approved unanimously by the HIAC. The HIAC recommended the following projects to the Housing and Community Development Committee for the 2015-16 CoC Grant Application. HCD approved these projects and recommends to City Council the submission of the 2015-16 CoC Grant Application.

Project	Type	Amount	Agency
Bridge to Recovery	Permanent Supportive Housing	$293,831	Homeward Bound
PPH Extreme Needs 3	Permanent	$73,311	Homeward Bound

	Supportive Housing		
Smoky Mountain Center, Shelter Plus Care	Permanent Supportive Housing	$324,496	Smoky Mtn Center
PPH Extreme Needs 2	Permanent Supportive Housing	$56,244	Homeward Bound
HMIS Renewal	HMIS User Fees and Support, Lead Agency Cost	$67,500	City of Asheville
PPH Extreme Needs	Permanent Supportive Housing	$218,798	Homeward Bound
PPH Extreme Needs 5	Permanent Supportive Housing	$162,216	Homeward Bound
PPH Extreme Needs 4	Permanent Supportive Housing	$179,459	Homeward Bound
CoC Planning Project	Planning and Coordination for NC-501	$35,892	City of Asheville

Pro:

- Continuum of Care funding is a key funding resource for permanent supportive housing for homeless individuals and families, as well as operating the HMIS necessary for NC-501 to receive this funding.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. Matching funds for the CoC Planning Project will come from Buncombe County. No general funds are requested to support this program.

Staff recommends that Council approve the Housing and Community Development Committee's recommendation to adopt the resolution authorizing the City to apply for CoC funding in order to provide those funds to the agencies for the programs approved by the U.S. Department of Housing and Urban Development.

RESOLUTION BOOK NO. 37 - PAGE 341

J. ORDINANCE NO. 4472 - BUDGET AMENDMENT FOR INSURANCE RECOVERY FUNDS TO REPLACE POLICE DEPARTMENT DWI TASK FORCE VEHICLE

Summary: The consideration of a budget amendment in the General Fund in the amount of $35,389.71 from from insurance recovery funds from a totaled Asheville Police Department vehicle to utilize towards the purchase of a replacement vehicle.

On September 1, 2015, a City of Asheville (City) Police Department vehicle was totaled by a third-party. Recently, the City settled the property damage claim for $35,389.71 and seeks to utilize the settlement funds to replace the vehicle.

Pro:

- Provides funding for APD Vehicle purchase.

Con:

- None.

The insurance recovery funds will be received in the City's Property & Liability Fund and then be transferred to the General Capital Project Fund, from which the new vehicle purchase will be made.

Staff recommends City Council adopt the budget amendment in the General Capital Project Fund in the amount of $35,389.71 from insurance recovery funds to be utilized towards the purchase of a new Police Department vehicle.

ORDINANCE BOOK NO. 30 - PAGE

K. RESOLUTION NO. 15-230 - RESOLUTION IN SUPPORT OF THE CONNECT NC BOND

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. DEVELOPMENT REVIEW AND PRESERVING DOWNTOWN CHARACTER

Director of Planning & Urban Design Todd Okolichany said that at its November 10, 2015, meeting, the Asheville City Council directed staff to present an evaluation of the development review process for Downtown Asheville, as well as strategies to preserve Downtown character. Strategy 6, Action Item 5 of the Downtown Master Plan recommends that after a four-year pilot period, the City should evaluate the success of the development review process changes that were made after the adoption of the Downtown Master Plan. The following evaluation is being provided at Council's request, and as recommended by the Downtown Master Plan.

BACKGROUND

Downtown Context - As the urban center of Asheville and western North Carolina, the Downtown's Central Business District (CBD) is an area where private and public investment is encouraged to preserve the CBD as the primary retail, office, hotel, institutional, cultural and entertainment center of our community. It is the further purpose of this district to encourage a strong supportive retail center along with high density residential development, which will complement other Downtown uses and surrounding neighborhoods, while slowing down the negative impacts of urban sprawl. A high priority is placed on design, integrating new uses into and with existing architecture in a respectful and cohesive manner. Further, a well-balanced transportation system is encouraged for this district, with an emphasis on all forms of transportation, including pedestrians, bicycling, transit and automobiles.

Downtown Master Plan - The Downtown Master Plan was adopted by City Council in 2009 after an extensive public outreach process that incorporated ideas from a broad spectrum of Downtown stakeholders and shared community interests. The result of this public input enabled the formulation of a vision for Downtown Asheville, which is to empower Asheville's essential creativity, entrepreneurship and energy to make Downtown flourish in a new era of opportunity.

The Plan's recommendations are further concentrated in a series of seven strategies, grouped into three main themes: Experiencing Downtown, Shaping Downtown and Managing Downtown Asheville, all derived from the community's vision.

Prior the adoption of the Downtown Master Plan, the CBD was experiencing rapid development and redevelopment, and several tall buildings were proposed for the core of Downtown, where the historic fabric is most intact. There was no height limit in Downtown and there were limited adopted design standards. In general, neither the citizens nor the development community were satisfied with the development approval process because it was unpredictable and there was a lack of standards for buildings.

While Strategies 4 and 5 of the Downtown Master Plan focused on the creation of a hybrid form-based code and additional design standards for the Downtown, including new maximum building height limits, Strategy 6 was established to update the regulatory framework for the development review process in order to address current development trends and in response to public concerns about the development review process.

Strategy 6 sought to achieve the following regulatory changes for the development review process:

- Clarify design standards and guidelines and ensure approvals are clearly linked to specific standards
- Provide predictability in the development review process rather than discretionary decisions
- Require the developer to hold a neighborhood meeting before submitting plans
- Require approval bodies to consider whether a proposal meets policy goals in the Downtown Master Plan
- Limit application of Conditional Use Permits
- Encourage infill development by making the Level I approval process easier and replacing the residential density caps from the development review thresholds with maximum development size and height thresholds in order to remove barriers to housing
- Guarantee multiple opportunities for public input, especially at the early stages of development review, and ensure that recommendations of lower boards/commissions are considered
- Enhance the role of the Downtown Commission in design review (i.e. building form and context over use)

The above changes revised the development review process, including new project size thresholds for Level I, Level II and Level III site plan review. Design standards were also codified in the city's Unified Development Ordinance (UDO) and additional design guidelines were established by the Downtown Commission to guide new development in the Downtown. Together, these changes helped to provide clarity and certainty in Downtown Asheville, allow ample public input, assure a level playing field for developers, promote confidence among elected officials, remove barriers to residential development, and give City staff a firm set of procedures and regulations.

Downtown Development Review Process - Prior to the adoption of the Downtown Master Plan, the Downtown development review thresholds were divided into the following three different categories (which are the same for the rest of the City):

- Level I: under 35,000 sq. ft. commercial or office, or 3 to 19 dwelling units
- Level II: 35,000 sq. ft. to 100,000 sq. ft. commercial or office, or 20 to 50 dwelling units
- Level III: more than 100,000 sq. ft. commercial or office, or more than 50 dwelling units

The following changes were made to the Downtown development review thresholds upon the adoption of the Downtown Master Plan and after extensive public input. These are the current site plan review thresholds for projects proposed in the CBD:

- Level I: new development or additions not meeting the threshold for Level II review, or modification to exterior walls/roofs, or renovations with a total cost exceeding 75% of the appraised value of the building
- Level II: gross floor area of 20,000 sq. ft. to 175,000 sq. ft. or building height under the Intermediate Height Zone (145 ft.)
- Level III: gross floor area greater than 175,000 sq. ft. or building height above the Intermediate Height Zone (145 ft. to 265 ft. maximum)

Project Type & Review Threshold	Current Downtown Project Review Process							
	Pre-Development Conference	Applicant Meeting w/ Neighborhood	Staff Review	TRC	Downtown Commission	Planning & Zoning Commission	City Council	Final TRC
Level I[1]			X					
Level II	X	X	X	X	X	X		X
Level III[2]	X	X	X	X	X	X	X	X

Notes:
1. For Level I projects, a predevelopment conference with planning staff and a neighborhood meeting are recommended but are not required.
2. Level III projects located in Traditional Downtown Core shall be reviewed via the conditional zoning process. Level III projects located outside the Traditional Downtown Core shall be reviewed only for compliance with applicable standards and regulations.

As part of the changes that were made to the development review thresholds, new maximum height zones were established in the CBD. The Downtown Design Review Map and the Intermediate Height Zone (up to 145 feet) encompasses a majority of the Traditional Downtown Core of the Central Business District (CBD), with the exception of some parcels east of North Market Street, as well as several parcels west of O Henry Avenue and near the intersection of Patton and Coxe Avenues. The Intermediate Height Zone also applies to a majority of the CBD perimeter, adjacent to residential neighborhoods. The Tallest Height Zone (up to 265 feet) generally applies to areas within the CBD but outside the Traditional Downtown Core. These changes reflected community input during the Downtown Master Plan process. Citizens were mostly concerned about very tall buildings in the historic core of Downtown Asheville.

Downtown Development Trends - The following table indicates the number of development projects proposed in the Downtown each year since 2010, when the amendments to the UDO were adopted for the CBD. The table further separates each project by the primary type of use proposed:

Year	Number of Projects (Primary Use) by Type						Number of Projects Reviewed by City Council (Level III, CZ or CUP)
	Residential	Hotel	Residential/ Hotel	Office	Institutional	Other	
2010					1		1
2011	1				1		1
2012							
2013	1	1				1	

2014	1	3		1			
2015	6	1	1		1		2
Total	**9**	**5**	**1**	**1**	**3**	**1**	**4**

Regarding the Downtown Projects Summary (2010-2015), the following types and amount of development have been proposed in Downtown Asheville since 2010. As can be seen, there is an overall trend over the past few years towards proposals for residential and hotel development in Downtown Asheville, especially since 2013:

- Residential: 700 dwelling units (height range: 32 feet to 62 feet)
- Hotel: 794 rooms (height range: 49 feet to 115 feet, with the exception of the BB&T building/One West Tower at Pack Square, which is an existing building that reaches 205 feet to the highest floor level)
- Retail/Restaurant: 32,250 square feet (mostly limited mixed-use as part of other projects)
- Office: 68,000 square feet (maximum height of 48 feet)
- Institutional: 212,000 square feet (height range: 74 feet to 140 feet)
- Other: 37,800 square feet (maximum height of two stories)

In spite of the recent increase in development proposals in Downtown Asheville, approved development projects have not reached their full allowable development potential. As shown above, the maximum proposed building height of recent projects has been well below the overall maximum allowable height of 265 feet for areas outside the Traditional Downtown Core. Within the Traditional Downtown Core, recently proposed residential projects have reached 62 feet, which is only 43% of the maximum height of the Intermediate Height Zone (up to 145 feet). The maximum proposed building height of recent hotel projects in the Traditional Downtown Core has reached 115 feet, which represents 79% of the maximum height of the Intermediate Height Zone (For purposes of this building height analysis for both residential and hotel projects, the BB&T building/ One West Tower at Pack Square is excluded as it is an existing building.)

From a building form and design perspective, approved development projects have been guided by the UDO and Downtown Design Guidelines. While design standards in the UDO are required, the Downtown Design Guidelines require mandatory review (by the Downtown Commission) but only voluntary compliance. This type of review structure allows for flexibility in the design process as long as developments meet the intent of the design guidelines.

Changes to the UDO and design guidelines have led to projects that are held to a higher design standard in terms of fenestration, street wall step-backs, the orientation of buildings, the use of high quality materials, and respect for the Downtown's historic resources and overall character. Recent development is incorporating many of the qualities of older, more traditional urban development patterns that contribute to Downtown character and vibrancy. Traits that characterize these developments include interconnected street systems, wider sidewalks, a mix of uses, activated ground floors, higher density and less parking.

Although recent development trends have added value to the Downtown's urban form and vibrancy, increased development has led to a number of issues that are common in downtown areas, but manageable. Concerns have been expressed by residents, visitors and business owners about overcrowded sidewalks, pedestrian crowding in roadways, motorist safety, blocked crosswalks, handicap access, the availability of a sufficient number of parks, the functionality of existing public spaces, and construction staging. As the City continues to grow, there needs to be greater emphasis on its public spaces to ensure that it is meeting or exceeding standard levels of service, accommodating multiple users, and balancing public safety concerns for the use and creation of public spaces that contribute to the dynamic environments that make Asheville such a unique place to live, work and visit.

ALTERNATIVE STRATEGIES

Strategies to Expand Council Review - As noted in the Downtown Master Plan, prior to its adoption, conditional use permit decisions in the Downtown led to public concerns about discretionary design review being conducted by City Council, failure to consider the recommendations of lower boards/commissions, and potential costly requirements being unexpectedly placed on projects at the final stage of the review process. In response to these concerns, conditional use permits were limited only to certain uses that could prove incompatible with existing Downtown uses and character. City Council may have a desire to expand their UDO authority to review additional uses that may be impacting Downtown Asheville neighborhoods via the following two zoning tools:

Conditional use permit: this zoning tool allows conditionally-appropriate uses to be considered through a quasi-judicial public hearing process. Conditional uses are uses which are generally compatible with other land uses permitted in a zoning district but which, because of their unique characteristics or potential impacts on the surrounding neighborhood and/or the city as a whole, require individual consideration of their location, design, configuration, and/or operation at the particular location proposed. In a quasi-judicial proceeding, the Council is not setting new policy but is applying policies expressed by an existing ordinance, statute or regulation to past or present facts presented at a hearing.

Under a conditional use permit, there are currently seven standards that must be met, such as the development will not endanger public health or safety. Consideration may also call for the imposition of additional individualized conditions. For example, in the Neighborhood Corridor district, drive-through facilities must be located to the side or rear of the building and not be placed on the street side of the building. Hours of operation may also be limited by City Council.

In the consideration of applying the conditional use permit process to new uses in Downtown Asheville, the City Council could require minimum parking requirements or additional design criteria. City Council could also require that for certain uses, the proposed building must contain a minimum percentage of mixed uses, such as housing.

If the Council chooses to apply the CUP process to a new particular use(s) it would require a zoning text amendment to the City's UDO. Per North Carolina statutes any zoning amendment must be consistent with an adopted comprehensive plan or any other officially adopted plan that is applicable. If the zoning amendment is not consistent with the City's Comprehensive Plan, the Plan must be updated accordingly.

Pro:

- City Council may apply the conditional use permit process to certain uses (rather than change the site plan review threshold for all uses) and may include additional standards or design criteria that should be met.

Cons:

- As a quasi-judicial process, City Council members may not participate in ex parte communications (written or verbal) with the applicant, the Planning and Zoning Commission, other City Council members or community members outside of the public hearing.
- The decision is based on evidence at the City Council hearing and Council may have no choice but to either grant or deny based on evidentiary presentations.
- If the proposed zoning amendment to apply the CUP process to a new particular use(s) is inconsistent with the City's Comprehensive Plan, the Plan will need to be revised.

Conditional zoning: this is a rezoning that is pursuant to a particular development proposal. Conditional zonings can only be initiated by the property owner. In addition to specific conditional zoning requests for zoning district changes, all Level III projects in the Traditional

Downtown Core are currently reviewed via the conditional zoning process. The City Council could consider expanding the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core.

Pros:

- Flexibility in the review process in that City Council and the applicant may agree upon certain conditions that could improve the overall project.
- Communication between City Council members and others is allowed outside of the public hearing.

Cons:

- Conditional zoning can be perceived as arbitrary and unpredictable, and could lead to unforeseen costs for the applicant.
- May require changes to the UDO and a new overlay district or other zoning district

Design guidelines: In addition to the standards prescribed by the UDO, the CBD is contained within the Downtown Design Review Overlay District. This district requires mandatory review, but voluntary compliance, with the Downtown Design Review Guidelines. The guidelines were approved by the Downtown Commission but have not been adopted by the City Council. If formally adopted, the design guidelines could aid City Council in their review of projects in the CBD, and provisions could be drafted which would permit the denial of a project based on noncompliance with the adopted design guidelines.

Strategies to Preserve Downtown Character - The City of Asheville has recently been engaged in a public conversation regarding Downtown character. Most recently, this topic was discussed at several Downtown Commission meetings, including a subcommittee of the Commission, and at their November 2015 retreat. Specific concerns voiced by the Council on November 10th included ways and means to preserve authenticity and shaping the character of Downtown.

The City currently utilizes a number of different strategies to preserve and enhance Downtown character, including codified design standards, Downtown Design Review Guidelines, Downtown Master Plan and Historic Preservation Master Plan policies, the Comprehensive Plan and other planning documents, and economic incentives and programs:

UDO - The City's Unified Development Ordinance (UDO) includes the City's zoning and development requirements. It contains several standards aimed at protecting and enhancing character in the Central Business District (CBD). One such standard is the minimum height requirement of two stories that helps to maintain a building form that is consistent with downtown environments. Shadow impacts on public parks or plazas are also limited in the CBD, while stepback requirements help to enhance the traditional scale of Downtown and ensure adequate air and light at the sidewalk level and neighboring properties. Requirements for the placement of parking to the side or rear of buildings, no minimum front building setbacks and other design standards further contribute to the Downtown's urban form.

2025 Comprehensive Plan - The City's Comprehensive Plan sets forth the goals and policies which serve as the basic policy guide for development in the City of Asheville. These goals and policies may be amended from time to time to meet the changing requirements of the City. A Comprehensive Plan is advisory in North Carolina but all zoning regulations must be made in accordance with a comprehensive plan.

The current Comprehensive Plan was adopted in 2003 and contains a number of goals and policies that promote community character, including the creation of standards for building orientation that address build-to lines and site relationships, promoting quality building design and contextual design, and increased connectivity and walkability. Together, these policies help to promote traditional urban development patterns that contribute to neighborhood character.

In October 2015, the City released a request for proposals to hire a consultant to assist the City in updating the 2025 Comprehensive Plan. The project kick-off is anticipated to occur in the first quarter of 2016 and the overall timeframe of the project is expected to be 18 months.

Downtown Design Review Guidelines - The guidelines aid architects for new buildings, renovations and additions to existing buildings in the CBD to achieve buildings of distinction whose designs are true to the present day and sensitive to the architectural fabric of the city. The guidelines further help to promote active and mixed uses that contribute to the vibrancy of Downtown Asheville.

Downtown Master Plan and Downtown Coordinator Position - The Downtown Master Plan aims to help the community shape growth in a way that preserves Downtown Asheville's character and authenticity, while promoting strategies that help to contribute to Downtown's vibrancy. The plan recommends the development of character areas or neighborhoods as development spreads outside of the downtown core. These are the future neighborhoods of Downtown where there will be opportunities for small businesses.

At its November retreat, the Downtown Commission discussed a recommendation to City Council that the City should consider updating the Downtown Master Plan to focus on public spaces and streetscape issues.

City Council also recently approved the creation of a Downtown Coordinator position. This person will serve as a liaison between City departments and downtown businesses, residents, property owners and the Downtown Commission. This position was previously staffed by the City Development Director until 2005. With the surge in tourism, development and general downtown vibrancy, the City has recognized the need for a point person to coordinate many of the complexities of the Downtown. The Downtown Coordinator position will be able to assist and support small business owners, especially as it relates to working with City processes and standards.

Historic Designation/Historic Preservation Master Plan - Downtown Asheville is designated a National Historic District. Federally designated historic districts are listed on the National Register of Historic Places, which makes available federal tax credits for rehabilitation. However, federal listing imposes no restrictions on what property owners may do with a designated property.

In March 2015, City Council adopted the Historic Preservation Master Plan for Asheville and Buncombe County, North Carolina. The Master Plan was designed to establish goals and recommended actions for historic preservation, as well as to guide future program development and decision-making. Recommendations include policies that preserve historic buildings and the character defining elements of the public realm, enhanced coordination between the Historic Resources Commission and Downtown Commission regarding demolition permits, implementing the City's wayfinding system, and supporting the adaptive re-use of historic buildings for affordable housing.

City Programs and Studies - Earlier this year the City Community and Economic Development Department completed a small business incentive study and presented the study to both the Planning and Economic Development Committee and the Housing and Community Development (HCD) Committee. Both committees agreed that the City should continue to invest in streamlining the customer service experience, provide information on how to start a new business in the city, and raise awareness of existing small business support programs. The committees also agreed that if the City were to fund a small business revolving loan program, it would look to a partner agency for administration. The HCD committee was also interested in exploring façade grants and small business grants that encourage job creation.

In August of this year the U.S. Small Business Administration awarded a $50,000 grant, called "Startup in a Day", to Asheville to simplify the startup process for entrepreneurs so that they can review through an online portal the necessary regulatory processes to start a business. City staff is currently working on the program, which will help streamline the licensing, permitting and other requirements needed to start a business in the City through a single point of entry.

Economic Incentives and Tax Credits - Economic incentives, such as business tax credits, can be a useful tool in supporting businesses; however, this type of tax credit is generally available at the state level. The City has a performance based economic incentive program. The City's Business Development Grant can help to stimulate small business expansions. Similar to the state's business tax credits, award of the City's grant is dependent on such factors as the location of the business, the amount of capital investments and the number, equity and quality of jobs created.

Additional Strategies - The City's statutory zoning authority is governed by primarily by North Carolina General Statutes Sections 160A-381 and 160A-383. Zoning allows cities to regulate building size, height, lot size, setbacks, and the types of uses that are permitted within certain districts. However, cities in North Carolina cannot regulate based upon who is the owner or operator of a business as North Carolina General Statutes (and federal law) do not permit municipalities to interfere in commerce.

There may be other local programs and partnerships that the City could explore that support small businesses and the overall economy; however, further analysis of these strategies is needed in order to determine and understand potential state restrictions and other barriers, the City's role, potential partnerships, funding mechanisms and other information. Some of these strategies include:

- Supporting businesses that contribute to sustainable, inclusive economic development
- Incentives to property owners who prioritize reasonable rent increases or property owners who place deed restrictions or trusts
- Partnering with organizations that can offer support in negotiating leases and protecting tenant rights
- Incubating small, creative start-ups to foster and elevate the small business entrepreneur
- Community investment and partnership with a non-profit land trust

Summary and Next Steps

Downtown Development Review Process - As noted above, the current Downtown development review process and Downtown design standards have helped to provide clarity and certainty in Downtown Asheville, allow ample public input, assure a level playing field for developers, promote confidence among elected officials, and give City staff a firm set of procedures and regulations.

Development trends show an increase in overall development throughout the City, including recent increases in residential and hotel activity in the Downtown. Although these projects are not meeting their full allowable build-out potential, increased development has led to a number of issues, such as overcrowded sidewalks and the functionality of existing public spaces.

If City Council decides to revisit the current development review thresholds, it is recommended that the City conduct a public outreach process in order to solicit community input from citizens, businesses, property owners, neighborhood and business groups, other organizations and various City boards and commissions. Additional factors that should be considered are the potential unintended consequences of changing review levels (e.g. developers may propose lower density projects that are under that threshold, which could be counterintuitive

to the purpose of the Downtown), as well as the extra standards that Council would review if the site plan level threshold is changed.

As an alternative to revisiting the development review process for all projects in the CBD, City Council may consider expanding its UDO authority to review certain specific types of uses via the conditional use permit process, or expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. In addition, City Council may consider adopting the Downtown Design Review Guidelines so that projects would be subject to mandatory review and mandatory compliance with the guidelines.

Preserving Downtown Character - A community engagement process will occur as part of the City's effort to update its Comprehensive Plan. In regards to the CBD, the Comprehensive Plan will address conflicting expectations, values and ideals for Downtown parks and other types of public spaces. At its November retreat, the Downtown Commission discussed a recommendation to City Council that the City should consider updating the Downtown Master Plan to focus on public spaces and streetscape issues.

There may be other local programs and partnerships that the City could explore that support small businesses and the overall economy; however, further analysis of these strategies is needed in order to determine and understand potential state restrictions and other barriers, the City's role, potential partnerships, funding requirements and other information.

At this time, City staff requests further direction from Council as to how staff should proceed or be of further assistance.

Councilwoman Mayfield felt we need to clearly identify the problems and concerns with downtown development as a first step in figuring out the right strategy.

Mayor Manheimer said we only have certain tools to use to address the problem. A short time ago, Council asked to look at a process to accelerate the review of development review thresholds. She reiterated some tools that might address some of the concerns - bringing Level II's under the review of Council; expanding the UDO authority to review certain specific types of uses via the conditional use permit process, or expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core; or adopting the Downtown Design Review Guidelines so that projects would be subject to mandatory review and mandatory compliance with the guidelines. She recommended this be reviewed by the Planning & Economic Development Committee (PED) to take a more thorough look at these issues (including the pros and cons of all approaches) and the process on how any changes would work and make a recommendation to City Council.

Councilman Smith was pleased that the City is updating the Comprehensive Plan as the values of the community can shift over time. Back in 2010 when we looked at downtown design review, we needed to stimulate investment and growth in our downtown. The hotel industry has not responded to the needs of the citizens to what we felt were very reasonable calls for cooperation and partnership regarding the occupancy room tax. Among the values of the citizens of Asheville are providing a living wage, sources things locally, turning to local businesses, and recognizing we are in the midst of an affordable housing crisis. Regarding mandatory compliance with the downtown design guidelines, he didn't want to homogenize our downtown because our community values also surround independent spirit and an arts and culture vibe. We need to strike a balance. He would support lodging (hotels) as a use into a conditional use permit process and to expand the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. He would also support reducing the development review threshold for Level II's from 175,000 to 100,000. He supported businesses that contribute to sustainable, inclusive economic development; incentives to property owners who prioritize reasonable rent increases or property owners who place deed restrictions or trusts; partnering with organizations that can offer support in negotiating leases and protecting tenant rights; incubating small, creative

start-ups to foster and elevate the small business entrepreneur; and community investment and partnership with a non-profit land trust.

Councilman Bothwell was interested in seeing what other cities have used for design guidelines that push for quality. He also supported the mandatory compliance of the design guidelines.

Councilwoman Mayfield suggested that we might investigate having a very high level architectural review, which would be different from compliance with design guidelines.

Mayor Manheimer said that in general she is concerned about going in the direction of conditional use permits for downtown because she felt we can get a good project with just conditional zoning, which will allow us to speak directly to the applicants and enter into a more negotiation setting. But, the downside would be we can't require conditional zonings by use - it would be by size, and that would be capturing hotels and apartments.

Vice-Mayor Wisler preferred Council to direct PED to look at two or three different options that can be result in a relatively rapid decision while other options will be reviewed in the update to the Comprehensive Plan.

There was consensus of Council to have PED look at reducing the Level II threshold in downtown from 175,000 sq. ft.

There was discussion about if Council wanted to look at expanding the conditional zoning review process within the CBD to areas outside the Traditional Downtown Core. Mr. Okolichany clarified that in the CBD is further refined to the Traditional Downtown Core. That is where the conditional zoning process is currently implemented. Outside of the Traditional Downtown Core, but still within the CBD projects go through a Level III process, but it is not currently through conditional zoning (it is the conditional use permit process).

In response to Councilman Young, Mr. Okolichany explained one of the main differences between the conditional use permit process vs. a conditional zoning. He said with a conditional use permit process, you can apply that to a specific use. If Council decides to expand the conditional zoning process to all areas within the CBD, that would apply to all uses - residential, hotel, institutional uses, etc.

It was the consensus of Council to have PED look at mandatory design guidelines for downtown, which might consist of an historic overlay, conservation, or an architectural review.

Councilwoman Mayfield also suggested PED look at perhaps implementing some of the recommendations about preserving the Traditional Downtown Core from the Historic Preservation Master Plan.

It was the consensus of Council that PED look bringing in any Level II project in the entire CBD before Council for review. PED can flush out whether it is appropriate to make them reviewed by City Council as a conditional zoning or a conditional use permit.

After discussion about whether Council wanted to review all hotel applications outside of the CDB, it was the consensus of Council to review that as part of the comprehensive plan.

Mayor Manheimer said that regarding preserving the downtown character, at the City Council retreat Council will have the opportunity to provide policy direction to incorporate the small business focus and menu of options for promoting and helping supporting small businesses in our downtown.

At the request of Councilman Young, Mr. Okolichany said that he will provide best practice guidelines from other cities, along with additional analysis on the menu of options.

When Councilwoman Mayfield asked if we can look at zoning individual parcels that have a lot of opportunity for good developments, Mr. Okolichany explained that they normally look at segments, not parcels. The Comprehensive Plan is the best approach to look at corridors.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 671 SAND HILL ROAD TO ADD A 2-STORY, 8,000 SQUARE FOOT BUILDING FOR AN ESTABLISHED PRIVATE SCHOOL

ORDINANCE NO. 4473 - ORDINANCE AMENDING A PREVIOUSLY APPROVED CONDITIONAL ZONING AT 671 SAND HILL ROAD TO ADD A 2-STORY, 8,000 SQUARE FOOT BUILDING FOR AN ESTABLISHED PRIVATE SCHOOL

Assistant Director of Planning & Urban Development Alan Glines said that this is consideration of an amendment to a previously approved conditional zoning at 671 Sand Hill Road to add a 2-story, 8,000 square foot building for an established private school. This public hearing was advertised on November 27 and December 4, 2015.

Mr. Glines said that the applicant is requesting an amendment to the conditional zoning for the property located at 671 Sand Hill Road to build an additional school building from the originally approved plan. Per Section 7-7-8(c)(6) of the City of Asheville Unified Development Ordinance (UDO), changes to a previously approved plan must be approved by the City Council as an amendment to the conditional zoning (CZ).

The site is a 1.91 acre parcel that slopes up gently from Sand Hill Road. The property PIN is 9627-59-0175 and the owner is Classical Properties, LLC. The applicant is Andrew Cross and the school is known as the New Classical Academy. The driveway to the school is shared by easement with a residential community of 46 homes behind this site on separate parcels. The parcels surrounding the school are zoned *Residential multi-family low density* (RM-6) which includes mostly residential uses, primarily single and multifamily units. *Institutional* zoning located further west is owned by the Asheville School abutting Sand Hill Road.

New Classical Academy seeks to expand their school operations on the site by constructing a new classroom building with a multipurpose room. The new two-story building would total about 8,000 square feet. Four new classrooms will be a part of the building. The current building totals about 3,400 square feet on two levels providing space for three classrooms and worship space. Since the original conditional zoning application was approved in 2012, site improvements are in place and are compliance with technical standards. The school currently has an enrollment of 56 students and would like to eventually grow to a maximum of 80 students in classroom programs K-8.

Principal access to the site is from Sand Hill Road along a shared driveway. Sidewalks are not in place at this location but will be added as a condition of this proposal. There is ample parking on the site based on a total of seven classrooms proposed for the school. Plans show 19 spaces with a longer drive aisle for parents dropping off and picking up students. The existing facilities can accommodate this future increase because the existing parking area is ample based on calculations in the UDO, and could also be expanded if necessary. A condition was placed on the prior approval that if the school should grow beyond 60 students, a traffic management plan would be submitted for review by City staff. The plan was submitted to the Transportation Department as a part of the current application and was found to be sufficient.

Landscaping is required for this project and includes street trees, parking lot landscaping, building impact landscaping, and tree save area. Landscaping shown on the submitted plans complies with requirements and were installed during the approval of the original conditional zoning application. The project is also required to have a minimum of 15% open space, which is provided in the form of a play area at the back of the site.

A condition from the original 2012 conditional zoning approval to modify the property line buffer requirement along the east property line will continue with this amendment. The property line buffer in this location was waived because of a lack of sufficient space due to the shared access driveway.

The proposal was approved with conditions by the City's Technical Review Committee (TRC) on October 19, 2015. The Planning and Zoning Commission reviewed the project and recommended unanimous approval at their meeting on November 4, 2015. Should City Council approve the amendment, the project will have a final review by the TRC.

One neighbor called to ask that additional plantings or a fence be provided at the east side of the parcel. There is limited space in this area to provide additional plantings on the applicant's property. A second nearby property owner came to the Planning and Zoning Commission meeting with concerns about traffic in the area at the end of the school day as parents are picking up students from the public school bus. The applicant and the neighbor agreed to meet and discuss this situation.

In 2012, the subject property was rezoned to Institutional-CZ (INST-CZ) for the original school development. Prior to this application, this property was zoned Residential Multifamily Low Density (RM-6). A K-8 school use in a residential zone is a use by right subject to special requirements (USSR) with a requirement that the parcel size be a minimum of two acres. Since the project site is 1.91 acres it could not be permitted without a conditional zoning change.

Adjacent uses include apartments to the north of the property, which share the driveway at Sand Hill Road. Other uses in the area are primarily single family in nature. Schools are allowed in residential areas and this school has been in operation for several years. The location along Sand Hill Road is good for a school use because of easy access with ample room to provide for parking needs and outdoor play space.

The proposed development supports the goal stated in the *Asheville City Development Plan 2025* that appropriately-scaled non-residential uses that serve residents of neighborhoods should be allowed in appropriate locations. The site has been evaluated and has sufficient infrastructure in place to manage impacts on the surrounding community. Schools are supported with this goal.

The proposal is aligned with Focus Area One: Economic Growth and Sustainability; and Goal 2: Invest and leverage investment in community infrastructure because the proposal will bring additional investment in the school expansion and will be adding a sidewalk linkage at the street.

Considerations:

- The school will expand at this location with a new 8,000 square foot building.
- The site has sufficient space to manage the proposed increase in the number of students/ classrooms.
- Parking and traffic needs will be managed onsite.

Based on policies stated in the Comprehensive Plan and other plans, staff finds this request to be reasonable and within the public interest and recommends support of the conditional zoning as proposed.

Mr. Clay Mooney, representing the applicant, said that they are willing to comply with the conditions and requested Council approved the conditional zoning amendment.

Mayor Manheimer opened the public hearing at 6:22 p.m., and when no one spoke, she closed the public hearing at 6:22 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the Institutional Conditional Zoning Amendment based on the site plan, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) appropriately-scaled non-residential uses that serve residents of neighborhoods are encouraged where impacts can be managed; and (2) the proposal will bring further investment at an infill location and will improve public infrastructure. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 200

B. PUBLIC HEARING TO CONSIDER PERMANENTLY CLOSING AN UNNAMED ALLEY OFF JARRETT STREET

RESOLUTION NO. 15-231 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY OFF JARRETT STREET

Streets Manager Chad Bandy said that this is the consideration of a resolution to permanently close a portion an unnamed alley off Jarrett Street. This public hearing was advertised on November 13, 20, 27 and December 4, 2015.

N. C. Gen. Stat. sec. 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, TS Investments, LLC, owners of parcel 9638-25-1024, and Ira Bernstein, parcel 9638-25-0070, and David Chambers, parcel 9638-25-1177, have requested the City of Asheville to permanently close the unnamed alley off Jarrett Street.

The Multimodal Transportation Commission met on October 28, 2015, and approved the closure.

Communication has been made with the various utility companies and there are no easements to retain in the closed portion.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals to promote sustainable high density infill growth that makes efficient use of existing resources

Con:

- None

City staff recommends City Council adopt the resolution to permanently close an unnamed alley off Jarrett Street.

Ms. Kathy Durham, managing partner with TS Investments, thanked City Council for their consideration.

Mayor Manheimer opened the public hearing at 6:27 p.m. and when no one spoke, she closed the public hearing at 6:27 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 15-231. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 343

V. UNFINISHED BUSINESS:

A. I-26 CONNECTOR PROJECT

REVIEW OF TECHNICAL COMMENTS AND PROCESS

Transportation Director Ken Putnam said that the purpose of this memorandum is to update City Council regarding staff's comments about the I-26 Connector Project Draft Environmental Impact Statement (DEIS).

The I-26 Connector Project is an interstate freeway project that is being proposed to connect I-26 in southwest Asheville to US 19-23-70 in northwest Asheville. The North Carolina Department of Transportation (NCDOT) has programmed this project to upgrade and widen I-240 from I-40 to Patton Avenue, and then proceed northward from Patton Avenue on new location across the French Broad River and connect to US 19-23-70 just south of Exit 25 (Broadway). Upon completion, this project will be part of the I-26 interstate that extends from Charleston, South Carolina to Kingsport, Tennessee. It is about 7 miles long and includes three sections: C, A, and B.

The NCDOT completed and released the DEIS for review and comment on October 16, 2015. As a part of the release, copies of the actual document were provided to the following locations; the NCDOT local Division 13 office on Orange Street, the Land-of-the-Sky offices on New Leicester Highway, the City of Asheville Transportation Department in City Hall, the Pack Memorial Library, the West Asheville Library, and the Buncombe County Law Library. In addition, the public hearing maps were provided to the following locations; the NCDOT local Division 13 office on Orange Street, the Land-of-the-Sky offices on New Leicester Highway, and the City of Asheville Transportation Department in City Hall. All of the project materials can also be viewed at the project website at http://www.ncdot.gov/projects/i26connector/.

The Open House and Public Meeting were held on Monday, November 16, 2015, at the Renaissance Hotel located at 31 Woodfin Street. The informal open house was held from 4:00 pm until 6:30 pm and during this time, NCDOT representatives were available to answer questions and receive comments on a one-on-one basis. Earlier in the day (from noon until 1:00 p.m.), an informational meeting with local officials was held. The formal public hearing began at 7:00 pm with a presentation including an explanation of the proposed corridor location, design, right-of-way, relocation requirements/procedures, and the state-federal relationship. After the presentation, statements, questions, and comments were received by the persons attending the meeting. All of the comments were recorded and a transcript is being prepared. The official comment period ends on December 16, 2015, and the NCDOT has provided many ways for comments to be submitted. In addition, the City's public media staff has worked closely with the NCDOT to ensure that all comments are submitted to the NCDOT.

City staff conducted two "work sessions"; one on November 6, 2015, and the other one on November 17, 2015, to review the materials and prepare comments. Attendees included staff members from the Transportation Department, the Planning Department, the Public Works Department, the Multi-Modal Transportation Commission, the Asheville Design Center, and the Southern Environmental Law Center. Staff comments focused on multi-modal transportation elements and the City's transportation plans as outlined in the joint resolution approved by the City of Asheville, Buncombe County, and the French Broad River Metropolitan Planning Organization (FBRMPO) on March 25, 2014 (Resolution # 14-54). Staff's comments are more technical in nature and staff does not recommend a specific alternative. In summary, staff comments (1) strongly encourage inclusion of complete streets elements; (2) strongly encourages minimizing overall project footprint; (3) strongly encourages active participation during the design phase; (4) strongly encourage mitigation strategies during the construction phase; and (5) strongly encourages NCDOT to redesign Amboy Road to be consistent with the City's ongoing project. The comments will be submitted to the NCDOT via a cover letter on December 16, 2015.

Councilwoman Mayfield suggested the following comment amendments: (1) express concern about the impacts of Alt. 4 and 4B on the east side of the river, particularly in the Hill Street Street, Isaac Dickson and Riverside Cemetery; (2) making Patton Avenue (in Alt. 4 and 4B) a pedestrian friendly, truly multi-modal urban boulevard instead of just a high speed throughway to downtown; (3) use of current updated base maps in the final EIS in order to reflect construction activities (new homes and businesses) that have occurred during the past several years; and (4) explore possibilities of constructing buildings on the Haywood Road bridge in an effort to maintain connectivity as a business corridor through west Asheville.

RESOLUTION NO. 15-232 - RESOLUTION REGARDING THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION I-26 CONNECTOR TIP PROJECT 2513

Councilwoman Mayfield said that this is probably going to be the largest infrastructure project we will ever see in western North Carolina. It will cost approximately ¾ of a billion dollar just in this corridor in the City. It will be a huge impact on neighborhoods and businesses, all of which are growing. How the project unfolds will dictate the character and feel of our city for decades going forward. She then explained the potential impact of this project, along with a background of it leading up until now.

She said some citizens want to see the project go away. She felt the City should resist that temptation for several reasons: (1) there are very real safety issues in this corridor; (2) even if the City of Asheville did not want the project doesn't mean it would stop NCDOT from moving forward; and (3) we would forfeit the critical opportunity to make the City's voice heard about what it is we want to see from this project.

She said that basically we want to see a project that matches the scale and character of our community; that reunifies and connects community; minimizes impact of neighborhoods and local businesses; and separates local and interstate traffic. The resolution below accomplishes those goals.

She then reviewed the following resolution, including three amendments: "WHEREAS, the North Carolina Department of Transportation ("NC DOT") has issued a Draft Environmental Impact Statement ("DEIS") for the I-26 Connector Project, TIP Project I-2513 ("the project"); and WHEREAS, NCDOT is seeking public input on the DEIS and held a public information session and hearing on November 16, 2015; and WHEREAS, the City of Asheville is providing comments to NCDOT on the DEIS through a letter and this resolution; and WHEREAS, the I-26 and I-240 corridors are critical to local and regional residents, visitors, interstate travelers, and regional commerce; and WHEREAS, traffic congestion and safety are continuing problems along I-240 and I-26 through Asheville; and WHEREAS, improvements to the I-240 and I-26 corridors should be minimally impactful to the local community and should enhance the quality of life for residents and the quality of experience for visitors wherever possible; and WHEREAS, NC DOT has been

responsive to input from the City of Asheville and Buncombe County by including new bicycle and pedestrian facilities in the DEIS; and WHEREAS, the NC DOT has committed to run the new, local travel demand model and undertake a capacity analysis that considers a six-lane alternative for Section A and has stated that fewer lanes would be built if these analyses demonstrate fewer lanes would be sufficient; and WHEREAS, members of the community have expressed at the November 16 public hearing and through letters their strong preference for a project that addresses current congestion and safety problems but also one that is smaller overall, better reflects the character of Asheville, incorporates additional bicycle and pedestrian facilities, and minimizes harm to the affected neighborhoods of West Asheville, Burton Street, Emma, and Montford; and WHEREAS, the City of Asheville seeks a closer working relationship with NC DOT on the ongoing design of this project to ensure its impacts are minimized. NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: (1) The City of Asheville calls on NC DOT to use any and all tools at its disposal to reduce the overall size and impact of the project on Asheville's neighborhoods and businesses and to improve community connectivity through inclusion of additional bicycle and pedestrian elements required by NC DOT's Complete Streets policy, reflected in adopted City plans and policies, and referenced in the December 9, 2015, cover letter and December 8, 2015, Memorandum from the City of Asheville, both of which are specifically incorporated herein by reference; (2) The City of Asheville further calls on NC DOT to analyze in both the travel demand model and the capacity analysis a six-lane alternative in Section A (the West Asheville section) coupled with four lanes for I-26 in Section B (the bridge section) and to construct as few lanes as possible to address safety and congestion; (3) The City of Asheville further calls on NC DOT to partner with the City in creating a collaborative working group of City appointees and NC DOT design professionals that will meet regularly starting in early 2016 and throughout the design phase to: (a) minimize the project's size and impact, which will provide community benefits and reduce cost; (b) ensure adequate consideration of the concerns listed in the City's comment letter; (c) analyze the travel demand model, capacity analysis, and the methodology of calculating Level of Service in an effort to gain consensus on these foundational elements of the project; (d) identify opportunities to return land around the project to productive, tax-generating use and to ensure land on the east side of the river under any new bridges is put to use in a way that enhances the riverfront; and (e) identify opportunities to repair or redress impacts of previous transportation projects on neighborhoods and businesses; (4) In order to provide the most benefit to the Asheville community while also accommodating through traffic, and for all the reasons stated in the City of Asheville's comment letter, the City of Asheville endorses Alternatives 4 and 4B for Section B and calls on NC DOT to further minimize the size and scale of these alternatives, particularly the impacts on the Burton Street Community, the impacts of Alt. 4 on the Emma Community and the impacts of Alt. 4B on the Montford Community. Following completion of the new travel demand model and capacity analysis and focused exploration with NC DOT of options to reduce the overall size and impact of the project, the City of Asheville anticipates being able to endorse a single alternative but, in the absence of additional information, is not able to do so at this time; and (5) The City of Asheville endorses Alternative F1 for Section C (I-40/I-26/I-240 interchange) in order to minimize the footprint and cost, while achieving the primary objective of creating full movement between interstate highways. For the reasons cited in the City's comment letter, the City of Asheville does not endorse the increased expense associated with the proposed collector roads and widening of I-40 east of Brevard Road."

She said that we have very real problems in this corridor that need to be addressed and we need to figure out a way to do that while preserving the integrity of our City and the things that make it special.

Closed Session

At 7:13 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132

of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Rebecca Robertson, Wann Near, Christal Weatherly and the City of Asheville. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:50 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Mayor Manheimer asked for public comment.

The following individuals expressed their thoughts regarding the I-26 Connector and its route, and those with written comments submitted them to Mr. Putnam for forwarding to the NCDOT (others indicated they would submit their comments directly to NCDOT):

John Gordon, resident in the Montford area
Ted Figura
Joe Minicozzi
Steve Rasmussen
Don Kostelec
Alan McGuinn
Mike Sule
West Asheville resident
Timothy Sadler

In response to Vice-Mayor Wisler, Mr. Putnam felt that he didn't think that 1,000 copies of the same letter to NCDOT would rise to the top; but felt it was very important to make sure that the NCDOT receives at least one copy.

Councilman Bothwell felt that the suggestion by Mr. Kostelec be made to the resolution to state that "Whereas, traffic congestion and safety are challenging problems along I-240 and I-26 through Asheville." He felt that a lot of the problems associated with that stretch is distribution of traffic.

It was the consensus of Council to bring this item back on a regular basis to update City Council on the progress of the I-26 Connector.

Councilman Bothwell then moved to approve the resolution, with the amendment noted above. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 30 - PAGE 346

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Richard A. Clemenzi, PE, CGD, PACE-NC Inc., presented information regarding the PACE Financing for Clean Energy. He hoped Asheville will begin the process to actively facilitating PACE in the very near time frame by (1) supporting PACE initiative; (2) form team staff/PACE-NC/Industry/SACEE Team; (3) coordinate with Local Governance Commission; and (2) have the PACE Team report back in 30 days. City Manager Jackson said that policy direction and strategic goals from Council are clear and this is a management project. Staff will continue

working with this group and seek the Sustainability Advisory Committee on Energy & the Environment's advice if they need to come back with additional policy direction.

Rev. Amy Cantrell urged Council to use their tools to work on the affordable housing crisis, in particular, to increase money in the Affordable Housing Trust Fund; to continue to use land banking and creating policies around land banking for the purpose of affordable housing; and to pass mandatory inclusionary zoning so that any new development also includes affordable housing.

Mr. Eric Velez said that he has property in south Asheville and is working with Planning and Community Development staff to develop the property in an positive way for affordable housing.

Mr. Bryon Greiner, member of the Downtown Commission, stated that the Downtown Commission has a process in place to work with developers to get a better project. In addition, mandatory compliance and mandatory review of the design guidelines is a good step. Basically, developers need a clear, understandable process for development.

Mr. Timothy Sadler suggested if apartments get subsidies from the U.S. Dept. of Housing & Urban Development (HUD), they should require a mold test, paid by the HUD. In addition, he urged Council to encourage the use of new products to make sure our buildings are built energy efficient.

Councilman Young urged Council familiarize themselves with the ban the box initiative as it will be going before the Governance Committee in January.

Accessory Dwelling Units

Mr. John Farquhar and Mr. Jackson Tierney asked City Council to expedite a process to include accessory dwelling units into the homestay ordinance.

It was the consensus of Council to instruct the Planning & Economic Development Committee begin exploring the idea of including accessory dwelling units into the definition of homestays.

City-Owned Property on Haywood Street

Ms. Valerie Hoh and Mr. John Morris presented City Council with a petition containing 9,905 signatures requesting City Council preserve the City-owned property in front of the Basilica of St. Lawrence for future use as public green space, and vote against the sale of that property for commercial development.

Mr. Blain Perry felt the City-owned property on Haywood Street should be used for residential. Downtowns are concentrated areas where people can walk without having to have cars. That would be a way to preserve some of our greenspace outside of the City.

Mayor Manheimer said that City-owned property on Haywood Street noted that this property is no longer on the market. She felt we the process should begin at the Planning & Economic Development Committee (PED), with involvement from the Asheville Design Center, the Basilica, etc.

Councilman Bothwell felt the first essential decision is what the streets will be like because the streets will define what we do. The Transportation Department and Asheville Design Center have come up with ideas on how to improve the intersection. Then, with the Planning & Economic Development Committee (PED) involvement, we let the Asheville Design Center, or

others, come in with demonstration ideas that could be installed relatively cheaply and let people see what could happen, i.e. a demonstration garden. He felt there should be a lot of citizen input into this project.

Councilwoman Mayfield understood the Asheville Design Center will not work on this project unless there are a range of options they are allowed to present, to include some level of development and public space. The Design Center has offered (with a very small compensation compared to what the City would pay for a larger design firm) to come up with a range of options that would be vetted by the public, but it would not be just pure open space or public space.

Councilman Smith was not sure how we approach an entity to do planning for the City without having a Request for Qualifications process. He didn't feel that was a public process.

Vice-Mayor Wisler, Chair of the PED Committee, felt that PED can take on the role of looking at ways to find opportunities for the public to come forward with ideas.

Councilman Young supported entire public space with no development, along with community conservation.

Councilwoman Mayfield was interested in an exploration of options that would include everything from a combination of a building and public space, to pure green space, and that we look at what the costs and benefits are of each of the design options.

Councilman Smith felt this item should be placed on an agenda and arriving at a major policy decision at this meeting is not appropriate. He supported starting a process planning at PED.

It was the consensus of Council to have PED start investigating a thorough public process around the options obtaining as much public input as we can, and then PED will come to a consensus on a process and bring that forward to Council.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:11 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – January 12, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized the following (1) for their participation in the ISO 14001 EMS Certification for Transit: Rosann Christian, Yuri Koslen, Mariate Echeverry, Ken Putnam, Cathy Ball, Sam Byrd, LaShawn Meadows, Ronnie Payne, Fedor Demets, Steve Hall, Dewayne Dryman, Wesley Logan, Eli Bratnichenko, Sara McHone, Kerby Smithson, Joey Robison, Sean Spiller, Janet GeorgeMurr, McCray Coats, Mark Stevens, Dion Eskew, Tony Rathbone, Keisha Lipe, Tony Chapman, Bobby Austin, John Swafford, Jeremy Hyatt, Andrew Morgan and Cody Shook. Nationally there are approximately 12 agencies with the certification; (2) for their participation in the Award of Excellence for 123 Graffiti - Graffiti Clean Up Initiative - Greg Shuler, Brad Hunter, Chris Daniels, Vicky Haskell, Scott Barnwell, Cameron Carlyle, Tim Reimers, Dawa Hitch, Dan Phairas, Christy Edwards, Marsha Stickford, Cathy Ball, Joey Robison and Catherine Hofmann; and (3) for their participation in the Parking Garage Real-Time Space Availability - Keith Kennedy, Scott Barnwell, Tim Reimers and Cameron Carlyle.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION PROCLAIMING JANUARY 16 AND 18, 2016, AS "DR. MARTIN LUTHER KING JR. DAYS"

Mayor Manheimer read the proclamation proclaiming January 16 and 18, 2016, as "Dr. Martin Luther King Jr. Days" in the City of Asheville. She presented the proclamation to Ms. Oralene Simmons, and others, who briefed City Council on some activities taking place during these days.

C. PROCLAMATION PROCLAIMING JANUARY, 2016, AS "SENIOR SUFFRAGE MONTH'

Mayor Manheimer read the proclamation proclaiming January, 2016, as "Senior Suffrage Month" in the City of Asheville. She presented the proclamation to Ms. Ann Butzner, who briefed City Council on some activities taking place during the month.

At the request of Councilman Smith, Council supported Councilman Smith proceeding through the process to make voting day a fare free day.

II. CONSENT AGENDA:

Mayor Manheimer announced that the Resolution in support of the designation of the Asheville Housing Authority's Lee Walker Heights Project as a redevelopment project be moved from New Business to Consent Agenda. This item will be pulled from the Consent Agenda for discussion and/or an individual vote.

Councilman Smith asked that the Resolution establishing the second Monday in October as Indigenous Peoples Day be pulled from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE FORMAL MEETING HELD ON DECEMBER 8, 2015

B. APPOINTMENT RESOLUTIONS

RESOLUTION NO. 16-1 - RESOLUTION APPOINTING A MEMBER AS THE EX-OFFICIO, NON-VOTING MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Summary: Former Councilman Chris Pelly has resigned as the ex-officio non-voting City Council member on the Citizens-Police Advisory Committee, thus creating a vacancy.

Councilman Keith Young be and he is hereby appointed to serve as the ex-officio, non-voting City Council member on the Citizens-Police Advisory Committee according to the length of his Council term of office.

RESOLUTION BOOK NO. 37 - PAGE 348

RESOLUTION NO. 16-2 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Summary: Councilman Gordon Smith has resigned as a member of the Asheville-Buncombe Community Relations Council. Councilman Keith Young be and he is hereby appointed as a voting member to the Asheville-Buncombe Community Relations Council to serve a term according to the length of his Council term of office.

RESOLUTION BOOK NO. 37 - PAGE 349

RESOLUTION NO. 16-3 - RESOLUTION APPOINTING A MEMBER TO THE DOWNTOWN COMMISSION

Summary: Former Councilman Jan Davis has resigned as a member of the Downtown Commission, thus creating a vacancy for a voting City Council member.

Councilman Brian Haynes be and he is hereby appointed to serve as a voting member on the Asheville Downtown Commission until he is no longer a member of City Council.

RESOLUTION BOOK NO. 37 - PAGE 350

RESOLUTION NO. 16-4 - RESOLUTION APPOINTING MEMBERS TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Summary: Former Vice-Mayor Marc Hunt has resigned as a member of the HUB Community Economic Development Alliance, representing the seat of a Planning & Economic Development Committee member.

Vice-Mayor Gwen Wisler be and she is hereby appointed as the City Council appointee and member of the City Council Planning & Economic Development Committee to serve a a member of the HUB Community Economic Development Alliance until she is no longer a member of City Council or is no longer a member of the City Council Planning & Economic Development Committee.

Councilwoman Julie Mayfield be and she is hereby appointed to serve as an Alternate on the HUB Community Economic Development Alliance until she is no longer a member of City Council.

RESOLUTION BOOK NO. 37 - PAGE 351

RESOLUTION NO. 16-5 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT

Summary: The term of Chris Pelly, as a member on the Metropolitan Sewerage District Board of Directors, expires on January 19, 2016.

Mr. Chris Pelly, 95 Cisco Road, be and he is hereby appointed to serve an additional three-year term, term to expire January 19, 2019, or until his successor has been appointed.

RESOLUTION BOOK NO. 37 - PAGE 352

RESOLUTION NO. 16-6 - RESOLUTION APPOINTING THE CHAIR OF THE POLICE OFFICERS AND FIREFIGHTERS DISABILITY REVIEW BOARD

Summary: There is a need to appoint the Vice-Mayor to serve as the Chairman of the Police Officers and Firefighters Disability Review Board.

Vice-Mayor Gwen Wisler be and she is hereby appointed as the City Council representative, to serve as Chairman, to the Police Officers and Firefighters Disability Review Board to serve a term according to the length of her Vice-Mayor term of office.

RESOLUTION BOOK NO. 37 - PAGE 353

RESOLUTION NO. 16-7 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Summary: Former Councilman Jan Davis has resigned as a member of the Asheville Area Riverfront Redevelopment Commission, thus creating a vacancy.

Councilman Cecil Bothwell be and he is hereby appointed to the Asheville Area Riverfront Redevelopment Commission to serve as the City Council voting member until he is no longer a member of the Asheville City Council.

RESOLUTION BOOK NO. 37 - PAGE 354

RESOLUTION NO. 16-8 - RESOLUTION APPOINTING AN EX-OFFICIO, NON-VOTING MEMBER OF THE BUNCOMBE TOURISM DEVELOPMENT AUTHORITY

Summary: Former Councilman Jan Davis has resigned from the ex-officio non-voting member on the Buncombe County Tourism Development Authority, thus creating a vacancy for a City Council representative.

Councilwoman Julie Mayfield be and she is hereby appointed as the ex-officio non-voting City Council representative on the Buncombe County Tourism Development Authority to serve a term according to the length of her Council term of office.

RESOLUTION BOOK NO. 37 - PAGE 355

C. RESOLUTION NO. 16-9 - RESOLUTION AMENDING THE 2016 CITY COUNCIL MEETING SCHEDULE TO ADD THE CITY COUNCIL ANNUAL RETREAT ON JANUARY 29 AND 30, 2016, BEGINNING AT 8:30 A.M. IN THE 1ST FLOOR CONFERENCE ROOM OF THE COUNTY ADMINISTRATION BUILDING, LOCATED AT 200 COLLEGE STREET, ASHEVILLE, N.C.

RESOLUTION BOOK NO. 37 - PAGE 356

D. RESOLUTION NO. 16-10 - RESOLUTION AUTHORIZING THE MAYOR TO SIGN AN AMENDMENT TO THE 2012 MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE

Summary: The consideration of a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

On October 9, 2012, City Council adopted Resolution No. 12-228 approving the 2012 Municipal Records Retention and Disposition Schedule issued September 10, 2012, by the N.C. Dept. of Cultural Resources, Division of Archives and History.

The first amendment (dated October 2, 2014) to Standard 9 (Law Enforcement Records) was previously adopted by City Council on February 10, 2015, by Resolution No. 15-33. The second amendment to Standard 12 (Personnel Records) clarifies language for retention period of employee eligibility records.

Pro:

- Promotes municipal records management

Con:

- None noted

Staff recommends City Council adopt a resolution authorizing the Mayor to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

RESOLUTION BOOK NO. 37 - PAGE 357

E. RESOLUTION ESTABLISHING THE SECOND MONDAY IN OCTOBER AS INDIGENOUS PEOPLES' DAY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

F. RESOLUTION NO. 16-12 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A GRANT AGREEMENT WITH THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR $1 MILLION IN TOURISM PRODUCT DEVELOPMENT FUNDS

Summary: The consideration of a resolution authorizing the City Manager to sign a grant agreement with Buncombe County Tourism Development Authority (BCTDA) for $1 million in Tourism Product Development Funds (TPDF).

The BCTA administers the TPDF Grant with the purpose to provide funding assistance for construction projects that will create new and additional lodging room nights in Buncombe County. In May 2015, Council approved a TPDF application for $2.5 million in grant funds to help construct $5 million worth of Riverfront Destination Development projects. During the TPDF Phase II application, the request was reduced to $2.27 million.

In response to the TPDF Phase II application, the BCTDA announced an award of $1.7 million to the City of Asheville (City) in late October 2015 for the Riverfront Destination Development Project. $1 million is available from the TPDF now and an additional $700,000 is expected to receive final approval from the BCTDA in early 2016 when additional funds are available. Two different grant agreements will be executed between the City and the BCTDA since funds will become available at different times.

Since the City did not receive full funding, the scope of the Riverfront Destination Development Project was reduced.

The grant agreement outlines the required construction start and end dates, the construction cost reimbursement schedule, annual reporting requirements, and other legal requirements.

The City's application proposed construction of brick and mortar projects that will help transform the River Arts District and its gateways from a place that has scattered and hard to find attractions, into a fully developed destination where points of interest and experiences are easy to find, attentive to visitor needs, and easily accessed.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city
- The TPDF grant award is a significant funding opportunity that leverages the City's investment to move forward on these investments
- The City has shown a commitment to implementing these projects as part of the Economic Development Capital Improvement Program

Con:

- The grant is a reimbursement grant, which means that for cash flow purposes the City will need to allocate its own capital dollars first and structure its financing to cover these cash needs

Funding from grants and partnerships is a key component of the City's multi-year Capital Improvement Program (CIP). This $1 million grant will be used to provide funding for a key project in the CIP. Staff is currently updating cost estimates, and cash flow projections for the CIP and will present those updates as part of the upcoming FY 2016-17 budget process.

City staff recommends City Council authorize the City Manager to sign the grant agreement with BCTDA.

RESOLUTION BOOK NO. 37 - PAGE 359

G. RESOLUTION NO. 16-13 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR A GRANT FROM THE US DEPT. OF HOMELAND SECURITY FOR STRUCTURAL FIREFIGHTING PERSONAL PROTECTIVE EQUIPMENT

Summary: The consideration of a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant in the amount of $500,000.00 from the US Department of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept grant funding if awarded.

The Department of Homeland Security has recently issued guidance for the Fiscal Year (FY) 2015 Assistance to Firefighters Grant (AFG) program. This is a grant opportunity for fire departments to purchase needed equipment to enhance firefighter safety, service delivery, and effectively train personnel. Towards that end, if the grant request is approved, the Fire Department would purchase Structural Firefighting Personal Protective Equipment to replace equipment that is currently reaching its end of service life. The Structural Firefighting Personal Protective Equipment is one of a firefighter's most critical tools for personal protection and regular replacement ensures that our personnel have the most up-to-date equipment available. The grant program requires communities of greater than 20,000 populations to match Federal grant funds equal to 10 percent of the total project cost, or $50,000.

Staff recommends participation in the AFG Program for the following reasons:

- The grant program was developed to assist in the purchase of critical firefighting equipment and tools to provide greater safety for firefighters.
- If awarded, the City would be able to utilize grant funds for the purchase of required equipment.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- This grant will enable AFD to accelerate our procurement of this equipment.

Con:

- 10% matching amount of purchase required $50,000

This grant will not increase the Fire Department's budget request as these funds are already programmed into the budget.

City staff recommends that City Council authorize the fire department to apply for a grant in the amount of $500,000 from the US Department of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept the grant funding if awarded.

RESOLUTION BOOK NO. 37 - PAGE 360

H. RESOLUTION NO. 16-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL TRANSPORTATION FUNDING

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The MPO has opened a call for projects to use federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities (5310) funds; the deadline was December 23, 2015; due to timing issues city staff applied for the grant, but the application will not move through without council's approval.

The MPO expects to have approximately $325,000 in 5310 funds for 2016. These funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- Paratransit service for $112,500; with 80% funded by the grant.
- Transit station repairs and ADA upgrades for $150,000; 80% funded by the grant.

If received, the paratransit funds would help fund an annual operating expense that will be programmed in the City's Transit Operating Fund for FY 2017; the transit station is an existing capital project that requires more funds than originally budgeted; these funds would help offset the additional costs. Each of these projects is ready to move forward as the funding becomes available.

The Transit Committee and Multimodal Transportation Commission endorsed this application.

Pros:

- Allows the City of Asheville access to up to $262,500 in capital, and operating investment.
- Allows the City of Asheville to offset existing costs.

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage 80% grant funding for these projects, up to a grant value of $262,500.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

RESOLUTION BOOK NO. 37 - PAGE 361

I. RESOLUTION NO. 16-15 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A MUNICIPAL AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR IMPROVEMENTS AT THE I-26 AND NC 191 (BREVARD ROAD) INTERSECTION

Summary: The consideration of a resolution authorizing the City Manager to sign a municipal agreement with the N.C. Dept. of Transportation for the installation of a concrete sidewalk along both sides of NC 191 (Brevard Road) at its intersection with I-26 and for the installation of four concrete bus pads at locations designated by the City of Asheville.

The N.C. Dept. of Transportation (NCDOT) plans to upgrade the interchange of I-26 and NC 191 (Brevard Road) and widen and reconstruct I-26 from east of Brevard Road to east of Pond Road with an anticipated letting date during February 2016 and an anticipated completion date during August 2019. The project includes construction of about 5,750 linear feet of 5-foot sidewalk and four bus pads.

According to current NCDOT policy, the City is required to reimburse the NCDOT 40% of the construction cost for the sidewalk and 100% of the construction cost for the bus pads. The estimated cost to the City for the sidewalk is $57,086 and the estimated cost to the City for the bus pads is $1,132. Upon completion of the project, the NCDOT will invoice the City for its share of the actual costs and final payment would be due within 60 days of the invoicing.

Pros:

- Much need pedestrian and transit infra-structure will be provided.

- The City is only required to pay 40% of the construction cost for the sidewalk as opposed to 100%.
- Overall construction cost will be minimized since the sidewalks and bus pads are part of a larger project.

Cons:

- The City will be responsible for the maintenance of the sidewalk and bus pads.
- Actual anticipated cost to the City is $58,218.

The actual anticipated cost to the City is $58,218 and the funds should be budgeted for FY 2019-20 from sidewalk fee-in-lieu-of funds.

Staff recommends that City Council approve a resolution authorizing the City Manager to sign a municipal agreement with the NCDOT for the installation of a concrete sidewalk along both sides of NC 191 (Brevard Road) at its intersection with I-26 and for the installation of four concrete bus pads at locations designated by the City of Asheville as a part of project I-5504.

RESOLUTION BOOK NO. 37 - PAGE 362

J. RESOLUTION NO. 16-16 - RESOLUTION AUTHORIZING THE SALE OF A PARCEL OF LAND OWNED BY THE CITY OFF STATE STREET TO MOUNTAIN HOUSING OPPORTUNITIES FOR THE PURPOSE OF CREATING AFFORDABLE HOUSING

Summary: The consideration of an offer by Mountain Housing Opportunities to purchase, by private sale, real property owned by the City of Asheville located off State Street.

The City owns a small (.18 acres) parcel off State Street in West Asheville. This parcel has been owned by the since 1932, in what appears to be the result of a tax sale. Earlier this year, the City learned that an adjoining parcel with access to Pineview Street was for sale. MHO indicated interest in this parcel, and inquired whether the subject City land off State Street was available. Based upon Council's Strategic Operating Plan and our Comprehensive Affordable Housing Strategy, the City's interest in making this land available for affordable housing was confirmed to MHO, and both parties engaged in due diligence.

As a result of that mutual interest, MHO has offered to purchase the property from the City on the following terms:

- Purchase Price: $34,700. This is the appraised value of the site.
- City to provide non-warranty deed
- MHO will develop 3 single family homes on this site or adjacent property that will be sold to households with incomes below 80% AMI
- City to loan $34,700 to MHO with the following terms:
    - Zero Interest to MHO during construction.
    - Upon sale, loan funds will be transferred/loaned to 3 income eligible households with the City as a lender –3rd mortgage, deferred for 30 years with an equity sharing clause due upon repayment.

MHO's current plan for the Pineview development is to develop 12 single family homes. All homes will be the same size and character, approximately 1000 square feet, 2 bedroom, 1.5 bath. Four of the 12 homes may sit above a garage to take advantage of the site topography. In addition to the 3 homes committed as part of the State Street lot acquisition, 3 additional homes (for a total of 6) are planned to be sold affordably, pending the site being adequate for density of 12 homes and the availability of additional needed subsidy. MHO is currently building homes to both System Vision and Energy Star standards. They are partnering with the Compact Cottage

Company developer who builds to Energy Star standards and will at a minimum build to this standard.

The Housing and Community Development Committee supports the approval of the purchase offer from Mountain Housing Opportunities for the lot off State Street.

Pros:

- Six units of affordable for-sale housing will be created.
- The value of the land will be recovered by the City at the time of the resale of the homes.

Con:

- Although the proposed structure will recover funds at some future point in time, there is no promise of long-term affordability for these homes.

No City funding is requested other than making the value of the land available as a loan.

Staff recommends approval of the purchase offer from Mountain Housing Opportunities for the lot off State Street.

RESOLUTION BOOK NO. 37 - PAGE 363

K. ORDINANCE NO. 4474 - BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR PRIOR YEAR CONTRACTS AND PURCHASE ORDERS THAT ROLLED FORWARD TO FISCAL YEAR 2015-16

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2015-16.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the FY 2014-15 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2015-16, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The attached technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2015-16 budget for each of the City's annual operating funds.

Pro:

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2015-16.

Con:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been reserved in the City's FY 2014-15 financial statements. There is no impact on unassigned/available fund balance in the City's operating funds.

City staff recommends City Council approve the attached technical budget amendment in each of the City's annual operating funds to appropriate from restricted fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2015-16.

ORDINANCE BOOK NO. 30 - PAGE 206

L. ORDINANCE NO. 4475 - BUDGET AMENDMENT FOR THE CONSTRUCTION OF THE FRONT ENTRANCE OF THE WNC NATURE CENTER

Summary: The consideration of a budget amendment in the amount of $627,000 for the construction of the front entrance at the Western North Carolina (WNC) Nature Center (Nature Center).

The City of Asheville in the Parks and Recreation Department has received a $627,000 contribution from the Friends of the WNC Nature Center (Friends) to support the construction of a new front entrance at the Nature Center. The front entrance is one of the primary initiatives identified in the Nature Center's 2020 Vision Plan.

The Friends, a 501 (c) 3 non-profit organization, is a community group of individuals, businesses and grantors who together support the Nature Center with funding to provide an enriching and educational experience for visitors. Approximately 50 percent of the contribution is funded by a grant awarded to the Friends by the Tourism Development Authority in the Tourism Product Development Fund. The remaining 50 percent of the contribution is funded by institutional and donor directed funds.

Pros:
- Provides funds to support capital improvements at the Nature Center.
- Provides funds to enhance special projects and guest services at the Nature Center.
- Provides funds to assist in fulfilling standards and maintaining Nature Center accreditation with the Association of Zoos and Aquariums.

Con:
- None

A project budget established by this budget amendment will authorize (a) one-time improvements to construct the front entrance; and (b) expenditures up to $627,000. Since these expenditures will be fully funded with a contribution from the Friends that has been received, there is no net fiscal impact to the City's operating budget.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Friends in the amount of $627,000 for construction of the front entrance at the Nature Center.

ORDINANCE BOOK NO. 30 - PAGE 208

M. RESOLUTION IN SUPPORT OF THE DESIGNATION OF THE ASHEVILLE HOUSING AUTHORITY'S LEE WALKER HEIGHTS PROJECT AS A REDEVELOPMENT PROJECT

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

RESOLUTION NO. 16-11 - RESOLUTION ESTABLISHING THE SECOND MONDAY IN OCTOBER AS INDIGENOUS PEOPLES' DAY

Summary: This resolution will declare the second Monday in October as Indigenous Peoples' Day in the City of Asheville; encourage other institutions to recognize the day; and reaffirm the City's commitment to promote the well-being and growth of Asheville's and all of western North Carolina's Indigenous People.

Mr. Richard Sneed, Vice-Chief of the Eastern Band of Cherokee Indians, and Mr. Sage Dunston, Chief of Staff representing Chief Justice, thanked Councilman Smith and City Council for this resolution which will celebrate the contributions of Cherokees and all indigenous people.

Councilman Smith moved for the adoption of Resolution No. 16-11. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 358

RESOLUTION NO. 16-17 - RESOLUTION IN SUPPORT OF THE DESIGNATION OF THE ASHEVILLE HOUSING AUTHORITY'S LEE WALKER HEIGHTS PROJECT AS A REDEVELOPMENT PROJECT

Summary: The Asheville Housing Authority, in partnership with Mountain Housing Opportunities, plans to submit an application for low income housing tax credits to the North Carolina Housing Finance (NCHFA) for the redevelopment of Lee Walker Heights and desires to have this project considered a "redevelopment project" application by NCHFA. In order to be considered a "redevelopment project" by NCHFA, certain criteria must be met, of which one option includes evidence that there is a waiver of impact, tap, or related fees normally charged for the project. The City has established an Affordable Housing Fee Rebate of 50% of City permit and water tap fees for which City staff has confirmed this project will qualify, but to meet certain North Carolina Housing Finance Agency requirements for the project, that fee incentive must be approved as an advance waiver.

This resolution will approve the City of Asheville approving a waiver of 50% of all permit, tap, and other City development fees for this important redevelopment project; and (2) authorizing the Mayor to provide a letter to the Housing Authority confirming the approved waiver of fees.

City Manager Jackson said this resolution is only about waiving 50% of all permit, tap and other City development fees. This a precursor to an application to a state tax credit agency. It is his understanding that City Council is interested in understanding all of the unknowns and opportunities, but they are not considering other funding opportunities, other than this waiver. He said that Council's policy is to provide a 50% rebate, but this is a process deviation for a waiver rather than reimbursement.

Councilman Bothwell's concern was if this project was going to be successful it needs to connect the Lee Walker Heights Project to Biltmore Avenue, so it becomes much more part of the community. He understands that it looks pretty certain that the Matthews Ford property will be available to the City and we will be able to make that connection happen.

In response to Councilman Smith, Housing Authority Chief Financial Officer David Nash said that their original request was 100% waiver; however, they have confirmed that a 50% waiver will suffice for the application. A 100% waiver would be a stronger show of support from the City and that is still their preference. There will be an opportunity to revisit the waiver later on in the application process. There will be two other items that will need to be brought before City Council - a rezoning request; and the larger financial commitment they will be looking for infrastructure, so the other 50% waiver could be considered at that time.

In response to Councilman Smith, Mr. Nash explained that at the time that HUD gives its final approval for the conversion from public housing to this new program, and after they secure all the funding and put the financing plan for that, anyone who is living at Lee Walker Heights at that time will have the right to relocation benefits and temporary relocation with the right to return. There will not be any screening requirement for them to return to the property after the new units will be completed.

When Councilman Haynes wondered what percentage of the people displaced would return, Mr. Nash said that he didn't imagine it would be 100% because once they find another place to live and are satisfied with that, they may not wish to relocate again. Through the grapevine he has heard that many of them will return.

In response to Councilman Haynes, Mr. Nash said that they must find housing under the federal HUD requirements. They cannot start demolition on that property until they find housing for the people that are living there. The plan is a three-fold approach - (1) residents will be asked for three choices of relocation to one of our other developments or affiliated developments that the Housing Authority operates; (2) Mountain Housing Opportunities (MHO) is working as their co-developer and they have agreed to waive their credit check requirements for residents moving from Lee Walker Heights, so they will have an opportunity to move to one of MHO's development as they have a turnover; and (3) people can request a voucher and move into the private market. Some people have said that they would like to take their voucher and move to another City. The Housing Authority will honor that request.

In response to Councilwoman Mayfield, Mr. Nash said that only the people at the time of the final HUD approval of the financing plan will be relocated, which they expect to be in late 2016 or early 2017. He said that currently they have 76 households still living in the development. People are staying in the development and in the planning process because they want to be there and they want to be able to come back to the new development.

Two Lee Walker Heights residents who have been participating in the process said that there has been good communication with the Housing Authority. They felt that 70% of the residents will return because everyone that lives there was born and raised there and they want to return.

When Executive Director of the Housing Authority Gene Bell said that a letter has been sent to every resident outlining the relocation requirements and their benefits, Mayor Manheimer asked if he would share that letter with Council so they can be educated when residents call them.

Councilman Young was inclined to support this so they can complete their application; however, he will be interested in hearing more when they come back to Council with a substantial request.

Councilwoman Mayfield moved for the adoption of Resolution No. 16-17. This motion was seconded by Councilman Bothwell and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. AUDIT PRESENTATION

Mr. Daniel Gougherty, Manager of Cherry Bekaert, LLP, reviewed with Council the Fiscal Year 2015-16 audit which consisted of reviewing the City's major assets, liabilities and other areas within the financial statements issued by management for accuracy and consistency with General Acceptable Accounting Principles. He then reported on the role of the external auditor, the key highlights and the summary (1) clean opinions (2) No Adjusted Journal Entries and one Proposed Adjusting Journal Entry; (3) good internal controls; (4) one management letter comment; and (5) full cooperation with management.

B. FINANCIAL QUARTERLY UPDATE

Chief Financial Officer Barbara Whitehorn provided the financial information report, which reflects the City's overall financial position for the fiscal year through September 2015. The executive summary is as follows:

- ***Amendments.*** There were no budget amendments in the General Fund during the first quarter.

- ***Revenues.*** Through September 30, 2015, the City has collected $14.5 million in General Fund revenue, which represents approximately 14% of the total General Fund revenue budget. This collection rate is typical for the first quarter of the fiscal year. Based on FY 2014-15 year end revenue collections and FY 2015-16 first quarter trends, staff is currently projecting that ***FY 2015-16 General Fund revenue will exceed budget by $460,000 or 0.44%.***

- ***Expenditures.*** General Fund expenditures through September 30, 2015 totaled $19.8 million or 19% of budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. Staff is projecting that ***FY 2015-16 expenditures (including contract and purchase order commitments) will finish the year under budget by $746,000 (99.3% of adopted budget).***

- ***Fund Balance.*** The City began FY 2015-16 with unassigned fund balance of $16.6 million. Based on ***current revenue and expenditure projections for FY 2015-16, staff estimates that unassigned fund balance at June 30, 2016 will be $17.8 million or 17.4% of estimated expenditures.***

In response to Councilman Smith, Chief Financial Officer Barbara Whitehorn said that the City's Fund Balance policy is 15% (now Fund Balance is 17.6%) and any excess uncommitted funds is up to Council to determine what to do with it. Staff recommends growing the Fund Balance percentage because it impacts our credit rating.

C. STRATEGIC OPERATING PLAN UPDATE

Executive Director of Planning & Multimodal Transportation Cathy Ball updated City Council on the Strategic Operating Plan. In each three focus areas, she outlined completed projects, projects in process and next steps.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 2360 SWEETEN CREEK ROAD FOR

THE REPLACEMENT OF THREE EXISTING MULTI-FAMILY BUILDINGS (22 UNITS) WITH TWO NEW MULTI-FAMILY BUILDINGS (24 UNITS)

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

Principal Planner Shannon Tuch submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Tuch said that this is the consideration of the issuance of a conditional use permit for property located located at 2360 Sweeten Creek Road for the replacement of three existing multi-family buildings (22 units) with two new multi-family buildings (24 units).

She said the applicant, Givens Estates, Inc. is requesting review of site plans for the construction of 24 new multi-family units in two separate buildings (Attachment to City Exhibit 3 - Aerial Map). This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates review for residential projects with more 50 dwelling units. While Phase 3 includes only 24 units, all three phases, when combined, result in a total of 72 units. Per UDO subsection 7-5-9(a)(1)(c), the aggregate dwelling unit count determines the review thresholds. Level III projects are reviewed as Conditional Use Permits and include a quasi-judicial hearing at City Council as part of the final review.

The project site is an approximately 2.7 acre portion of PIN 9655.57-2108, which is 134.3 acres in total size (Attachment to City Exhibit 3 - Landscape Plan). This parcel is the largest of four parcels that make up the Givens Estate campus, which is 205.6 acres in size and supports a large senior housing community that provides a variety of housing types (Attachment to City Exhibit 3 - Elevations). The residential development is surrounded by a naturally wooded perimeter with mild to moderate topography where much of the campus is subject to the city's steep slope development standards. There is also a small, jurisdictional stream that runs through the property. All three phases of the project area are located internal to the campus on Wesley Drive. Wesley Drive is a privately maintained road that winds through the campus and is accessed off of Sweeten Creek Road in south Asheville.

The applicant previously received approval for two separate Level II projects, Phases 1 and 2. Both earlier phases replaced two existing buildings that contained a total of 14 units, with two new buildings for a total of 24 units, resulting in a net gain of 10 units. The current request is the third and final phase and proposes to replace three existing buildings containing 22 units total, with two new buildings (same design used in Phases 1 and 2) for a total of 24 units, resulting in a net gain of two units. Also included in this phase is the demolition and reconstruction of much of the existing surface parking and connected walkways. While subject to steep slope standards, this phase of the development will stay within the historical limits of disturbance and will not increase the total disturbed area for the property. Overall, the previously disturbed area of 53.87 acres is well below the allowed 91.8 acre total for the campus.

The Givens Estates campus is accessed off of Sweeten Creek Road through a wide, well-marked entrance and is connected internally through a series of privately maintained roads, drives and parking lots. Each phase of the Creekside development is separately parked with a combination of structured parking under the buildings with some surface parking. Phase 3 includes 12 underground spaces per building combined with 22 surface parking spots for a total of 46 spaces. The proposed parking plan results in a small net gain of two spaces over the 42 spaces currently found on-site; however, it reduces the total number of on-street spaces by 20,

which are essentially displaced to the structured parking below the buildings. Additionally, a complete campus parking analysis has been provided and found to be compliant overall. The requisite bicycle parking is also provided.

Landscaping for the new construction includes building impact, street trees and parking lot landscaping. The site is moderately wooded with existing vegetation, which may count towards the overall landscape standard.

A minimum of 20% or 0.54 acres of the project area must be set aside for open space. The proposed plan indicates that 1.43 acres is reserved and shows passively used open space between and around the buildings. Earlier documentation also demonstrated that open space for the larger campus is also met.

The site is currently zoned RM-16 (Residential Multi-family, High Density); the use proposed is permitted by-right and the applicant is proposing to meet the standards of the zoning district with this development proposal. Under this zoning designation, the overall site can support a maximum of 1,362 dwelling units, which is well above the new adjusted total of 681 units.

This proposal was approved with conditions by the Technical Review Committee (TRC) on November 16, 2015. The Planning & Zoning Commission also reviewed the project on December 2, 2015, where it was unanimously supported and recommended for approval. This Level III project requires quasi-judicial review by City Council, and Final TRC review prior to zoning approval.

Section 7-16-2(c) of the UDO states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application.

Mr. Ken Partin, Director of Givens Estates, was available to respond to questions. He asked that the applicant's position on the seven conditional use standards be submitted into the record (Attachment to City Exhibit 3 - Statement on Findings).

Mr. Tom Jones, engineer of the project, said there is a slight decrease of impervious area and a smaller development footprint. He said this project aligns with the City's goals for compatible, higher density residential infill development.

Councilwoman Mayfield thanked the applicant for increasing density on the property they already have and building much more efficient, safe and healthy buildings for your residents.

Mayor Manheimer opened the public hearing at 6:30 p.m.

Mr. Timothy Sadler suggested the applicant buy monthly bus passes at a bulk rate and offer that to the residents as an amenity. He felt that if residents are offered a bus pass as an amenity, they may be more included to use public transit. Mr. Partin responded that this community is not on a bus stop and there is not good access to a bus stop from the community.

After rebuttal, Mayor Manheimer closed the public hearing at 6:33 p.m.

Vice-Mayor Wisler moved to approve the Conditional Use Permit for Givens Creekside, Phase 3 located at 2360 Sweeten Creek Road because it meets the seven conditional use

standards as demonstrated by the applicant. This motion was seconded by Councilman Smith and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the January 26, 2016, agenda.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 1 WEST TOWER AT PACK SQUARE AND 11 PATTON AVENUE FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT/CONDITIONAL ZONING AND REVIEW OF SITE PLANS FOR THE RENOVATION OF AN EXISTING 201,000 SQUARE FOOT BUILDING ALONG WITH A PROPOSED 35,300 SQUARE FOOT PARKING STRUCTURE AND OTHER SITE IMPROVEMENTS FOR THE DEVELOPMENT OF A MIXED-USE PROJECT INCLUDING A HOTEL AND SUPPORT FUNCTIONS, 39 CONDOMINIUM UNITS AND COMMERCIAL SPACES, WITH A CONDITION TO MODIFY FENESTRATION STANDARDS FOUND IN SECTION 7-8-18 OF THE UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 4476 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 1 WEST TOWER AT PACK SQUARE AND 11 PATTON AVENUE FROM CENTRAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT/CONDITIONAL ZONING AND REVIEW OF SITE PLANS FOR THE RENOVATION OF AN EXISTING 201,000 SQUARE FOOT BUILDING ALONG WITH A PROPOSED 35,300 SQUARE FOOT PARKING STRUCTURE AND OTHER SITE IMPROVEMENTS FOR THE DEVELOPMENT OF A MIXED-USE PROJECT INCLUDING A HOTEL AND SUPPORT FUNCTIONS, 39 CONDOMINIUM UNITS AND COMMERCIAL SPACES, WITH A CONDITION TO MODIFY FENESTRATION STANDARDS FOUND IN SECTION 7-8-18 OF THE UNIFIED DEVELOPMENT ORDINANCE

Assistant Director of Planning & Urban Development Alan Glines said that this is the consideration of a request to conditionally zone property located 1 West Tower at Pack Square and 11 Patton Avenue from Central Business District to Central Business District/Conditional Zoning and review of site plans for the renovation of an existing 201,000 square foot building along with a proposed 35,300 square foot parking structure and other site improvements for the development of a mixed-use project including a hotel and support functions, 39 condominium units and commercial spaces, with a condition to modify fenestration standards found in Section 7-8-18 of the Unified Development Ordinance. This public hearing was advertised on January 1 and 8, 2016.

Mr. Glines said that the applicant is requesting consideration of conditional zoning of two parcels totaling .61 acres located at 1 West Pack Square and 11 Patton Avenue, and identified on Buncombe County tax records as PINs 9649-40-2414 and 9649-40-1422, from Central Business District (CBD) to Central Business District Conditional Zoning (CBD CZ). The site plans include the renovation of an existing 201,000 square foot building along with a proposed 35,300 square foot parking structure and other site improvements for the development of a mixed-use project which includes hotel and support functions, 39 residential units and commercial spaces, with a condition to modify fenestration standards found in Section 7-8-18 of the Unified Development Ordinance.

The project site consists of the existing BB&T building, which over the years has been home to a variety of commercial uses focusing on banking and office uses. In the past, portions of the building provided space for restaurants. The project site is surrounded for four streets: North Pack Square to the east (often referred to as Broadway), College Street to the north, North Lexington Avenue on the west side and Patton Avenue on the south side. The site has a dramatic cross slope of nearly 18 feet from the high point at the southeast corner (at Patton Avenue and N.

Pack Square) to the northwest corner of the site (at N. Lexington Avenue and College Street). The existing building has an internal drive-through lane for the former banking use that bisects the site from College Street to Patton Avenue. At the west side of the property there is a surface parking lot with an access point from N. Lexington Avenue. There is an area of city-owned property along the east side that steps to the front of the building including the large tree planters. This area will be reconfigured as a component of the proposal. This property is one of the few parcels in the city to be surrounded by four streets, all of which are designated as key pedestrian streets in the downtown area.

McKibbon Hotel Group seeks to redevelop the existing 200,868 square foot BB&T building, rebranding it as One West Tower at Pack Square. New uses will include 39 residential units intended for sale, and 140 hotel rooms. The main level of the building (accessed from N. Pack Square) will be divided between a hotel managed restaurant space, a second leased commercial space that may be used for a restaurant, and function areas for the hotel lobby. A new retail space (maximum size of 5,000 square feet) will be created out of the lower side of the building facing College Street, with new storefront fenestration where there is currently a solid brick exterior wall. The second and third floors of the building will be used for offices, meeting space and other hotel functions. As the final plans are developed for the project the number of hotel rooms and the number of residential units could change. The developer has asked for some flexibility to reconfigure the final counts so that approximately 20 hotel rooms (the equivalent of a single floor) may be substituted for up to seven residential units.

The building will be refaced with steel, glass and synthetic stone. A new roof feature will be added to the top of the building and the base will also be altered with new doors and a reconfigured plaza space to activate the ground level area.

The proposal also includes a 60 space three-level 35,283 square foot parking structure in the area along North Lexington Avenue that is currently a surface parking lot. The parking spaces will be divided between the hotel arrival area on the top level of the structure with valet parking for hotel guests. The two lower levels will be dedicated for residential parking.

The three existing driveways on Patton Avenue and College Street and N. Lexington Avenue will be utilized to access the three separate levels of the proposed parking structure. The three levels do not have internal ramping and are independent from each other. While there are no parking requirements in the CBD, the project proposes a total of 60 parking spaces. The proposal includes the utilization of the top level of the structure to create 12 spaces and a drop-off area for the valet parking for hotel guests. The hotel valet service and hotel guests will use excess parking available at the AC Hotel across from this site, which is currently under construction. The two lower levels of the structure will provide 48 parking spaces for condominium owners. Bicycle parking is also provided in the structure.

The sidewalks surrounding the property will be improved as proposed on the site plans and include street trees and crosswalks. The plans show that the disturbed area (0.87 acres) is larger than the parcel area (0.61 acres) because it includes the surrounding sidewalks. The proposal will provide major improvements and upgrades to the sidewalks as follows:

North Pack Square - The existing steps and brick planters with trees are currently part of the public right-of-way. The steps act to accommodate the grade change from North Pack Square to the building. The proposal will provide a wider flat area near the corner with Patton Avenue to extend the character of Pack Square and will then provide a grand stair to the primary entrance of the hotel. The sidewalks will vary in width from a maximum of 24 feet at the corner of North Pack Square and Patton Avenue to 12 feet in front of the building. Staff is supportive of reworking the plaza space and widening the sidewalks because it will accommodate the growing number of pedestrians using this main crossroads of downtown.

The excess area at the top of the plaza space will be leased back for outside dining as

has been common practice along the south side of Pack Square and in other parts of downtown. There is a passenger loading zone proposed for the front of the building where two on-street spaces are currently located. One of the metered spaces would be removed and the loading zone would occur in the other space. City staff has commented that a drop-off zone may be helpful to maintain the flow of traffic while accommodating a short term space for drop off and pick up of passengers. There is an existing loading zone along College Street that will remain after construction and serves as a second long-term loading zone for businesses throughout the area. Also taxis and hotel guests may utilize the direct access to the hotel provided from Patton Avenue.

College Street - The existing sidewalk along College Street is currently about seven feet wide. The proposal is to widen the sidewalk to eight feet for the section adjacent to the existing building and 10 feet adjacent to the proposed parking structure. Street trees will be added along this block which will soften the scale of the building. Access to the existing loading dock will remain, as well as access to the mid-level of the new parking structure. A new open stairway is proposed to connect the top of the parking structure to the College Street sidewalk.

N. Lexington Avenue - The existing sidewalk along N. Lexington Avenue is only about five feet wide. The proposal is to widen this sidewalk to 11 feet by reworking the width of the travel lane and by encroaching into the parcel. Four street trees will be added to this streetscape. At the corner of N. Lexington and Patton Avenues there is a niche space within the corner of the parking structure. The developer is proposing to maintain special pavement and has mentioned creating a space for an art piece. The signal pole at this corner (currently in the middle of the sidewalk area) will be relocated to a space just at the edge or behind the sidewalk. The developer will participate in the construction of the base for this pole.

Patton Avenue - The existing ten foot wide sidewalk in this area will be replaced. The developer is proposing to remove two on-street parking spaces at the corner of N. Lexington and Patton Avenues because of visibility concerns when drivers exit the upper level of the parking structure. The applicant is proposing an 18 foot sidewalk section there with two street trees in tree grates. The remaining sidewalk closer to the corner with N. Pack Square will be 12 feet wide with three street trees.

There is some transit features off-site, but they are part of the proposal. That will include two poles to house a map and route information. There will also be a bus shelter along the bus route within the public right-of-way at North Pack Square. The developer has agreed to those improvements.

Landscaping requirements for the CBD include the use of street trees and except for some minor spacing issues, the plans appear to comply with requirements. Open space is not required for developments within the CBD.

The existing building has been studied for compliance with key measurements and design standards for CBD projects and essentially complies. Only two items do not comply: 1) the requirement of a streetwall stepback; and 2) the amount of fenestration provided along the North Pack Square façade (east side of the building). The UDO anticipates this type of situation with a provision that an existing building which does not comply with all development standards should not be made less compliant through redevelopment. The building does not provide a stepback at the height of the street wall but is not required to comply because it is an existing condition. The fenestration on the east side of the building however, is being reduced through the redevelopment proposal to about 60% instead of the required 70%. The development will need a condition to modify the standard, which may be granted by City Council as a part of the conditional zoning review process (additional analysis provided below).

The property has its primary pedestrian entrance along the frontage of North Pack Square. There is also an entrance along College Street to a new retail space proposed in that

location. The parking structure has frontage on N. Lexington, College Street and Patton Avenue and meets parking structures fenestration standards. There are no direct access points into the building on Patton Avenue except by way of the driveway to the guest drop off area. The rest of the building that faces Patton Avenue functions as the base of the structure, which is mostly solid. The area above this base is proposed to be open and will be activated by the restaurant use for outside seating.

The new building design emphasizes a base, middle and cap orientation in compliance with UDO requirements. The base section proposes a higher proportion of stone materials; the middle section incorporates stone in a lighter color and uses more glass in larger spans to increase the lightness of the structure. The treatment of caps for tall buildings is given special emphasis in the UDO and the Downtown Master Plan. The cap portion of the building proposes the use of more glass than stone and works to make the tower appear lighter. The cap is detailed with both stone veneer and metal panels and other detailing to provide a well defined ornamental finish to the project.

Conditions Modifying Development Standards - Per Section 7-7-8 of the UDO, a project undergoing review as a conditional zoning may request a modification of certain standards as a part of the project review. Along the east side of the building, the ground floor fenestration is required to be a minimum of 70% windows, doors or other openings. The existing structure complies with this standard. Through the redevelopment of the façade, there are solid vertical pilasters using synthetic stone that begin at the ground level and provide a regular rhythm across the façade to the upper stories of the building. This will reduce the amount of the ground level fenestration to about 60% of the length of the façade, which is below the 70% requirement.

The reduction is partially the result of the design intention to satisfy the base, middle and cap orientation as specified as an option in the UDO for downtown buildings. The fenestration requirement is required "because it enhances the character of downtown Asheville by providing features of visual interest at the sidewalk for the benefit of pedestrians, be defining the scale between the ground floor and upper floors..." (see Section 7-8-18). Staff is supportive of the condition to modify the standard because it is a result of the unified building design, which along with the new plaza in front of the building will be an active space that includes wider sidewalks for pedestrians and outdoor dining. All of this helps to meet the intent of the fenestration standard.

The developer has asked for some flexibility in the mix of uses, especially between the hotel room amounts and the condo amounts. As the final plans are developed for the project, the number of hotel rooms and the number of residential rooms could change. The developer has asked for some flexibility to reconfigure the final counts so that approximately 20 hotel rooms (equivalent to 1 floor) may be substituted to up to 7 residential units. That could happen without further review or reconsideration by Council.

As per UDO Section 7-5-9.1. Site plan review for large development projects on parcels zoned Central Business District and located in the Downtown Design Review Overlay District in the Traditional Downtown Core are reviewed as Level III conditional zoning applications. With a conditional zoning request, City Council can learn about the project without the ban of ex-parte communication and can propose conditions so long as they are agreed to by the developer for the proposal.

The Level III downtown conditional zoning review process specifies that the Technical Review Committee (TRC) reviews the request for technical compliance, followed by the Downtown Commission which provides design review and a recommendation for the building and site. The Planning and Zoning Commission follows with a public hearing and provides a recommendation to City Council, which takes final action. If the proposal is approved by City Council, the project will return to the TRC for a final review prior to permit issuance.

The TRC reviewed this application at their meeting on November 2, 2015, and approved it with conditions. The Downtown Commission reviewed the project at their meeting on November 13, 2015, and recommended unanimous approval. The Planning and Zoning Commission reviewed the project on November 19, 2015, with a 6-1 vote. The commissioner who cast the single vote against the project focused on the new building design which removes much of the original design elements of the structure which is described as an International Style building from the 1960's.

As required by the ordinance, the developer held a meeting for neighbors on October 14, 2015. The developer reported that about 20 people attended the meeting.

The property is zoned Central Business District as are all surrounding properties. The uses proposed with the application are compatible with surrounding uses that include a hotel under construction, office, retail, food and beverage facilities and residential units.

The AC Hotel by Marriott was approved in 2014 at the corner of College Street and Broadway. Parking for hotel guests from One West Tower will be provided in this parking structure.

The Asheville 2025 Comprehensive Plan recognizes the importance of redevelopment and reinvestment, especially in downtown where intense development is appropriate and where infrastructure is in place to support the development. The Center City Plan supports high quality architecture with new construction, while respecting historic context and the creation of pedestrian environments and open spaces that are pleasant, visually interesting and welcoming to visitors. The Downtown Master Plan emphasizes the importance of new development projects to improve sidewalks along their frontage to meet defined standards and calls attention to the importance of building caps for taller buildings to enhance the skyline of downtown Asheville.

The proposal is most closely aligned with Council's Focus Area 1: Economic Growth and Sustainability, Goal 2: Invest and leverage investment in community infrastructure by encouraging mixed-use and sustainable infill development in coordination with the Comprehensive Plan, because the project will redevelop an existing building and provide new public sidewalks and plaza infrastructure.

Considerations:

- The project represents additional investment and provides an adaptive reuse of an older downtown building.
- The project will comply with downtown design standards to enhance the skyline of downtown Asheville.
- Public infrastructure will be enhanced through new wider sidewalks and other streetscape improvements.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Staff recommends approval of the proposed Level III conditional zoning application with the condition modifying fenestration standards, finding it consistent with City-adopted plans and strategic goals for development.

Upon inquiry of Councilman Bothwell, Mr. Glines explained in further detail the total loss of four parking spaces (2 on North Pack Square and 2 on Patton Avenue).

When Councilman Bothwell asked about signage, Mr. Glines said that the sign ordinance will govern what can be located on the building.

In response to Councilwoman Mayfield, Mr. Glines said that there are 17-foot sidewalks in the City, noting that there is a wide sidewalk across the street from this project on the Patton Avenue side.

When Councilwoman Mayfield questioned the necessity of losing the 2 parking spaces on North Pack Square, Mr. Glines responded that they debated this issue with the Transportation Department, Police Department, Fire Department and Public Works Department and it was their final conclusion that this is not a bad solution. What is happening out there now is happening without facilities, and the Police get frustrated because people are blocking the lane backing cars up through the light. This will help alleviate that backup. This area would be for anyone in the area of downtown.

Councilman Smith said we have an occupancy tax problem where the hotel industry retains the entirety of the occupancy tax for marketing and product development, as it sees fit. Last summer the City and County approached our hotel industry partners and requested that we cooperate to have an equitable distribution of that occupancy tax. That conversation was denied. Law was changed to increase the tax and cut the City out. We know the hotel industry has a wage problem and thus contributing to the affordable housing crisis. The hotel industry has historically had a local business problem where it has forced out local businesses. There is also an infrastructure problem in regards to the number of visitors that are coming to the City and the City not seeing any return on the infrastructure tax. Most say the BB&T Building is ugly, but exploitation of the City is uglier. He has concerns about this project, but they can be ameliorated if the applicant were willing to consider this greater context, and consider living wages, consider local business, consider affordable housing, and to consider being an advocate for the people of the City in equitably redistributing the occupancy tax for public needs.

Mr. John Cooke, attorney for the applicant, said the BB&T Building has been in downtown Asheville for 50 years and is visible from every spot in Asheville. This is a rare opportunity to repurpose an existing building to conform it the City's guidelines for development and to turn it into a mixed use 21st Century activity center. First you need a building that is ready to be repurposed. Secondly, you have to have a landlord who can work with the tenants so they can relocate. Third thing you need is an owner and developer who has a sustainable vision for how this building will be repurposed and redeveloped. Finally, you need a developer and owner who has the ability to track the investment. Not one dollar of public money in this application. This is a significant development. Significant development in urban areas attract a lot of public comment about the design. There is no organized opposition to this development. There is no plausible reason to deny this project and to deny the citizens the opportunity to have a different looking BB&T Building that is going to be a mixed-use development that is a 21st Century activity center. The application proposes a mixture of uses in the Central Business District, and the Code says the Central Business District is the primary retail, hotel, cultural and entertainment center. This is a quality application and an application that is very suitable for its surroundings. This application satisfies every applicable City plan and policy. And, the application satisfies every technical standard except for the one modification explained by Mr. Glines, noting it is requested to make it compliant with some of the other City's guidelines. He asked for Council's support.

Mr. Erik Rowan, Vice-President of Development for McKibbon Hotel Group Tower LLC, spoke to the design elements. A couple noteworthy items include (1) the developer is investing an estimated $750,000 towards construction improvements in the area surrounding the building the public realm. They will be replacing and widening sidewalks on all sides of the building, redesigning the entire plaza fronting North Pack Square. Removing the existing large planters at North Pack Square and replacing them with small sloped landscaped beds, which will create a more open inviting softer connection to the elevated outdoor dining area, activating the sidewalk. They will be adding additional outdoor dining that will overlook both College Street and Patton Avenue for additional street front activation. At the corner of College and North Pack Square, they will be cutting back the tall existing retaining wall and incorporating a new curbed terrace wall. At College Street and North Pack Square, the new extended sidewalk bulb-out will open up

the pedestrian zone. They have added over 1,600 square feet of retail with storefront on College Street at the basement level. They will narrow the loading bay on College Street and screening it with a decorative gate. On College Street they will be adding a pedestrian green stair which leads to the hotel arrival plaza above. On Lexington they will be widening the sidewalk, which will be extended onto property owned by the developer. They have added an additional public area at the corner of Lexington and Patton for an art wall with local art, and widen the sidewalk. The new parking deck will have reserved spaces for the residences of the condos at the two lower levels with the hotel arrival and check-in parking at the top level. Hotel guests will have valet and self-parking in the parking deck across the street. When the projects are completed, even at the peak occupancy there will be about 100 additional parking spaces available for the public at night and as many as 200 parking spaces available during the day. Between the two projects they will be building nearly 400 new parking spaces with private funds. They spent a tremendous amount of time evaluating how best to create an iconic high quality design for this very visible building, and outlined the many important issues the team focused on.

Mr. John McKibbon, applicant, said that he will pay the living wage for their full-time employees on this project. They also have a 401-K plan that they match profit sharing and many other benefits. In his Aloft Hotel they have been paying a living wage there for almost a year. We will support the local art scene, as we have done so in the Aloft Hotel. They will not have any national chains, but will have local or regional tenants, noting they have two local businesses in the Aloft Hotel. They will hire local and will use transit. He was not aware of the Passport Program and this might work. Also, the car sharing program is something they want to do and they will reserve a spot in the garage for the car. He reiterated comments made by Mr. Rowan about some of the design elements. Affordable housing is a real community problem. To help in this effort he is committing $250,000 to the Housing Trust Fund. He will also work with Mountain Housing Opportunities and others to provide cash and great development expertise. Regarding the occupancy tax, he currently serves on the Tourism Development Authority Board (TDA) has has pushed to get the majority of the tax for infrastructure (currently 75% goes to marketing and 25% goes for capital projects). He will support working with the state to modify how the tax is structured and distributed. He said the TDA has recently committed $3.8 to City projects for greenways, soccer fields, Nature Center and museums. These projects will be used more by locals than by tourists, and that's the direction we want to spend more money on. He asked for the Council to weigh all the issues and make a decision that will be good for our community.

Mr. Glen Wilcox, co-partner with Mr. McKibbon, spoke in support of the project. When the building was built in 1965, Wilcox Travel was one of the first tenants in the building. Twenty-eight years ago the owners of the building were in bankruptcy. He and a few other investors borrowed the money to buy the building to save it. He has tried to save and give new life to this building. In 2014 he and Mr. McKibbon became sole owners of the building. He urged Council to support the project, noting that the majority of the tenants have moved out of the building and it will be empty soon. With Council's approval they can continue with their expensive redevelopment plans for a beautiful and vibrant community.

Mayor Manheimer opened the public hearing at 7:29 p.m.

The following individuals spoke in support of this conditional zoning for various reasons, some being, but are not limited to: this project will restore beauty to a blighted skyscraper; supports the public realm with active people uses including housing, retail, meeting space, and hotel; rooftop decorations are attractive and will be seen from near and far; this project brings new private investment and will pay a large amount of taxes; will provide funds for affordable housing, pay living wages for full-time employees, support local businesses and local artists, and will upfit an existing building; this is a good example of what the private sector can do to help our City; the developer has met with the Downtown Commission Design Review Team and has listened and been cooperative ending up with a better design; the building will be given new life; building will include meeting spaces which are needed in the downtown area; there is a high demand for condos and almost no supply; developer supports the students in the A-B Tech

Culinary Arts Program by offering scholarships, hiring interns, hiring part-time employees, hires graduates to salary management positions, etc.; happy about living wage for full-time employees, but part-time employees should be paid a living wage as well; wider sidewalk areas will be potential places for buskers; and developer has a proven commitment to local arts:

Mr. David Nutter, Asheville resident
Ms. Kim MacQueen, Asheville resident and downtown business owner
Mr. Pat Whalen, President of Public Interest Projects
Mr. Byron Greiner, Downtown Commission member
Mr. Walter Rapetski, Instructor at A-B Tech for the Culinary Arts Program
Mr. Andrew Fletcher
Mr. Timothy Sadler
Ms. Elizabeth Button, owner of Heirloom Hospitality Group
Mr. Kevin Westmoreland, local small business owner
Ms. Liz Barr, art consultant

The following individuals spoke in opposition of the condition zoning for various reasons, some being, but are not limited to: people do not want any more hotels; hotels and condos will drive up land prices and rent; hotels pay low wages; this project will widen the gap between the rich and poor; every hotel built adds more traffic and pedestrian congestion and places additional burdens on our infrastructure; the hotel industry has exploited on the backs of people who live and work; downtown needs to be a place where young people have a stake, not just in hospitality or restaurants; and part-time workers need a living wage too:

Ms. Linda Brown, resident on Grove Street, said that
Mr. Scott Owen
A young college graduate who works many odd jobs to make ends meet

Mayor Manheimer closed the public hearing at 8:05 p.m.

In response to Councilwoman Mayfield, Mr. Rowan said that all windows will be replaced with insulated glass.

Vice-Mayor Wisler said that this is an amazing reuse of an unattractive building. Even though the City Council Planning & Economic Development Committee has been tasked with reviewing some of their rules, this developer has proceeded under the existing rules and should be allowed to proceed under those existing rules. She was pleased that Mr. McKibbon has agreed to start the conversation regarding the change in occupancy tax redistribution. She will be supportive of this conditional zoning request.

Councilman Haynes acknowledged the extent to which Mr. McKibbon has compromised and ultimately presented a good project. It aims to help local businesses and artists, commits to paying a living wage, though only to full-time employees, which troubles him, and supports the goals of increasing funding for affordable housing. However, the majority opinion he has heard from his constituents on this issue urges him to vote against it on the grounds of its contribution to the unnecessary growth of the hotel industry at a time when downtown already seems overrun. He promised his constituents that he would listen to them and on this issue he will honor that promise by voting against this conditional zoning.

Councilwoman Mayfield said her thinking around this breaks down into three categories: First - process. The City has set up processes around plans and commissions/boards that consider these projects before they get to Council. The boards/commissions that have considered this have made recommendations to approve, virtually unanimous, and Council should have a good reason to disagree with those recommendations. Second - land use and smart growth aspects. This kind of mixed use building in our downtown core is the exact kind of building that will reduce traffic and allow people to talk and take transit. That is certainly true for

visitors to our town who would otherwise be staying out on Tunnel Road or Patton Avenue. Third - occupancy tax. He has heard from constituents not to approve any hotels until the occupancy tax is changed. She is the Council liaison to the TDA Board and she will try to address this problem. The tax is a legislative change. We need to build a broader community consensus around what needs to happen with that money and be ready in 2017. She appreciated the applicant's willingness to support those efforts. The City will need a lot of allies to make this happen. Fourth - we have to have a legal basis on which to deny approvals for conditional zonings. The fact that the occupancy tax structure has not changed is not a legal basis which we can deny this project. While she appreciates all of the concerns, on balance, the commitment around living wages, support of local business, affordable housing and transit, she thinks this is an opportunity to set a new bar ("McKibbon Standard") for future hotel owners. She will support the project.

Councilman Bothwell has been critical about the room tax for a long time, and we need to find a legislative solution to that redistribution formula. The main objection he has heard is that it's a hotel. He felt that if this was not a hotel and everything else was going to happen to this building, the City would be cheering for this project. He felt this is an amazing project.

Mayor Manheimer said that one way to create pressure businesses to pay better wages is for the City to pay our employees a living wage, which we do, and for developers like Mr. McKibbon to lead in the effort. She felt that as this Council looks at moving towards review of new hotel applications in our City that we will be thinking about the bar Mr. McKibbon has raised and it sets a stage for a new way to view the new growth that we are experiencing. She appreciated Mr. McKibbon's leadership and would support this project.

Councilman Smith said that with Mr. McKibbon's declarations of principles that we are seeing a new day in Asheville. He appreciated that Mr. McKibbon has heard what the people of Asheville are asking for from its industry leaders, and that is the importance of paying a living wage and preferring our local artists and businesses. He was pleased that the developer is willing to use the Passport Program to increase transit usage and decrease traffic. He felt that with the McKibbon Standard, and his willingness to stand and advocate for a change to the distribution of the occupancy tax which is so valuable and important, he would support this project.

Councilman Bothwell moved to approve the Level III conditional zoning request for One West Pack Square and 11 Patton Avenue from Central Business District (CBD) to Central Business District Conditional Zone (CBD CZ) with the submitted conditions, site plan and elevations, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) new investment in Downtown Asheville is appropriate and encouraged; (2) the proposal will add visual interest to the downtown skyline; and (3) public infrastructure is enhanced with new sidewalks and streetscape improvements. This motion was seconded by Vice-Mayor Wisler and carried on a 5-2 vote, with Councilman Hayes and Councilman Young voting "no"

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

BOARDS AND COMMISSIONS

Vice-Mayor Wisler said that the applicant pool on these vacancies has been outstanding and she appreciated everyone's effort in stepping forward to help the community.

Councilman Bothwell urged residents to not only apply for boards/commissions that have current vacancies, but to review the City's Talent Scout and apply for a board/commission that you have interest in.

Regarding the Affordable Housing Advisory Committee, the following individuals applied for the vacancies: Eric McDaniel, Kama Ward, Zachary Eden, Sage Turner, Laura Collins, Charlene Jones, Arthur Myers, Emily Coleman-Wolf, Barry Bialik, Richard Fort, John Brigham, Rita Yerby, Jo Ikelheimer, Mark Collins and Amy Murphy-Nugen. Councilman Bothwell moved to appoint Jo Ikelheimer and interview Barry Bialik, Laura Collins and Richard Fort. This motion was seconded by Councilman Smith and carried unanimously.

Regarding the Downtown Commission, the following individuals applied for the vacancy: John Menkes, Constance Richards, Drea Jackson, Audra Gaiziunas, Rae Geoffrey, Kelly Prime, Carter B. Webb, Sage Turner, Mike Marcus, Franzi Charen, Andrew Fletcher, Taryn Gentry, John Monroe and John Kloeckner. Vice-Mayor Wisler moved to reappoint Dane Barrager, Brent Campbell and Pamela Winkler and interview Franzi Charen, Sage Turner, Andrew Fletcher and Mike Marcus. This motion was seconded by Councilman Young and carried unanimously.

Regarding the HUB Community & Economic Development Alliance, the following individuals applied for the vacancy: Ted Figura, Hunter Goosman, Ed Manning, Grant Millin, Kendra Sherrod, Cheri Torres, Brooke Brownlow, Rebecca Crandall, Rich Lee, Toya Hauf, Rita Yerby and Mark Collins. Councilman Young asked that Ms. Hauf's application be forwarded to the County for consideration as she is a County resident. Vice-Mayor Wisler moved to interview Ted Figura, Brooke Brownlow, Mark Collins and Rich Lee. This motion was seconded by Councilman Bothwell and carried unanimously.

Regarding the Multimodal Transportation Commission, the following individuals applied for the vacancy: Mike Zukoski, Kelly Prime, Meredith Gregory, Eric Workman, Richard Rozzelle, Keaton Edwards, Seth Connelly, Michael Speciale and Devin Clancy. Due to some confusion with the application process, Vice-Mayor Wisler moved to advertise this vacancy for a person with a demonstrated transit interest. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION NO. 16-18 - RESOLUTION APPOINTING A MEMBER TO THE BOARD OF ADJUSTMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term to Christine Longoria, alternate member on the Board of Adjustment, expires on January 21, 2016.

The following individuals have applied for the vacancy: Eric Workman and Paul Wilczynski.

Vice-Mayor Wisler moved to reappoint Christine Longoria as an alternate member to the Board of Adjustment, to serve a three year term, term to expire January 21, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 16-19 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE COMMUNITY RELATIONS COUNCIL

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term to Kathryn Liss, as a member on the Asheville-Buncombe Community Relations Council, expired on December 231, 2015.

The following individuals have applied for the vacancy: Roberto Hess, Dana Blake, Katie Latino, Eric McDaniel, Toya Hauf, Paul Jelenchick, Alfred Kalahati, Lauren Pittman and Ben Scales. Councilman Young asked that Ms. Hauf's application be forwarded to the County for consideration as she is a County resident.

Vice-Mayor Wisler moved to reappoint Kathryn Liss to the Asheville-Buncombe Community Relations Council, to serve a three year term, term to expire December 31, 2018, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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RESOLUTION NO. 16-20 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Lawrence Pittman, Torin Kexel, and Josh O'Conner, as members on the Sustainability Advisory Committee on Energy & the Environment (SACEE) expired on December 31, 2015. In addition, Katie Bray has resigned as a member, thus leaving an unexpired term until December 31, 2017.

The following individuals have applied for the vacancy: Philip Pritchard, Julie Loveless, Jackson Tierney, Jeremiah Mattysse, Erin Singer McCombs, Hannah Furgiuele, Grant Millin, Sam McLamb, Geoffrey Habron, Eric Workman, Rich Lee, Kendra Sherrod, Brad Rouse, Keith McDade, Amanda Fairley, April Brown and Emily Boyd.

Vice-Mayor Wisler moved to (1) reappoint Lawrence Pittman and Josh O'Conner, to each serve a an additional three-year term respectively, terms to expire December 31, 2018, or until their successors have been appointed; (2) appoint Geoffrey Habron to serve the unexpired term of Ms. Bray, term to expire December 31, 2017, or until his successor has been appointed; and (3) appoint Keith McDade to a three-year term, term to expire December 31, 2018, or until his successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

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RESOLUTION NO. 16-21 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Pat Leckey, as a member on the Firemen's Relief Fund, expired on January 1, 2016.

The following individual applied for the vacancy: Alfred Kalahati.

Vice-Mayor Wisler moved to appoint Alfred Kalahati to the Firemen's Relief Fund, to serve a two-year term, term to expire January 1, 2018, or until his successor has been appointed. This motion was seconded by Councilman Haynes and carried unanimously.

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RESOLUTION NO. 16-22 - RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Celeste Collins as a member on the Homeless Initiative Advisory Committee (HIAC), expired on November 1, 2015.

The following individuals have applied for the vacancy: Eric McDaniel, Charlene Jones, Arthur Myers, Seth Connelly, Dale Davidson, Sarah Lancaster, Emily Whitmire, Amy Upham, John Sterling, John Kloeckner and R. Scott Owen.

Vice-Mayor Wisler moved to appoint Amy Upham to serve as a member of the Homeless Initiative Advisory Committee, to serve a three-year term, term to expire November 1, 2018, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 16-23 - RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE AREA RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Ms. Pattiy Torno (representing a design professional) has resigned as a member of the Asheville Area Riverfront Redevelopment Commission, thus leaving an unexpired term until January 1, 2016.

The following individuals have applied for the vacancy: John Brigham, Jane Mathews and Steve Winter.

Vice-Mayor Wisler moved to appoint Jane Mathews as a member of the Asheville Area Riverfront Redevelopment Commission (representing the design professional), to fill the unexpired term of Ms. Torno, term to expire January 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 16-24 - RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Stephen Hendricks and Leslee Reiter, as members on the Tree Commission, expired on December 31, 2015.

The following individuals have applied for the vacancies: Carl Nyberg, Diane Hillgrove, Sara Surabian and John Brigham.

Vice-Mayor Wisler moved to (1) reappoint Stephen Hendricks to serve a three year term, term to expire December 31, 2018, or until his successor has been appointed; and (2) appoint Carl Nyberg to serve a three year term, term to expire December 31, 2018, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler questioned Council's reappointment process.

Mr. Andrew Fletcher urged for accurate information on the City's website.

Ms. Imke and Ms. Inge Durre asked for City Council's support of a preservation initiative to preserve the small urban forest located on 11 Collier Avenue. Ms. Inge Durre explained the proposal in detail which as to propose a land swap of the Collier Avenue tract for 33/35 Page Avenue, subject to various conditions with the transfer to happen no later than April 1, 2016,

subject to appraisals of both parcels to each party's satisfaction. All of Council noted this is a worthy cause; however, after a brief discussion, it was the consensus of Council that due to a variety of reasons, i.e., deadline of April 1, challenge of private fundraising, other worthy neighborhood requests, etc.), that no more staff time would be devoted to this effort.

Closed Session

At 9:08 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 9:21 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Wisler adjourned the meeting at 9:21 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – January 26, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

On behalf of City Council, Mayor Manheimer thanked City staff for their hard work and dedication during the recent snow storm.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

At the request of Councilman Young, Consent Agenda Item "I" was removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 12, 2016

B. RESOLUTION NO. 16-25 - RESOLUTION AUTHORIZING THE MAYOR TO ACCEPT AND SIGN AN EASEMENT AT 152 SHELBURNE ROAD FOR THE HOMINY CREEK GREENWAY

Summary: The consideration of a resolution authorizing the Mayor to accept a greenway easement that was granted by Ms. Jessie M. Corpening of Shelburne Road in Asheville.

In 2011, the City of Asheville, in partnership with Buncombe County and local non-profits acquired approximately 10 acres of property formerly owned by Sue B. Waller heirs along Hominy Creek. This tract of land is an important connection of the Hominy Creek Greenway that runs from Carrier Park to the county park nearby. A well-worn path along the creek shows how popular this area is with the public. At this time, the City is designing improvements to the property, such as paving a permanent greenway path to comply with the Americans with Disabilities Act and to facilitate regular maintenance. As shown on the attached map, the property narrows at a bend in the creek and in order to accommodate the future greenway trail, the City needed an easement from the adjacent private property owner, Jessie Corpening.

Ms. Corpening has agreed to grant a permanent greenway easement on the creek side of her property (PIN #9628-90-2700) at 152 Shelburne Road to the City of Asheville. The easement contains 4,484 square feet or 0.10 acres and varies in width from 60 feet to 0 feet. Staff requests that Council authorize the Mayor to formally accept the easement dedication for the purpose of implementing the Hominy Creek Greenway

Pros:

- Accepting the easement will provide legal access to the land needed for the Hominy Creek Greenway.
- Ms. Corpening donated the easement to the City.

Cons:

- None noted.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the Mayor to accept and sign a 4,484 square foot easement on private property for purposes of continuing the Hominy Creek Greenway.

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C. RESOLUTION NO. 16-26 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT TO THE METROPOLITAN SEWERAGE DISTRICT OF BUNCOMBE COUNTY FOR THE BYPASS PUMP STAGING AREA AT AMBOY ROAD AND RIVERVIEW DRIVE PARALLEL TO THE FRENCH BROAD RIVER

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) for the Bypass Pump Staging Area at Amboy Road and Riverview Drive parallel to the French Broad River.

The City of Asheville owns two parks near the intersection of Amboy Road and the Carrier Bridge, known as the Amboy Road River Park and the French Broad River Park. Within the past few years, the City acquired two small parcels of property to connect these parks under the Carrier Bridge via the French Broad River Greenway. An existing sewer line runs across these two parcels, in parallel to the French Broad River and the City's greenway. At this time, MSD has approached the City with a request to obtain an easement on these two parcels in order to install a bypass pump staging area to serve MSD's sewer infrastructure.

Directly adjacent to the City's French Broad River Park, MSD operates a main pump station that receives wastewater from West Asheville. This station pumps 8 billion gallons per day from the west side of the French Broad River through a 24 inch force main to a gravity line on the east side of the river towards MSD's Woodfin plant. With this easement request, MSD intends to develop a bypass pump staging area so that periodically they may take the main station offline as needed. In the event of an emergency, or for the purposes of future maintenance, a bypass pump station will allow MSD to divert the wastewater from the main station while repairs or improvements are completed. Having a backup station further insures that a direct spill into the river does not occur by providing critical backup infrastructure in case of failure at the main station.

MSD is requesting an easement to install a 19 ' x 12' concrete pad on the City's property to operate the emergency bypass pump. The physical pump equipment will not be installed onsite, but will be transported to the site as needed. The concrete pad and a connection to the existing sewer line are the only improvements that MSD needs to perform. The MSD design engineer has conducted a site visit with Al Kopf of Parks and Recreation and Lucy Crown, the Greenway Coordinator in Transportation Department. City staff supports the need for the project and do not see any conflicts with the greenway after construction is complete.

In addition, MSD is also requesting a permanent easement along its existing sewer line that is primarily 12 ½ feet on either side of the line. Only permanent easement is being requested and the total area including the line and the staging pad is approximately 8,342.5 total square feet. Refer to the attached plat, maps and photos of the bypass pump for additional details. The French Broad River Greenway will only be disrupted during installation of the

improvements. MSD's construction is planned for the early 2016 and should not take longer than ten days to two weeks.

Pros:

- Granting of the easement will allow MSD to install redundant systems that would operate in case of emergency or if the nearby pump station needed to be taken off line for scheduled maintenance.
- Granting of the easement will not permanently interfere with the greenway planned for the area.
- MSD has agreed to remove a straight pipe to the river that is sealed but looks unsightly.
- This project reduces the likelihood that a wastewater spill would affect public health and/or impact the environment.

Cons:

- Greenway would be temporarily impacted during construction of the concrete pad and pipe intake.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to convey an 8,342.5 square foot permanent easement to MSD across two city owned parcels at Amboy Road and Riverview Drive and Carrier Bridge.

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D. RESOLUTION NO. 16-27 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A CONSERVATION EASEMENT ALONG THE FRENCH BROAD RIVER LOCATED AT THE ASHEVILLE REGIONAL AIRPORT TO THE CAROLINA MOUNTAIN LAND CONSERVANCY FOR CONSERVATION AND GREENWAY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey a conservation and greenway easement on 16.50+/- acres of real property along the French Broad River located at the Asheville Regional Airport to the Carolina Mountain Land Conservancy (CMLC) for conservation and greenway purposes.

The City of Asheville holds title to the real property at the Asheville Regional Airport, and leases that property to the Asheville Regional Airport Authority (Airport). In order to convey any interest in real property at this location, the City of Asheville must sign the deeds or easements of conveyance. In turn, the Federal Aviation Administration (FAA)—in consultation with the Airport--must "release" the property from FAA use restrictions.

Airport Authority staff has been working with the CMLC to establish conservation and greenway easements on airport property along the French Broad River. The airport property that is being recommended for the conservation easement is within the flood plain/flood way of the French Broad River and therefore would have limited development possibilities in the future. The establishment of the greenway easements on airport property would help to tie together other property along the French Broad River to enable the development of a future trail system.

The CMLC proposes to purchase conservation and greenway easements of approximately 16.50+/- acres of airport property on the French Broad River. In accordance with FAA regulations, the easements must be purchased for fair market value. A grant in the amount of $107,000 has been awarded through the NC Clean Water Management Trust Fund to the CMLC for the acquisition of conservation and greenway easements on Airport property.

Because the airport property was originally acquired with FAA financial assistance, all financial proceeds associated with the real property are subject to FAA regulations governing the allocation of these proceeds. This FAA regulation states that proceeds of sale (or granting of easement in this case) must be delivered to FAA as a reimbursement for the initial acquisition of said property – or the proceeds must be utilized for airport purposes in the same proportion as the initial contribution to the purchase price. This being the case, the payment will be handled in this manner and the City will receive no financial share in this payment.

This request was reviewed and approved by Asheville City Council in September of 2014 for a total of 8.3 acres of easement area. Since then, more detailed surveying has been completed and the size of the easement has grown to 16.50+/- acres, and this substantial change requires Council approval.

Pro:

- This conservation and greenway easement will protect public lands with the floodway and support a future trail system along the French Broad River.

Con:

- None.

There is no direct financial impact to the City. All financial proceeds associated with the conservation easement are subject to FAA regulations governing the allocation of these proceeds; specifically, proceeds of sale must be delivered to FAA as a reimbursement for the initial acquisition of said property and/or must be utilized for airport purposes.

City staff recommends adoption of the resolution to convey an 16.50+/- acre conservation and greenway easement at the Asheville Regional Airport to the Carolina Mountain Land Conservancy.

RESOLUTION BOOK NO. 37 - PAGE 374

E. MOTION TO ADOPT THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR GIVENS CREEKSIDE, PHASE 3

Summary: This public hearing was held on January 12, 2016.

F. MOTION ADOPTING THE 2016-17 BUDGET CALENDAR

Summary: The consideration of a motion adopting the Fiscal Year 2016/2017 Budget Calendar.

As a part of the Fiscal year 2016/2017 Operating and Capital Budgets development process which began internally in the Fall of 2015, staff is proposing a budget calendar which encompasses the following:

- series of Budget Worksessions with City Council beginning in March 2016,
- formal presentation of the City Manager's Proposed Budget on May 10, 2016, and
- eventual budget adoption on June 14, 2016.

Staff recommends that City Council review the proposed Fiscal Year 2016/2017 Budget Calendar, make changes as needed, and approve the motion to adopt the Fiscal Year 2016/2017 Budget Calendar.

G. ORDINANCE NO. 4477 - ORDINANCE TO ENACT A 25 MPH SPEED LIMIT ON CALEDONIA ROAD FROM BILTMORE AVENUE TO SWANNANOA RIVER ROAD, CROWELL FARMS DRIVE FROM WEST OAKVIEW ROAD TO WEST POINTE DRIVE, HAMPTON STREET FROM CARIBOU ROAD TO BROOKLYN ROAD, AND SHERWOOD ROAD FROM FOREST HILL DRIVE TO THE END OF CITY MAINTENANCE

Summary: The consideration of an ordinance to enact a 25 mph speed limit on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit would be reasonable and safe on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $500.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $500 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 25 mph speed limit on Caledonia Road from Biltmore Avenue to Swannanoa River Road, Crowell Farms Drive from West Oakview Road to West Pointe Drive, Hampton Street from Caribou Road to Brooklyn Road, and Sherwood Road from Forest Hill Drive to the end of city maintenance.

ORDINANCE BOOK NO. 30 - PAGE 219

H. RESOLUTION NO. 16-28 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GIFT MEMORANDUM OF UNDERSTANDING AND ACCEPT A DONATION FO $250,000 FROM THE MCKIBBON HOTEL GROUP, INC. FOR THE CITY'S AFFORDABLE HOUSING TRUST FUND

Summary: The consideration of a resolution authorizing the City Manager to execute a Gift MOU and accept a donation of $250,000 from the McKibbon Hotel Group, Inc. for the City's Affordable Housing Trust Fund.

The McKibbon Hotel Group, Inc. owns several hospitality related developments in downtown Asheville including the Aloft Hotel, the AC Hotel which is currently under development, and the recently approved One West Tower at Pack Square renovation project. Through this investment in and familiarity with the City of Asheville, McKibbon has recognized firsthand, the fact that the City has an affordable housing crisis and therefore, has offered to make a donation of $250,000 to the City's Housing Trust Fund.

The Housing Trust Fund is the primary City-funded investment tool to incentivize affordable housing production. Since creating the Fund in 2001, The City has investment almost $10 million toward the production of almost 1,000 units of affordable housing in Asheville. Demand for the fund exceeds the amounts available to lend. $1.6 million in requests were received this year with less than $1 million available to lend from the Housing Trust Fund.

The McKibbon Hotel Group, Inc. has provided a Gift Memorandum of Understanding which needs to be executed by the City to accept the donation. Per the terms of this MOU, upon issuance of the certificate of occupancy for One West Tower at Pack Square Renovation project (anticipated Spring 2018-check), McKibbon shall transmit, as an irrevocable gift/donation, the sum of $250,000.00 to the City for the City of Asheville Housing Trust Fund for the sole use and purpose of providing affordable housing within the corporate limits of the City.

Pro:

- Provides a significant additional contribution to City's Housing Trust Fund; may encourage other private investors to make similar donations

Con:

- None

This will add $250,000 to the City's Housing Trust Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the Gift Memorandum with the McKibbon Hotel Group, Inc. and accept a donation of $250,000 for the City's Housing Trust Fund.

RESOLUTION BOOK NO. 37 - PAGE 375

I. RESOLUTION TO SUPPORT THE "BAN THE BOX" INITIATIVE BY AMENDING THE CITY EMPLOYMENT APPLICATION TO NO LONGER REQUIRE DISCLOSURE OF PAST CRIMINAL HISTORY DURING THE INITIAL JOB APPLICATION PROCESS FOR CERTAIN POSITIONS WITHIN THE CITY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda I. This motion was seconded by Councilman Bothwell and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTE

I. RESOLUTION NO. 16-29 - RESOLUTION TO SUPPORT THE "BAN THE BOX" INITIATIVE BY AMENDING THE CITY EMPLOYMENT APPLICATION TO NO LONGER REQUIRE DISCLOSURE OF PAST CRIMINAL HISTORY DURING THE INITIAL JOB APPLICATION PROCESS FOR CERTAIN POSITIONS WITHIN THE CITY

Summary: Over the past several months Human Resources Staff has been reviewing the City's Personnel and related administrative policies, evaluating best practices and trends among other local government and private sector employers. This review has included recruitment and selection policy and associated practices and processes, and this memo specifically addresses the City's practice of asking applicants about criminal convictions at the time of application submittal.

There is a national movement widely known as "ban the box", that continues to gain momentum. These initiatives provide applicants a fair chance by removing the conviction history question on the job application and delaying the background check inquiry until later in the hiring process; thus employers consider a job candidate's qualifications first, without the stigma of a conviction record. While there is variety in how "ban the box" policies have been applied and implemented, they generally establish parameters for when, and to what extent, an employer may ask about or use criminal history for employment purposes. Generally, they require postponing the inquiry until an applicant has an opportunity to be considered (after an interview or once an applicant is a finalist or has received a conditional offer) and after the employer has determined in good faith that the specific components of a background check that are appropriate. Most include exceptions if the position is of a sensitive nature or if a background check is required by another law (such as jobs involving child care, financial services, education and law enforcement). In 2012, the U.S. Equal Employment Opportunity Commission (EEOC) endorsed removing the conviction question from job applications and deferring inquiries about criminal history until after the application phase as a best practice.

The City's current application asks the following questions:

- Have you ever been convicted of an offense against the law other than a minor traffic violation? Failure to report a conviction will exclude you from consideration. Please do not disclose any conviction that has been expunged from your record.

- If you answered "yes" to the above conviction question please explain the nature of the conviction and the date. Please include if the conviction was a felony or a misdemeanor. It is important to disclose all convictions that have not been expunged from your record. Failure to report a conviction will exclude you from consideration.

Based on the review, the City is prepared to make changes to its current application process and remove questions regarding criminal history from the employment application for those jobs that do not have a public safety or statutory requirement. This change is anticipated to be implemented by the end of January 2016.

To address public safety/statutory requirements of some jobs, the actual job posting will include additional information on automatic disqualifiers and the application process will include supplemental questions based on these qualifications – which will help identify candidates who do not meet those requirements.

In addition to the electronic changes to the application, HR staff will communicate with and/or train all Department hiring managers, and other appropriate staff, to inform them of the change.

The City will not change the policy of conducting a background check on all final candidates for employment. The goal remains to ensure the safety and security of the public and

employees while providing an opportunity to our citizens, recognizing the relationship of employment to reduced rates of recidivism.

Next Steps:

- Testing of the removal and implementation of the removal of conviction history questions from the employment application. This includes removal of questions and response from previous applications.
- Review and update of appropriate administrative policies to reflect the change in practice and process.
- Training provided to appropriate staff on updated administrative policies and changes implemented.
- Review and modify, if necessary, the general information on the City's Employment website.
- Review of job posting details and the use of supplemental questions to identify opportunities to enhance recruitment and selection efforts.
- Finalize any additional language that may need to be included in the job postings and additional language on the application to inform applicants that a background check will be conducted.
- Post implementation evaluation to ensure no further adjustments or revisions are needed.
- Post implementation report to City Manager's Office 60 to 90 days after implementation.

The following is the current language candidates are asked to accept and certify prior to submitting their application.

- By clicking on the "Accept" button, I hereby certify that every statement I have made in this application is true and complete to the best of my knowledge. I understand that any false or incomplete answer may be grounds for not employing me or for dismissing me after I begin work. I understand that I will have to produce documentation verifying identity and employment eligibility in the U.S. I understand that I may be required to verify any and all information given on this application. I understand that this completed application is the property of the City of Asheville and will not be returned. I understand City of Asheville may contact prior employers and other references. I understand that I must notify the Human Resources Division of any changes in my name, address, or phone number.

Below is draft of the language that will be added to the certification and acceptance portion of the application process:

> *The City's Policy requires background checks to be conducted on final internal or external candidate(s) applying for any position with the City of Asheville. The type of information that will be collected as part of a background check includes, but is not limited to: reference checks, social security verification, education verification, criminal conviction record check, and, if applicable, a credit history check, sex offender registry and motor vehicle records check.*
>
> *Background checks must be in compliance with all federal and state statutes, such as the Fair Credit Reporting Act (FCRA). The checks must be consistent with the guidelines set forth by these laws requiring organizations to obtain a candidate's written authorization before obtaining a criminal background report, motor vehicle records check or credit report; and to properly store and dispose of information derived from such reports.*

Councilman Young said that this resolution embodies a roadmap that our City will collectively follow and hopefully municipalities around the state will follow the direction that this

ban the box initiative is moving. He felt this will help formerly incarcerated families heal and move forward as everyone deserves an opportunity for gainful employment.

Ms. Dee Williams thanked Councilman Young for helping achieve this effort and spoke in support of the resolution.

Councilman Bothwell said that we used to consider our prisons as correctional institutions and realized when people had served their time they had hopefully found a better way to live their lives. This is an important step to let people get through the application process and then explain their situation.

Councilman Young moved for the adoption of Resolution No. 16-29. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 376

III. PRESENTATIONS & REPORTS:

A. EQUITABLE DEVELOPMENT REPORT - BUILDING BLOCKS FOR SUSTAINABLE COMMUNITIES

Urban Planner Sasha Vrtunski said that Asheville was selected in early 2015 to receive technical assistance from the Environmental Protection Agency (EPA) in the form of a 2-day workshop on Equitable Development. Equitable development is an approach for creating communities and regions where residents of all incomes, races, and ethnicities participate in and benefit from decisions that shape the places where they live. In July, several EPA staff and their consultant, as well as other federal officials, visited Asheville and toured the East of the Riverway area. A community meeting was held in the evening at the Dr. Wesley Grant Sr. Center. This was followed the next day by a workshop with a smaller group of community stakeholders and partners.

The report is a summary of that workshop and an analysis of the community input. The purpose of the workshop was to educate participants on equitable development as a tool to address sustainable, affordable and livable communities and to provide a forum for input on how equitable development might be applied in Asheville. Workshop outcomes included participants (1) learning about equitable development and examples in other places; and (2) brainstorming ideas about how to move our community forward around four main goal areas. The purpose of the report is to summarize the input of community workshop participants, and provide best practices for city staff and community agencies to consider in projects as our community continues to grow. The report gives an opportunity to explore the perspective of subject matter experts from outside of the Asheville community.

The report summary contains a summary of ideas from a community meeting and 30 workshop participants. It recommended best practices from around the United States, and included roles for local government, anchor institutions, citizens groups and non-profits. The small groups focused on 4 main areas resulting in recommendations: (1) communication and engagement; (2) affordable housing; (3) local investment; and (4) preserving and celebrating history through the arts.

In the focus area of improve community engagement and enhance communication, an example is that several historically African-American neighborhoods have been meeting to look at community based economic development strategies. An opportunity would be in the upcoming Comprehensive Plan, which will offer opportunities for the City and neighborhood residents to build relationships and engage in a dialogue around development.

In the focus area of preserving existing and providing more affordable housing choices, an example would be at the Glen Rock at 372 Depot Street - mixed use, affordable housing projects that provide units within reach of folks below 60% AMI. An opportunity would be that community members are exploring a Community Land Trust model which could develop permanently affordable housing.

In the focus area of local investment and community-building commitments by existing and new community institutions and businesses, an example would be that Green Opportunities work with local employers to connect their trainees with jobs. An opportunity is that City and local anchor institutions work with local contractors to identify barriers to hiring local workers for major construction projects.

In the focus area of preserving community identity by promoting the arts community and celebrating local African-American history, an example would be that Town Branch Greenway will incorporate local history along the trail with educational signage. An opportunity is that public art installations as a part of the RADTIP could connect local artists, community members with adjacent neighborhoods.

The ideas in the report were suggested by workshop participants and EPA's consultants and have not been analyzed by City staff to determine their feasibility or legality in North Carolina.

City staff intends to analyze the report's suggested strategies for applicability in Asheville and integrate the report's strategies and approaches, to the extent possible, in city projects, planning and engagement efforts. Staff will share the document with workshop participants and the broader community to maximize the potential for strategy integration in not only city government projects but all sectors of the community.

Ms. Vrtunski responded to various questions raised by Councilman Smith.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A SUBSTANTIAL AMENDMENT TO THE 2015-16 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

RESOLUTION NO. 16-30 - RESOLUTION TO AUTHORIZE SUBSTANTIAL AMENDMENT #1 TO THE 2015-16 CONSOLIDATED ANNUAL ACTION PLAN FOR COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) AND HOME FUNDS TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Community Development Manager Heather Dillashaw said that this is the consideration of a resolution to authorize substantial amendment #1 of the City's 2015-16 Consolidated Annual Action Plan for Community Development Block Grant (CDBG) and HOME Funds to the U.S. Dept. of Housing & Urban Development. . This public hearing was advertised on January 15 and 22, 2016.

Nine hundred and twenty-eight thousand, sixty-four dollars of HOME funds awarded in the FY15-16 cycle need to be reallocated, due to development projects not moving forward. Community Development staff, at the direction of the Asheville Regional Housing Consortium, sought proposals from HOME-eligible subrecipients and for developments proposed by Community Housing Development Organizations (CHDOs). Six applications were received requesting a total of $1,566,817.

After reviewing applications, hearing presentations by applicants and Board discussion, the Consortium recommends the following allocations:

Applicant	Project	Request	Recommended
Givens Estate	Gerber Village Phase I	$463,000	$150,000
Henderson County Habitat for Humanity	Dodd Meadows Phase III	$125,000	$50,000
Housing Assistance Corporation	Oklawaha Village	$425,000	$375,000
Madison County	Rural Rehabilitation	$100,000	$53,064
Mountain Housing Opportunities & Farmbound Holdings, LLC	Pinnacle Point	$425,000	$300,000
TOTALS		**$1,566,817**	**$928,064**

1. Givens Estate Gerber Village Phase I. 120 units of affordable housing will be built in Phase I, for households at 60% or less AMI. This recommendation is to add $150,000 to an original HOME grant award of $100,000. Construction costs increased unexpectedly during initial phases of construction
2. Henderson County Habitat for Humanity. Dodd Meadows Phase III adds an additional 3 homes to the existing Dodd Meadows subdivision. These homes will be sold to households between 30% and 80% AMI for Henderson County. This recommendation is to add $50,000 to an original HOME grant award of $109,528.
3. Housing Assistance Corporation. This Community Housing Development Organization project is a 78 unit multi-family development in the city of Hendersonville. 16 units will be occupied by households at 80% or less of AMI; 62 will be occupied by households at 90% or less of AMI for Henderson County. The recommended award is $375,000.
4. Madison County, Rural Housing Rehabilitation. Madison County will contract with the Community Housing Coalition of Madison County to rehab 2-4 homes belonging to low and very-low income homeowners to eliminate the threat to life, health or safety and incorporate energy efficiency improvements. The recommended award is $53,064.
5. Mountain Housing Opportunities and Farmbound Holdings, LLC, Pinnacle Point. 60 unit multi-family development to be built in South Asheville. 12 units will be affordable to households at 60% AMI or less. 48 will be affordable to households at 100% AMI or less. The recommended award is $300,000.

In accordance with the City's Citizen Participation Plan, the proposed allocations have been available for public review and comment for 30 days. Contracts for HOME are executed only with the project is ready for implementation and all other funding is firmly committed. Disbursement of grant funds occurs after contracts are signed, and on a reimbursement basis.

These proposed projects directly support Council's 2015-2016 Strategic Plan in Focus Area 2, Affordability and Economic Mobility Significant funding for affordable housing is a major characteristics of the 2015-2016 Annual Plan. Of special note are the allocations for tax credit rental projects that would create 120 units for low income persons in Asheville (Gerber Village Phase I), 12 non-tax credit units in Asheville for low income persons (Pinnacle Point) 78 units for families in Henderson County (Oklawaha Village).

Pros:

- The development projects will create 151 new units of affordable housing for low-income households in the Consortium area and provide significant construction employment.
- Additionally, 4 low-income households will be able to preserve the affordability of their homes.

- Reflects the carefully considered recommendations of the Asheville Regional Housing Consortium.
- The recommendations are consistent with the priorities in the 2015-2019 Asheville Regional Consolidated Plan for the Use of HOME and CDBG Funds.

Con:

- It is not possible to fund all the applications received, nor to fund fully each request. Applicants may need to seek additional funds from other sources to make their projects feasible.

All funds being reallocated in this process are federal HOME funds received by the City of Asheville for the purpose of affordable housing. No City of Asheville general funds are affected by this process.

The Asheville Regional Housing Consortium recommends that the City Council approved the proposed Substantial Amendment to the 2015-16 Annual Action Plan for CDBG and HOME funds.

Mayor Manheimer opened the public hearing at 5:25 p.m. and when no one spoke, she closed the public hearing at 5:25 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-30. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 377

B. PUBLIC HEARING TO CONSIDER A MODIFIED CONDITIONAL ZONING SITE PLAN FOR PROPERTY LOCATED AT 329 ROCKWOOD ROAD FOR THE DEVELOPMENT OF AN 108 ROOM HOTEL CONTAINED IN A 7-STORY BUILDING WITH ASSOCIATED PARKING AND SITE-WORK

ORDINANCE NO. 4478 - ORDINANCE TO MODIFY A CONDITIONAL ZONING SITE PLAN FOR PROPERTY LOCATED AT 329 ROCKWOOD ROAD FOR THE DEVELOPMENT OF AN 108 ROOM HOTEL CONTAINED IN A 7-STORY BUILDING WITH ASSOCIATED PARKING AND SITE-WORK

Principal Planner Shannon Tuch said that this is the consideration of a request to modify a conditional zoning site plan for property located at 329 Rockwood Road for the development of an 108 room hotel contained in a 7-story building with associated parking and site-work. This public hearing was advertised on January 15 and 22, 2016.

The applicant is requesting review of an amendment to a previously approved Highway Business conditional zoning (HB-CZ) and site plan approval (Ord. No. 4242), in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO), for a 7-story, 108-room hotel and related site improvements.

The subject property is located at 329 Rockwood Rd. approximately .7 miles from the Asheville Regional Airport and identified in the Buncombe County land records with the PIN 9643-75-1885. The site is 2.05 acres and was previously graded and prepared for development before a lease was secured and land use determined. The site rises in elevation from Rockwood Road to the prepared building pad approximately 20-feet above the road. Like the subject property, the surrounding properties are all zoned HB and support typical auto-oriented business including the high turnover restaurant to the west, and other similar land uses. The property owner is PMHB,

LLC and the applicant is Justin Church.

The project consists of a single 7-story, 108-room hotel with lobby and amenity areas for guests. The total square footage for the building is 71,367 square feet with a height of 82'-6". The current proposal is a modest increase over a previously approved plan that included a 60,474 square foot building supporting 100 rooms resulting in a difference of 10,893 square feet and eight rooms. Both proposals included seven stories and limit the height to 82'-8". A modification for the height of the building to exceed the 60-feet normally allowed in HB was the primary reason for the original 2013 conditional zoning request. Other than the removal of four parking spaces needed to accommodate changes to the building footprint and surrounding hardscaped areas, the site plan for the project is unchanged and includes landscaping, sidewalk, a new retaining wall and parking lot improvements.

The property is accessed off of Rockwood Rd. through a driveway that is shared with the restaurant to the west. The shared driveway rises approximately 20-feet from Rockwood Road to the base floor elevation of the hotel and helps to terrace the site with the use of block retaining walls on either side of the driveway. The city standard sidewalk along Rockwood Road is proposed and included in the site plans, however, an accessible route from the hotel to Rockwood Rd. was found to be infeasible with this modification carried over from the previous approval. An area of safe dispersal will be required as an alternative within the project site.

Off-street parking requirements for a 108-room hotel requires a minimum of 54 spaces but permits up to a maximum of 108 spaces. The proposed project includes 95 total spaces, falling within the permissible range. Handicap accessible and bicycle parking are also provided.

A variety of landscape improvements are required with this project including: street trees, parking lot, building impact, retaining wall and dumpster screening. Open space is also required at a rate of 15% of the total site area or 13,068 square feet. Open space requirements may be satisfied by either providing adequate space on-site or through paying a fee in lieu (or a combination of the two).

The October 22, 2013, approval included two modifications which still apply. These include:

1) Approval to exceed the maximum height allowed for a building in the HB zoning district from 60'-0" to 82'-8"
2) An exemption from the requirement for an accessible sidewalk from the hotel to Rockwood Rd.

Additionally, given the project's proximity to the Asheville Regional Airport and the proposed height of the structure, a determination of "No Hazard to Air Navigation" from the Federal Aviation Administration (FAA) is recommended to be required prior to the issuance of any development permits. This determination was previously obtained with the former project approval but has since expired. The applicant is actively seeking renewal of that determination.

This proposal was approved with conditions by the Technical Review Committee on December 21, 2015, and the Planning & Zoning Commission reviewed this request at their meeting on January 6, 2016, and voted unanimously in support of the project.

No communication has been received from the public as of the writing of this report. This project requires review by the City Council and Final TRC prior to zoning approval.

In 2013 the property owner, PMHB LLC, requested a conditional zoning from the existing HB zoning to HB-CZ for the sole purpose of modifying the height for a new multi-story hotel. The modification request proposed to exceed the 60-foot height maximum normally allowed in the HB zoning district to allow a building height of 82'-8". The conditional zoning was approved and the

height modification was granted and remains in effect today. The current amendment seeks to change the approved site plan that went with the 2013 conditional zoning in order to increase the size of the hotel building and number of rooms.

There have been no recent zoning actions in the area.

The subject property is surrounded on all sides by HB zoning supporting a number of different suburban, automobile-oriented businesses including strip retail and service businesses, a high turnover restaurant and light manufacturing. The proposed hotel building will be taller than all the buildings in the immediate area but is less than 0.70 mile (as the crow flies) to the Asheville Regional Airport terminal and tower. A number of other multi-story hotels are within a reasonable proximity of the airport, most of which are between 3-5 stories tall.

The proposed project is compliant with the *Asheville City Development Plan 2025* in that it: 1) provides appropriately-scaled commercial infill development where there is existing infrastructure; and 2) it supports the growth of the Asheville Regional Airport consistent with the general aviation and commercial air traffic demands as well as the operational needs of the Airport.

The proposed project most closely aligns with the 2015-16 Strategic Plan Focus Area of Economic Growth and Sustainability by supporting an economic development and community investment opportunity.

Considerations:

- Current proposal expands the previously approved plan by increasing the square footage of the building by 10,893 square feet from 60,474 to 71,367 (an increase of approximately 18%), and from 100 rooms to 108 rooms (an increase of 8%).
- A modification to exceed the height limit in the HB zoning district and to waive a sidewalk connection from the hotel to Rockwood Rd. was granted in 2013 and is not under consideration as part of this application.
- Changes to parking lot layout and other site improvements are minor.
- The subject property is less than a mile from the Asheville Regional Airport terminal entrance and less than 1000 feet to the nearest edge of the property.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request to be reasonable and in furtherance of the public interest and recommends support of the proposed conditional zoning amendment as proposed.

Councilman Young confirmed that this project was already approved in 2013, but they had to find a new flag to represent them which required them to add 8 more rooms and an additional 10,893 square feet.

Mayor Manheimer opened the public hearing at 5:31 p.m.

Mr. Justin Church, civil engineer for the project representing the developer, said that that is basically the same project that was approved in the fall of 2013. After approval, the developer ran into some issues with the franchise and they had to look for another flag company. He explained the changes are because each franchise has a prototype and that is why there are minor building changes.

Mr. Timothy Sadler suggested Council add conditions that the applicant build a better building that will reduce Co2 emissions and that they prioritize procuring local food for their hotel.

Mayor Manheimer closed the public hearing at 5:34 p.m.

Councilman Smith said that when Council offers a height variance they often seek what is the community benefit to allow that variance. Ms. Tuch responded that in this case, the only reason for the conditional zoning was for the height modification. The property was zoned Highway Business already. In this particular case because the project is in close proximity to the Airport and it will helps serve that particular economic hub for North Carolina, she felt it was deemed appropriate to grant that additional height modification.

Councilman Smith said that recently Council approved a hotel for downtown where the developer worked with the City and agreed to provide living wages to full-time employees, include local business in any retail, contribute to the Housing Trust Fund, and be an advocate for an equitable distribution of the occupancy tax in the area. He asked if the developer would be willing to condition and agree to any of these actions.

Mr. Church, who is only representing the developer, said that he could not commit to any of those conditions. He said that when the height modification was granted, their stance was that the existing height was not consistent with some of the adjacent structures.

Councilman Bothwell agreed that it would be nice to get some additional community benefits from the developer; however, the project has already been approved with essentially the same plan.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the Highway Business Conditional Zoning (HB-CZ) amendment request seeking to increase the size and number of rooms of a previously approved hotel development plan from 60,474 square feet to 71,367 square feet, and from 100 rooms to 108 rooms, with the submitted conditions, site plan and elevations, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: 1) it provides appropriately-scaled commercial infill development where there is existing infrastructure; 2) it supports the growth of the Asheville Regional Airport consistent with the general aviation and commercial air traffic demands as well as the operational needs of the Airport; and 3) it supports an economic development and community investment opportunity. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Smith voting "no."

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C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

At the applicant's request, Councilman Bothwell moved to continue this public hearing until April 26, 2016. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

Regarding the HUB Community & Economic Development Alliance, it was the consensus of Council to readvertise for the seat since three of the four candidates withdrew from consideration.

A. RESOLUTION NO. 16-31 - RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that there currently exists three vacancies on the Affordable Housing Advisory Committee.

Mr. James Mastrogiacomo resigned from the Committee, thus leaving an unexpired term until September 1, 2017; Robin Raines resigned from the Committee, thus leaving an unexpired term until September 1, 2016; and Ms. Laura Simmelink has resigned from the Commission, thus leaving an unexpired term until September 2, 2017.

The following individuals have applied for the vacancies: Eric McDaniel, Kama Ward, Zachary Eden, Sage Turner, Laura Collins, Charlene Jones, Arthur Myers, Emily Coleman-Wolf, Barry Bialik, Richard Fort, John Brigham, Rita Yerby, Jo Ikelheimer, Mark Collins and Amy Murphy-Nugen.

On January 12, 2016, Councilman Bothwell moved to appoint Jo Ikelheimer and interview Barry Bialik, Laura Collins and Richard Fort. This motion was seconded by Councilman Smith and carried unanimously.

After Council spoke highly of all candidates, Barry Bialik received 5 votes; Laura Collins received 7 votes; and Richard Fort received 2 votes. Therefore, Barry Bialik was appointed to serve the unexpired term of Mr. Mastrogiacomo, term to expire September 1, 2017, or until his successor has been appointed; (2) Laura Collins was appointed to serve the unexpired term of Ms. Simmelink, term to expire September 1, 2017, or until her successor has been appointed; and (3) per the motion on January 12, 2016, Jo Ikelheimer was appointed to serve the unexpired term of Ms. Raines, term to expire September 1, 2016, and then a full three-year term, term to expire September 1, 2019, or until her successor has been appointed.

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B. RESOLUTION NO. 16-32 - RESOLUTION APPOINTING MEMBERS TO THE DOWNTOWN COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Brent Campbell, Rebecca Hecht, Dane Barrager and Pam Winkler, as members on the Downtown Commission, expired on December 31, 2015.

The following individuals have applied for the vacancy: John Menkes, Constance Richards, Drea Jackson, Audra Gaiziunas, Rae Geoffrey, Kelly Prime, Carter B. Webb, Sage Turner, Mike Marcus, Franzi Charen, Andrew Fletcher, Taryn Gentry, John Monroe and John Kloeckner.

On January 12, 2016, Vice-Mayor Wisler moved to reappoint Dane Barrager, Brent Campbell and Pamela Winkler and interview Franzi Charen, Sage Turner, Andrew Fletcher and Mike Marcus. This motion was seconded by Councilman Young and carried unanimously.

After Council spoke highly of all candidates, Sage Turner received no votes; Mike Marcus received no votes; Andrew Fletcher received two votes; and Franzi Charen received 5 votes. Therefore, (1) Franzi Charen was appointed to serve a three-year term, term to expire December 31, 2018, or until her successor has been appointed; and (2) per the motion on January 12, 2016, Brent Campbell, Dane Barrager and Pam Winkler were each reappointed to each serve a three-year term respectively, terms to expire December 31, 2018, or until their successors have been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Vicki Meath spoke to Council about transit reform and the 2015 survey summary of riders and businesses showing that there is strong support for evening bus service. Additional research should focus on the specific routes and times for extending bus service. She asked Council to look for funding to extend that evening service.

Mr. Vijay Kapoor, south Asheville resident, thanked Council for their patience in working with the south Asheville residents regarding the rapid growth and lack of a transportation plan associated with the proposed conditional zoning for 60 Mills Gap Road, which public hearing has been continued until April 26, 2016.

Ms. Priscilla Ndiaye urged City Council to work on a plan to renovate the Walton Street Park and Pool.

Ms. Dee Williams urged Council to continue to seek community benefits in projects.

Mr. Timothy Sadler supported expanding evening bus service, and hoped that Council will work with the community employers to market the Passport Program which will help support the additional funding needed for expanding evening bus service.

Ms. Carmon Ramos-Kennedy spoke in support of the ban the box resolution; and clarified that the 2015 survey Ms. Meath spoke about said that Just Economics is not advocating raising the fees to pay for the evening service.

Closed Session

At 6:07 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 6:41 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Vice-Mayor Wisler adjourned the meeting at 6:41 p.m.

Magdalen Burleson
CITY CLERK

Esther Manheimer
MAYOR

Friday – January 29, 2016 - 8:45 a.m.
200 College Street - County Administration Bldg

Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Mayor Manheimer welcomed everyone to the City Council Annual Retreat.

RESOLUTION NO. 16-34 - RESOLUTION AMENDING THE 2016 CITY COUNCIL MEETING SCHEDULE TO CANCEL THE FEBRUARY 9, 2016, CITY COUNCIL FORMAL MEETING

After Mayor Manheimer asked for comments from members of the public and none were received, Councilwoman Mayfield moved for the adoption of Resolution No. 16-34. This motion was seconded by Councilman Young and carried unanimously.

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Mayor Manheimer then convened the retreat and introduced Ms. A. Tyler St. Clair, who would be facilitating the retreat. Ms. St. Clair said the purpose of the retreat is to enable City Council to work together to identify a collective vision for the City, shorter term priorities to achieve the vision, along with roles and operating guidelines that will enhance effectiveness among Council members and staff. She then outlined the goals of the retreat, which are (1) increase the understanding and appreciation of fellow Council members in order to enhance the ability of the Council to provide collective leadership for the City; (2) review a model that can assist the Council in providing effective governance and maximize staff efforts in achieving the Council's policy direction; (3) gain and understanding of each individual Council member's perspectives on important leadership issues, assets, needs, and desired change initiatives for the City; (4) develop a collective vision with desired future states that will provide clear, long term policy direction; (5) identify and agree on shorter term Council priorities that will achieve the vision and its desired future states; (6) clarify roles and develop a set of operating guidelines to maximize the effectiveness of working relationships among Council members and Council/staff members; (7) identify specific actions to communicate the Council's vision and priorities to stakeholders and to solidify accountability through staff work planning efforts; and (8) identify next steps for addressing Council's leadership work to include staff follow-up with a comprehensive strategic plan.

Roles for council members include (1) focus on opportunity to create a united Council; (2) seek a clear vision and aligned priorities; (3) listen/hear others to arrive at consensus; (4) recognize that policy making requires choices; (5) synthesize; bring it together; and 96) use time wisely. Council then performed a brief team building/climate setting.

Council reviewed the Local Elected Leadership model which is a model that can assist them in providing effective governance for the City.

Ms. St. Clair explained the characteristics of an effective vision - 20 years out (vivid, unique, challenging, clarity, focused and shared). She asked Council to think about the City of Asheville in the most visionary, ideal, and strategic state that it could be in 20 years from now, keeping a possibility-oriented perspective. A vision brainstorming session was held to identify/discuss individual perspectives on important leadership issues, assets, needs, and desired change initiatives for the City. After considerable discussion and review, eight strategic

target areas were identified as follows: Energy & the Environment; Housing; Transportation; Fiscal Management; Local Economy; Land Use/Development; Equity & Diversity; and Engagement and Collaboration.

For each strategic target area, Council broke into groups to write a desire future paragraph describing the way Asheville will be in 2036. After Council reviewed all paragraphs, Ms. St. Clair said that she would provide Council with the draft 2036 vision plan for the continued review of Council the following day.

Ms. St. Clair briefly reviewed the day's activities and outlined the agenda for the following day.

At 5:10 p.m., Mayor Manheimer recessed the meeting until tomorrow morning at 8:45 a.m. and announced that City Council will gather for dinner later that evening.

Saturday – January 30, 2016 - 8:45 a.m.
200 College Street - County Administration Bldg

Continuation of Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Ms. St. Clair reviewed the session that took place yesterday and gave a quick overview of the agenda for today. Council then reviewed the following 2036 draft vision, noting that Vice-Mayor Wisler and Councilwoman Mayfield would make minor tweaks to the vision (gaining consensus of Council), after which it would be placed on the February 23, 2016, agenda for adoption.

> "Asheville is a great place to live because we care about people, we invest in our city, and we celebrate our natural and cultural heritage. We have built a city for everyone. Our urban environment and locally-based economy support workers and businesses, families and tourists, and people of all ages. Cultural diversity and social and economic equity are evident in all that we do. Our neighborhoods are strong, participation in civic life is widespread and collaborative partnerships are the foundation of our success.
>
> We are successful because we have a ...
>
> EQUITY AND DIVERSITY
>
> Asheville is an inclusive and diverse community. We define diversity broadly, including but not limited to all races, ages, sexual orientation, gender identification, socio-economic backgrounds, and cultural beliefs. We believe in creating a fair and balanced society, where everyone can participate and has the opportunity to fulfill their potential and has access to healthy, affordable food. Asheville promotes and supports minority business as a means to strengthening its overall local economy. We use a racial equity lens to review and achieve our city's strategic goals in health, education, housing and economic mobility.

LAND USE AND PLANNING

Asheville promotes community through thoughtful, resident led planning. The city's diverse citizenry is reflected in its land uses and commerce. Asheville's unique character is preserved in its historic structures, and honored in new development. Innovative planning results in pedestrian oriented development for residents of all ages and abilities, harmonized with an integrated transportation system. Thoroughfares are lined with thriving businesses, mixed with residential and office uses. Neighborhoods are socioeconomically diverse with a range of affordable housing choices. Green spaces, parks, greenways, community gardens, and edible landscapes are abundant throughout the city.

ENERGY AND THE ENVIRONMENT

Asheville has earned a reputation as a green leader. The first city in North Carolina to issue green bonds, it has continued to finance infrastructure improvements with innovative green financing tools. Environmentally aware and active Asheville residents swiftly adopted new technology and conservation efforts in response to global climate change. The City is powered by locally generated clean sources of energy and air quality problems have disappeared. Views of surrounding mountains have regained clarity unknown since the late 1800s.

But clean energy is only one facet of this Appalachian gem. Recognized as a Tree City USA for decades, streets, greenways and parks embody an urban forest. Emphasis on local resilience has spurred the use of municipal land for gardening, farming and urban orchards. Known as a food destination city, most restaurants serve locally grown foods.

Thanks to an extremely high-quality water source, nestled amidst towering peaks, Asheville has attracted dozens of clean-energy companies that depend on clean water - from breweries to high tech start-ups to restaurants and food manufacturers. Our modern transportation system has increased options that reduce carbon emissions. Successful waste, recycling and curbside composting programs have greatly reduced the city's landfill needs.

A HOME FOR EVERYONE

Asheville is a city with abundant housing choices for people at all economic levels and stages of life. Chronic homelessness is a thing of the past and rapid rehousing strategies abound thanks to an effective network of service providers. Housing is affordable not only because of reasonable prices but because of low energy and transportation costs. Innovative and historic housing options, from tiny homes and co-housing to apartments and single-family homes, are available throughout Asheville. Asheville's conventional public housing communities have been transformed into a diverse mix of public, affordable, and market rate homes within vibrant neighborhoods.

MOVING PEOPLE

Whether you drive a car, take the bus, ride a bike or walk, getting around Asheville is easy. Public transportation is widespread, frequent, and reliable. Sidewalks, greenways, and bike facilities get us where we want to go safely and keep us active and healthy. It is easy to live in Asheville without a car and still enjoy economic, academic, and social success.

THRIVING LOCAL ECONOMY

Asheville is unique in its locally focused economy. Our local businesses are vibrant. No matter where you are in the city, you see the diversity of customers, employees, and business owners. Our historic buildings are home to funky, eclectic businesses that reflect the character of the city. A creative economy of artists, makers, and innovators is thriving.

We are a city that values its workers, paying living wages and offering benefits that ensure both security and opportunity. Businesses that share those values locate, start, and grow in Asheville. Our economy is diverse, offering a range of career opportunities. Plentiful educational options, workforce development, access to capital, economic incentives, and a culture that values homegrown businesses are what make our economy strong. Our public and private partners have demonstrated unity of purpose. If you do your part, you will find opportunity for success.

FORWARD TOGETHER/WORKING TOGETHER

Asheville prides itself on building and growing partnerships to achieve our vision. If you live, work or play here, you want to be involved and you have a voice. When you join a citizen board or commission, you are supported by training and empowerment. Our regional and state government partners constructively collaborate with us. Diverse interest groups work together to tackle problems and enhance our community. City government is trusted and transparent. We use the latest technologies and methods to communicate, engage and empower community participants. Neighborhood engagement allows residents the opportunity to express thoughts, visions and concrete plans that build a collective and harmonious community. When you live in Asheville, you belong and are valued.

STRONG MANAGEMENT

Asheville has an AAA+ bond rating. We use our debt capacity and revenue wisely in order to maintain and improve the City's infrastructure and invest in our public employees. We strive to control our costs and provide the highest possible level of service. Asheville is an employer of choice, taking great care of our employees through a high performing and supportive environment, competitive salaries and benefits. We have a diverse revenue base that enables us to plan far into the future and to benefit from our growth. Our individual and corporate citizens generously invest in our community through partnerships and public/private projects that enrich the quality of life in the city."

Through consensus, Council then worked to identify three-year priorities to achieve the vision, along with discussing expectations regarding the priorities. The following priorities will be reviewed by City staff and and develop a staff work plan/organizational strategic plan:

Equity and Diversity

- Institute racial equity toolkit per the Governmental Alliance of Race and Equity (GARE)
  - Consider how the Equitable Development Strategy is integrated with this priority
  - Note that implementation following findings will be needed;
- Review the goals and programming in Parks and Recreation and determine the role that it should play in meeting the needs of citizens and racial equity
- Develop/formalize the partnership with the Asheville City Schools Foundation to support middle school and after school programs that close the achievement gap

- In partnership with others, participate in a community dialogue and potential strategies to honor the history and contributions of the African American community in Asheville, beginning with a community-led effort to install a monument for the African American heritage

Land Use and Planning

- Revisit the Food Action Plan and achieve clarify regarding goals and strategies and timetables
- Revise the Comprehensive Plan
- Implement an effective neighborhood planning process that includes making resources and expertise available to neighborhoods so their input into the Comprehensive Planning process is effective
- Develop a plan for the Haywood Street land use and implement as appropriate
- Adopt new levels of review and design guidelines to protect and preserve downtown

Energy & the Environment

- Implement Zero-Waste Asheville, including effective implementation of a pilot program and change management strategies for Pay as You Throw and use of composting programs
- Meet the goals of the Carbon Reduction Plan
- Implement the Clean Energy Framework and support the partnership with Duke Energy & Buncombe County to reduce energy demand through promotion/implementation of new programs as appropriate

A Home for Everyone

- Continue to work with partners to redevelop Lee Walker Heights
- Implement the Comprehensive Housing Affordability Strategy
  - Explore innovative homes, such as tiny homes and container housing
- Analyze city-owned land and establish a strategy for sale or lease for affordable housing
- Complete redevelopment of the former Parks Maintenance property
- Develop a partnership with Buncombe County to achieve greater levels of affordable housing, to include complementary strategies

Moving People

- Continue to implement the Transit Master Plan
  - Analysis of opportunities to expand transit into the County
- Find additional resources for the management of the transit system
- Implement recommendations of the parking studies as appropriate
- Take appropriate steps to implement the Multimodal Transportation Master Plan
- Complete the appropriate phases of River Arts District Transportation Improvement Plan
- Complete to work toward achieving City goals on I-26

Thriving Local Economy

- Develop and implement Buncombe Community Capital loan program, with an emphasis on minority business
- Research and recommend a portfolio of options/toolbox for small local business support
  - Zoning retention
  - Minority business
  - Economic incentives
  - Communication regarding work opportunity tax credit
- Evaluate the success of past tax economic incentives

Working Together

- Identify and implement strategies to get more diversity on city boards and commissions
- Develop a strategy to effectively vet policy initiatives through boards and commissions (i.e., clearinghouse, clarification of roles, orientation, charters, reporting)
- Develop an effective training program for boards and commissions
- Develop an effective working relationship with the N.C. Dept. of Transportation so state transportation investments reflect local values and transportation plans
- Identify and expand opportunities for partnerships with Buncombe County, to include energy, transportation, affordable housing, greenway extension, solid waste, parks and recreation facilities and other amenities
- Support the development and implementation of a more effective Council state legislative agenda

Strong Management

- Identify and evaluate all community agreements including leased properties and develop a system to monitor those agreement
- Examine new revenue streams and make recommendations regarding the viability - Develop a dedicated revenue stream for multimodal infrastructure (i.e., annual municipal vehicle tax)
  - Develop a plan to enhance funding from Tourism Development Authority
  - Leveraging private partnerships
  - Food/Beverage
  - Bond Referendum
- Explore alternatives for post-retirement health insurance benefit for new hires (since 2012)
- Develop a financing program for updating, maintaining and fixing all City-owned property and infrastructure
  - Analysis of deferred maintenance
  - Update infrastructure plans

It was the consensus of Council to move forward with the next steps as outlined by Ms. St. Clair as follows:

1. Ms. St. Clair will send a session report
2. City Manager will distribute the session report
3. Get the 2036 Vision ready to adopt
   a. Council Subcommittee (Vice-Mayor Wisler and Councilwoman Mayfield) will tweak the vision
   b. The Council Subcommittee will forward the tweaked vision to the City Clerk, who will then place the revised vision in Council boxes
   c. Council will review the tweaked vision and send comments to the Council Subcommittee
   d. 2036 Vision will be placed on the February 23, 2016, agenda for adoption
4. Communicate vision
   a. Communication and Public Engagement Division will develop a communication plan
   b. Social media, publications, plan to share at events
5. Staff will take Council's visions and priorities and develop a staff work plan/organizational strategic plan to show:
   a. A work plan for each priority

b. Identification of big pieces that may be very expensive with implications for the budget; consideration of how to integrate them into the march budget worksessions
c. Identification of current work that fits with priorities
d. Action steps with timelines
e. How these can be incorporated into core services

6. Staff will come back to Council for endorsement of the priorities
   a. Bring it back as a package
   b. Schedule discussion of priorities into a March budget worksession

7. Consider a reporting cycle that will keep Council informed

8. Consider revisiting the Vision after every election, with priorities being revisited every year.

Mayor Manheimer adjourned the meeting at 4:00 p.m.

Magdalen Bowleson
City Clerk

Esther E. Manheimer
Mayor

Tuesday – February 23, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 26, 2016; AND THE CITY COUNCIL RETREAT MINUTES HELD ON JANUARY 29-30, 2016

B. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JANUARY 26, 2016

Summary: In order to meet the requirements of Chapter 18B-700, Article 7 (g) (2), the Asheville ABC Board seeks to continue to use the travel policies of its appointing authority, the City of Asheville. Section (g) (2) states, "The local board shall annually provide the appointing authority's written confirmation of such approval ..." The ABC Board approved the current policy on January 26, 2016. This year the ABC Board incorporated all the elements to changes in the City's Travel Policy.

The Asheville ABC Board is requesting formal written confirmation of the approval of the Asheville Board of Alcoholic Control Travel Policy.

C. ORDINANCE NO. 4479 - BUDGET AMENDMENT FROM ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE IN ORDER TO INSTALL A TRAFFIC SIGNAL AT THE INTERSECTION OF VICTORIA ROAD AND FERNIHURST DRIVE

Summary: The consideration of a budget amendment in the amount of $50,000 to accept funding from Asheville-Buncombe Technical Community College in order to install a traffic signal at the intersection of Victoria Road and Fernihurst Drive.

Asheville-Buncombe Technical Community College's (A-B Tech) recent construction of a 650-space parking garage on Fernihurst Drive and the growth of the college's programs have caused the pedestrian and vehicular traffic at the subject intersection to meet traffic signal warrants. A-B Tech has requested the City to partner with them to install a traffic signal and they have agreed to provide most of the necessary funding. The Traffic Engineering Division will furnish a traffic signal controller and cabinet out of its inventory (valued at $15,000). In addition, the Traffic Engineering Division will purchase the remaining equipment and will prepare and manage the contract for the installation of the traffic signal including the appropriate inspections.

Pros:

- Provides a needed traffic signal at a busy intersection on a city-maintained street.

- Provides ADA accessible pedestrian features at an intersection heavily used by pedestrians.
- Encourages pedestrians to use an accessible and protected crossing.
- Funding provided by A-B Tech ($50,000).
- Good partnership opportunity between the City and A-B Tech.

Cons:

- City is providing the signal controller and cabinet (valued at $15,000).
- City is preparing and managing the contract including inspections.
- City is responsible for future maintenance cost.

The total estimated cost of the project is $65,000. A-B Tech will provide $50,000 for the project and the City will provide the signal controller and cabinet (valued at $15,000) out of its inventory. Future ongoing maintenance costs will be absorbed by the Transportation Department's (Traffic Engineering Division) operating budget.

Staff recommends that City Council approve a budget amendment in the amount of $50,000 to accept and expend funds provided by A-B Tech to install a traffic signal at the intersection of Victoria Road and Fernihurst Drive.

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D. RESOLUTION NO. 16-35 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE ANGLE STREET BRICK SIDEWALK REHABILITATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $161,999 plus a contingency of 20% ($32,400) with Cooper Construction Company, Inc. for the project known as Angle Street Brick Sidewalk Rehabilitation, City of Asheville Project #TR-15-16-010.

This contract is for the rehabilitation of brick sidewalks along Angle Street in Biltmore Village. Currently, the sidewalks have numerous trip hazards that have resulted in several falls by pedestrians. The trip hazards have been caused by a combination of tree roots pushing sections of the sidewalks out of alignment and a lack of lateral support for the sidewalks. This contract will address both issues. The project was advertised on December 15, 2015, and bids were opened on January 14, 2016, with the following results:

Cooper Construction Company, Inc., Flat Rock, NC	$161,999
Graham County Land Company, LLC, Robbinsville, NC	$227,020
Patton Construction Group, Inc., Arden, NC	$242,200

The project has been coordinated with AB Tech and Asheville High School to minimize the impact it will have on access to the campus during the school year. Staff has also coordinated with Public Works on a related street project to ensure that the overlay of this road will occur upon completion of the water line installation. The coordination of these activities will help to reduce the impact and inconvenience to local residents and other users of this road.

Pros:

- Will correct a number of sidewalk trip hazards on Angle Street.
- Will address ADA issues such as lack of or improper ADA ramps.

Cons:

- Project management and contract administration will consume staff time.

- Will not address all of Biltmore Village.

The Public Works Department has set aside $250,000 for the proposed Angle Street Brick Sidewalk Rehabilitation project as part of the $2.0 million FY 2016 Streets and Sidewalk Program CIP allocation.

City staff recommends City Council adopt the attached resolution awarding the contract to Cooper Construction, Inc. and authorizing the City Manager to execute a contract in the amount of $161,999 plus a contingency of 20% ($32,400) with Cooper Construction Company, Inc. for the project known as Angle Street Brick Sidewalk Rehabilitation, City of Asheville Project # TR-15-16-010.

RESOLUTION BOOK NO. 37 - PAGE 384

E. MOTION SETTING A PUBLIC HEARING ON MARCH 8, 2016, TO CONSIDER RENAMING TWO DISCONNECTED PORTIONS OF MERRITT STREET TO "BIRD DOG WAY" FOR THE SOUTH SECTION AND "MERRITT PARK LANE" FOR THE NORTH SECTION

Summary: The consideration of a motion setting a public hearing for March 8, 2016, to consider renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section.

The duplication of street names has the potential for misdirection or miscommunication, which can hinder the response of emergency services. The attached map shows two street segments with the exact same duplicated name. Property owners along the south section of Merritt Street brought this to staff's attention when they petitioned the City of Asheville to rename their portion to "Bird Dog Way." Both the north and south street segments are currently City maintained streets. The street segments no longer connect. No useable street surface is located between these street segments. Staff learned of another street named Merritt located outside the City limits in the nearby 28806 zip code. Therefore staff recommends the north section be renamed "Merritt Park Lane." Only one house address would be affected by this renaming. The owner / occupants of that home are the persons petitioning for the re-naming.

The Public Safety Committee reviewed a request to eliminate the duplicate street name on January 25, 2016, and they recommended it be forwarded to the full Council for approval.

Pro:

- Potential emergency response will be enhanced with specific unique street names.

Con:

- Cost of labor of replacing two street name signs.

The cost to re-install new street name sign blades to the existing poles are about $100 each and is included in the current operating budget for the Transportation Department.

City staff recommends City Council set a public hearing for March 8, 2016, to consider renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section.

F. ORDINANCE NO. 4480 - ORDINANCE AMENDING THE FISCAL YEAR 2015-16 FEES & CHARGES MANUAL

PROPOSAL TO CONDUCT A 90-DAY TEST OF SINGLE-SPACE ELECTRONIC METERS FOR ON-STREET METERED PARKING

Summary: The consideration of a proposal for the Parking Services Division to conduct a 90-day test of single-space electronic (smart) meters for on-street metered parking and, in furtherance thereof, an amendment to the Fiscal Year 2015-16 Fees and Charges Manual to remove the convenience fee for credit/debit cards usage at on-street parking meters.

90-Day Test of Single-Space (Smart) Meters for On-Street Metered Parking.

Currently, parking meters are only located in the downtown central business district as determined by City Council (Asheville Code Section # 19-162 Meter Zones) and there are 765 metered on-street parking spaces in this area. The existing parking meters only accept coins and most of them have been in place for several years. The City also uses "Passport Parking" (a pay-by-phone system), which enables customers to use a debit or credit card.

Due to ever increasing and ongoing maintenance issues, staff is planning to begin replacing the parking meters in Fiscal Year 2016-17. Originally, we hoped to be able to find new parking meters that only accepted coins but our research is verifying that the equipment is becoming obsolete and we are concerned that in a very few years, it might not be available any longer. So, we are now considering single-space smart meters.

In order to help with our decision process, we will be conducting a 90-day test period at 35 parking spaces in the Grove Arcade area beginning in March 2016 using IPS M5 parking meters. These parking meters will accept coins, debit cards, credit cards, and Passport Parking. In addition, they are capable of variable pricing which is one of the strategies that will be researched in the Comprehensive Parking Study (RFP was released during January 2016). The parking meters use a comprehensive web-based management system (changes are accomplished via computer input) compared to the existing parking meters that require a person to physically go to each meter in order to make various changes.

Overview of Fees and Charges Manual Convenience Fee

The City Council began to assess a $0.25 convenience fee for credit/debit card usage at on-street parking meters on August 14, 2012 (Ordinance # 4105). At the time this action was originally taken, Passport Parking was going to be tested, so this ordinance was enacted specifically for that system. However, once the City begins to test the electronic (smart) meters, this convenience fee would also apply to the use of credit/debit cards at electronic on-street parking meters.

In 2013, Visa and MasterCard changed their practices regarding the assessment of convenience fees for users of Visa and MasterCard credit and charge cards. While these companies allow the City to charge these users a convenience fee, they require the City to comply with certain requirements prior to doing so, including notice, disclosure, and rate requirements.

City staff has been working with the applicable parties to meet Visa and MasterCard's requirements. In the meantime, in order to allow Parking Services to proceed with the test of electronic meters, and to uniformly and consistently charge all users of these electronic meters, staff recommends that we stop charging the convenience fee for all users of on-street parking meters. The City will absorb any convenience fees into operating expenses along with the credit card fees.

This item was reviewed by the Finance Committee on January 26, 2016. The Finance Committee endorsed the recommended action and directed that it move forward to City Council for their review and action. Additionally, the Transportation Department Director, with concurrence

from the Chief Financial Officer, suggested that the City make the convenience fee optional, to make it easier for the City to reinstate the fee in the future if the City chooses.

The Legal Department reviewed the proposal from Finance Committee and recommended that we not make any fees in the Fees and Charges Manual optional; so that users are clearly informed of any fees. Therefore, staff recommends that we stop charging the convenience fee for on-street parking meters, by removing the fee from the Fiscal Year 2015-16 Fees and Charges Manual, and absorb the cost into operating expenses along with the credit card fees.

Pros:

- Enables customers to directly use credit or debit cards at meters, in addition to cash and Passport Parking.
- Enhances the Passport Parking option by "pushing" the data to the actual smart meter.
- All users of on-street parking meters are charged equally, regardless of the method of payment.

Cons:

- City absorbs convenience fees in operating budget (13% +/- of revenue generated by Passport Parking).
- City already absorbs credit card fees in operating budget (16% +/- of revenue generated by Passport Parking).

The total anticipated cost of the 90-day test is about $800 and is currently budgeted in the Fiscal Year 2015-16 Parking Enterprise Fund Operating Budget. In addition, the total anticipated annual cost of the convenience fees is about $21,000 which equates to 13% +/- of the revenue generated by Passport Parking. This cost is currently budgeted in the Fiscal Year 2015-16 Parking Enterprise Fund Operating Budget.

Staff recommends that City Council approve a proposal for the Parking Services Division to conduct a 90-day test of single-space electronic (smart) meters for on-street metered parking and an amendment to the Fiscal Year 2015-16 Fees and Charges Manual to remove the convenience fee for credit/debit cards usage at on-street parking meters.

ORDINANCE BOOK NO. 30 - PAGE 229

G. RESOLUTION NO. 16-36 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LICENSE AGREEMENT WITH VERIZON D/B/A BELL ATLANTIC MOBILE TO INSTALL ANTENNAS, CONDUIT, CABLING AND RELATED EQUIPMENT AT THE US CELLULAR CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute a License Agreement with Bell Atlantic Mobile of Asheville, Inc. d/b/a/ Verizon Wireless for floor and cabling space within the building and antenna space on the roof on city-owned property at 87 Haywood Street, known as the U.S. Cellular Center.

The City of Asheville owns property at 87 Haywood Street, Asheville, NC, PIN #9649-31-3304-00000, known as the U.S. Cellular Center. Recently, Bell Atlantic Mobile of Asheville, Inc. d/b/a/ Verizon Wireless approached the City with a request to install cellular communication infrastructure within the building in order to better serve their customers. This infrastructure includes in-building equipment that will serve as boosters to cellular signal, and a roof antenna to support transmission of the signal. Verizon also wishes to secure an equipment room on the exhibition level of the US Cellular Center, within an existing storage room.

In consideration for this license, the City will receive a rental payment of $9,600 per year, for a total term of ten (10) years. The rental rate will increase by 3% each year beginning in year three. Verizon will install a separate sub-meter for power and pay all associated fees for power

and installation. All exposed cabling and conduit to be covered or painted to the same color as the existing ceiling to blend in. There will be no signage using the name or logo associated with 'Verizon Wireless' within, or on the facility, inclusive of the door accessing Verizon's equipment room located on the Exhibition Level Additionally, Verizon Wireless has agreed to install fiber optic lines throughout the building for the City's use, which upon installation will become the property of the City.

Staff, including U.S. Cellular Center management, information services and real estate management have reviewed this request and see no conflict with the ongoing operations of the U.S. Cellular Center. Real estate staff consulted with other municipal real estate departments in the City of Charlotte and City of Greensboro and confirmed that the pricing structure is considered fair market value for this type of installation. The installation of fiber optic cabling will serve the US Cellular Center by allowing future opportunity for wireless internet services as well as opportunity for installation of another in-building system with another wireless service provider. In order to ensure compliance with the US Cellular Center Naming Rights Agreement, staff contacted and they have no objection.

The Notice of Intent to enter into a License Agreement with USCOC was published on January 8, 2016, in the Asheville Citizen-Times. Over thirty days have passed since the publication and authorization to execute the License Agreement is being requested.

Pros:

- Additional Revenue to the US Cellular center
- Verizon to install fiber optic cabling for the City's use at no cost to the City, which will become property of the City
- Patrons of the US Cellular Center will see enhanced cellular signal for specific phone plans

Cons:

- None

In consideration for this license, the City will receive a rental payment of $9,600 per year, and proceeds will benefit the US Cellular Center Enterprise fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute a License Agreement with Bell Atlantic Mobile of Asheville, Inc. d/b/a/ Verizon Wireless for floor and cabling space within the building and antenna space on the roof on city-owned property at 87 Haywood Street, PIN #9649-31-3304-00000, known as the U.S. Cellular Center.

RESOLUTION BOOK NO. 37 - PAGE 385

H. RESOLUTION NO. 16-37 - RESOLUTION AUTHORIZING THE MAYOR TO ENTER INTO A JOINT JURISDICTIONAL AGREEMENT WITH THE BOARD OF TRUSTEES OF ASHEVILLE-BUNCOMBE TECHNICAL COMMUNITY COLLEGE AND BUNCOMBE COUNTY TO EXPAND THE AB-TECH POLICE DEPARTMENT'S JURISDICTION

Summary: The consideration of a resolution authorizing the Mayor to enter into an agreement with the Board of Trustees of Asheville Buncombe Technical Community College ("A-B Tech") and Buncombe County to allow A-B Tech's Police Department to perform law enforcement activities and have the powers of arrest on real property leased by A-B Tech from the County in the vicinity of Victoria Road.

A-B Tech is expanding its campus onto property leased from the County at 93 Victoria Road (Pin# 9648-33-7732), and has requested the City and County enter into an agreement granting its police force authority to perform law enforcement activities and arrests on that specific

property as well other contiguous property owned by the County and leased by A-B Tech. Pursuant to N.C. Gen. Stat. § 115-21.1(b) the board of trustees of any community college that establishes a campus law enforcement agency may enter into joint agreements with the governing board of any municipality to extend the law enforcement authority of campus police officers into the municipality's jurisdiction.

The Asheville Police Department will continue to support the A-B Tech Police Department by providing additional public safety response to crimes in progress and technical law enforcement services such as investigative support or forensic processing per the terms of an existing mutual aid agreement.

Pros:

- Provides the A-B Tech Police Department with consistent jurisdiction to perform law enforcement activities and employ the power of arrest on property controlled by A-B Tech.
- Minimizes the need for response from the Asheville Police Department.

Cons:

- None noted.

There is no known fiscal impact associated with this amendment.

Staff recommends approval of a resolution authorizing the Mayor to enter into an agreement with the Board of Trustees of A-B Tech and Buncombe County to allow A-B Tech's Police Department to perform law enforcement activities and have the powers of arrest on real property leased by A-B Tech from the County in the vicinity of Victoria Road.

RESOLUTION BOOK NO. 37 - PAGE 386

I. RESOLUTION NO. 16-38 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RECEIVE FUNDS FROM THE ASHEVILLE PARKS AND GREENWAYS FOUNDATION AND FRIENDS OF CONNECT BUNCOMBE TO CONDUCT A GREENWAY FEASIBILITY STUDY IN EAST ASHEVILLE

ORDINANCE NO. 4481 - BUDGET AMENDMENT TO APPROPRIATE DONATIONS TO FUND GREENWAY FEASIBILITY STUDY

Summary: The consideration of (1) a resolution authorizing the City Manager to receive funds from the Asheville Parks and Greenways Foundation and Friends of Connect Buncombe to conduct a greenway feasibility study in East Asheville; and (2) the associated budget amendment in the amount of $37,000 to appropriate the donations to fund the study.

The Asheville Parks and Greenway Foundation and the Friends of Connect Buncombe have raised monies from various fundraising projects to fund a feasibility study for the first segment of the Swannanoa River Greenway Corridor. The Swannanoa River Greenway Corridor – Phase One will be a multi-use trail suitable for bike and pedestrian use. The study area will begin at the intersection of the South Tunnel Rd. and Swannanoa River Rd. It will terminate at the City-owned Nature Center and Recreation Park. This segment of greenway will also have connections to the River Bend Shopping Center and Highlands Brewing Co. The chosen consultant will work with an intra-departmental team within the City. This team will provide assistance via surveying and other in-house technical issues.

Once finished, this feasibility study will poise this project for engineering and final design work.

Pros:

- This project will be 100% funded by donations from private entities.
- This will be the first greenway study on the east side of town.

Con:

- Staff support will be needed to conduct this study

No monetary requirements needed from the City.

City staff recommends City Council approve a resolution authorizing the City Manager to accept donations to conduct this greenway feasibility study, and a budget amendment in the $37,000 to appropriate the donations to fund the study.

Ms. Linda Giltz, representing Friends of Connect Buncombe, presented Mayor Manheimer with a check in the amount of $15,000. On behalf of City Council, Mayor Manheimer thanked the Friends of Connect Buncombe and the Asheville Parks and Greenways Foundation for their donations.

RESOLUTION BOOK NO. 37 - PAGE 387
ORDINANCE BOOK NO. 30 - PAGE 231

J. RESOLUTION NO. 16-39 - RESOLUTION AUTHORIZING THE APPROVAL OF HOUSING TRUST FUND LOANS TO BEAUCATCHER PROPERTIES, LLC; BIOTAT, LLC; GROCE UNITED METHODIST CHURCH; HEARTHSTONE, LLC; AND LEAH AND JAMES KIM

Summary: The consideration of a resolution authorizing the approval of Housing Trust Fund loans to Beaucatcher Properties, LLC ($390,000), Biotat, LLC ($520,000), Groce United Methodist Church ($30,000), Hearthstone, LLC ($128,000), and Leah and James Kim ($150,000).

Staff received six (6) Housing Trust Fund (HTF) applications for a total of $1,330,000 requested funds. These applications were presented to the Housing and Community Development Committee (HCD) on January 19, 2016 and each was evaluated on its own merit. The HCD Committee allocated $1,218,000 to the applicants.

The following applications have been recommended by the HCD for approval:

1) *Virginia Avenue*: Beaucatcher Properties LLC for the construction of a 6-unit affordable rental development in West Asheville, $90,000.

2) *Simpson Street*: Beaucatcher Properties LLC for the construction of a 60-unit 100% affordable rental development in south-east Asheville, $300,000.

3) *Smith Mill Place*: Biotat, LLC for the construction of a 72-unit rental development including 36 affordable units in West Asheville, $520,000.

4) *Epworth Building*: Groce United Methodist Church for the construction of a 2 affordable rental units housing homeless with children in East Asheville, $30,000.

5) *Commonwealth Court*: Hearthstone, LLC for the construction of 16 affordable rental units in South Asheville, $128,000.

6) *25 White Pine:* Leah and James Kim (Sole Proprietors) for the construction of 15 affordable units for veterans, $150,000.

Beaucatcher Properties, LLC ($390,000)

Virginia Avenue ($90,000) - Beaucatcher Commons, LLC, has proposed a 6-unit infill development project including 3 lots on 0.5 total acres with a 3-BR single-family home and one garage apartment on each lot (the garages are also for rent, but are in addition to the unit rentals and are open to tenants outside the affordable housing market). The single-family homes will house those earning 80% AMI or less will have a 30 year affordability period and the garage apartments will house those earning 60% AMI or less (including vouchers – 50% AMI) with a 20 year affordability period. The project site is in West Asheville located 1 mile south of Haywood Road, .75 miles to a transit stop (.5 as the crow flies), and 3 miles to downtown. The site has sewer and water already on site and no zoning changes or conditional use permits are required. The project will have energy efficiency features such as air conditioner, heat pump, attic insulation, windows, low-flow toilets and shower heads. No units will be fully ADA accessible.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions							
	60% AMI Units	80% AMI Units	Loan Amount	Subsidy Per Unit	Interest Rate	Term (Years)	Type
Single Family Homes		3	$45,000	$15,000	4.50%	30	Fully Amortizing
Garage Apartments	3		$45,000	$15,000	2%	20	Interest Only (Special Terms)
Total	6		$90,000				

Proposed Total Development Costs and Subsidy Allocations						
Total Loan Amount	Total Development Cost	Loan % of Total Development Cost	Total cost per unit	Est. Cost Per Square Foot	Additional Subsidy Request	Total Subsidy Per Unit
$90,000	$673,000	13%	$112,167	$97	None	$15,000

Buncombe County has committed $28,000 to the project and developer has committed $40,000 in land equity, but no other financing commitments have been made. Conventional financing is expected in March 2016 and construction is anticipated to start in June 2016. The site is under contract and is scheduled to close in March 2016. As proposed, there is sufficient cash flow to cover the proposed debts and may even be in access. Developer has successfully completed projects with this model in the past and is ready to start when financing is secured.

Pros:

- Meets strategic goals by providing 50% 1-BR units @ 60% AMI
- Has $28,000 financial commitment from Buncombe County
- 30 Year and 20 Year affordability periods – single-family and ADU respectively
- Offers homelessness transition from vouchers through Homeward Bound (50% AMI)
- Developer has history of successful projects of this kind

Cons:

- No conventional financing commitment has been received –$485,000 proposed

- Location better suited for automobile owning tenants
- Project has a high debt-coverage ratio (1.41), which suggests full subsidy may not be necessary for project viability

Simpson Street ($300,000) - Beaucatcher Commons, LLC, has also proposed a 60-unit rental development project with 60 1-BR units and all rents below 60% AMI and/or voucher accepted (50% AMI). The project is in its early planning stages and only concept plans and elevations are prepared at this time, but the project is designed to be modular construction with parking provided under the buildings; it will contain energy efficiency features, 5% of the units will be fully ADA accessible, and have a 20 year affordability period. The project does require a 100% bonus density increase and conditional use permit, which requires City Council approval. The applicant is also applying for a Land Use Incentive Grant with an estimated seven (7) year benefit. The developer does have successful experience with Housing Trust Fund loans, but not at this scale of development (60 units).

The proposed project is on a 1.43 acre site located just off of Tunnel Road and Swannanoa River Road behind Target. It is zoned River District and is in a primarily industrial area. Residential is permitted, but Planning and Zoning approvals have not been obtained. It is 3 miles from downtown, and is within 1/4 mile of jobs and services, as the crow flies, but walking and driving distance to transit and services is 0.9 miles. Developer has committed to improving the transit gaps for these residents by supporting walkway development along utility easement, providing shuttle transportation to existing transit stop, and/or advocate for bus stop along Swannanoa River Road.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	**Loan Amount**	**Subsidy Per Unit**	**Interest Rate**	**Term (Years)**	**Type**
60	$300,000	$5,000	2%	20	Interest Only (Special Terms)

Proposed Total Development Costs and Subsidy Allocations							
Total Loan Amount	**Total Development Cost**	**Loan % of Total Development Cost**	**Total cost per unit**	**Est. Cost Per Square Foot**	**Additional Subsidy Request***	**Total Subsidy**	**Total Est. Subsidy Per Unit**
$300,000	$3,628,600	8%	$60,476	$70	$275,300	$575,300	$9,588
** Land Use Incentive Grant – estimated 10 year benefit*							

Cost estimates are still early and could change once plans are drawn. No additional financing commitments have been made on the project and the conventional loan commitment is expected in November 2016 with construction scheduled to start in December 2016. The site is under contract and expected to close in September 2016. If the Land Use Incentive Grant is approved, then the pro forma will show a high cash flow and the full subsidy may not be required. Developer is seeking a site specific market study at this time, but is currently referring to the Bowen Report.

Pros:

- 60 1-BR units serving 60% AMI or less including 50% AMI voucher accepted
- Low subsidy per unit, $5,000
- 20 Year affordability period
- Offers homelessness transition through vouchers through Homeward Bound

Cons:

- Project is in its early stages and cost estimates could change
- Needs conditional zoning and bonus density increase
- No additional financial commitments to date
- If LUIG is approved, full subsidy amount may not be required
- Distance to transit may impact LUIG application and create auto dependency
- Site specific market study has been provided
- Developer does not have experience at this level of service (60 units)

Biotat, LLC – Smith Mill Place ($520,000) - Biotat, LLC, has proposed a 72-unit development project with 36 affordable units for households earning 60% AMI or less using 100% vouchers (50% AMI). Units are both 1 and 3 bedrooms (18 of each) and the site is owned by the developer (3.71-acres). The developer recently returned $200,000 of Housing Trust Fund funds awarded for this site as a hard-to-house project, but revised the plan with this proposal. The developer requests an amount that exceeds the HTF policy, but the developer has submitted a waiver to increase the allowable amount to $520,000 from a policy maximum of $200,000 based on a $14,444 subsidy per unit. The waiver also requested a graduated interest rate of 2%, which is detailed below. The developer guarantees a twenty (20) year affordability period with the possibly of making them permanently affordable and hopes to offer additional units at the affordable rate. Plans for this project have been submitted and CZ has been approved; no further zoning changes, conditional uses, or bonus densities are required. Developer will apply for a Land Use Incentive Grant, which anticipates a 10 year tax rebate. The developer has extensive experience in smaller projects and has partnered with large scale partners to complete this project.

The proposed projected is located in West Asheville just off of New Leicester Highway, near the intersection of Patton Avenue and is within 1/4 mile of jobs, services, and transit, and is 3.5 miles to downtown. The project will seek Energy Star Certification and includes twelve (12) fully ADA accessible units– 4 in each building. No site specific market study has been provided, but developer guarantees rents at 60% AMI or less if voucher holders are unattainable.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	**Loan Amount**	**Subsidy Per Unit**	**Interest Rate**	**Term (Years)**	**Type**
36	$520,000	$14,444	2% graduated*	20	Graduated Interest Only (Special Terms)
** Year 1-5 @ .05%, year 6-10 @ 1%, year 11-15 @ 1.5%, year 16-20 @ 2%. This is an average yearly rate of 1.14%. This proposal allows cash to remain in the project to perform for investors and perform for the Housing Trust Fund.*					

Proposed Total Development Costs and Subsidy Allocations								
Total Loan Amount	**Total Development Cost**	**Loan % of Total Development Cost**	**Total cost per unit**	**Est. Cost Per Square Foot**	**Additional Subsidy Request***	**Total Subsidy**	**Total Est. Subsidy Per Affordable Unit**	**Total Est. Subsidy Per Unit**
$520,000	$6,504,551	8%	$90,341	$97	$298,370	$818,370	$22,733	$11,366
** Land Use Incentive Grant – 10 year estimated benefit*								

The project meets many of the City's strategic goals by providing 36 affordable units (18 1-BR) in a location close to transit and amenities. The units will support 60% AMI or less and can house veterans and homeless (50% AMI). The project plans are approved and partners are in place. No additional financing commitments have been made on the project, but the conventional loan commitment is expected in March 2016 and construction is scheduled to start in May 2016. Developer is ready to begin construction as soon as financial commitments are made. The developer has also orchestrated a strong team to complete this project and although a site specific market study was not provided, the number of affordable units (36) is needed. Pro forma shows enough cash to satisfy the proposed performing debt.

Pros:

- Developer commits 36 affordable units (60% AMI) and is 100% voucher accepted (50% AMI)
- Includes eighteen (18) 1-BR units
- Development site within ¼ mile of jobs, services, groceries, and transit
- 20 Year affordability commitment with goal of permanent affordability
- Plans are approved, cost estimates are final, and project is shovel ready
- Energy efficiency with Energy Star and System Vision certification

Cons:

- $520,000 request exceeds the amount permitted by the HTF policy
- 2% graduated interest only request; 1.14% actual interest over the life of the loan
- No other financing commitments have been made
- No market study demonstrating 36 units can be 100% voucher supported

Groce United Methodist Church – Epworth Building ($30,000) - Groce United Methodist Church has proposed the renovation of their education building to create two (2) 2-bedroom apartments and house homeless with children; both units will house voucher holders (50% AMI or less) and will have a 20 year affordability period. The project will be in partnership with Homeward Bound who will be responsible for identifying the families and doing case management, while Groce United Methodist will be responsible for developing and managing the units. The units will be on the same site as the church and will be maintained by the Board of Trustees, who do have experience managing a $1 million renovation and who consists of diverse professional backgrounds including home contracting and engineering. Project plans are ready for rehab and all that is needed are building permits and final commitments from a conventional lender.

The proposed projected is located on Tunnel Road in Beverly Hills just west of the VA Hospital. The site is within 1/4 mile of jobs, services, and transit, and is 4 miles to downtown. The project will not meet any energy efficiency standards, but both units will be fully ADA accessible.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	Loan Amount	Subsidy Per Unit	Interest Rate	Term (Years)	Type
2	$30,000	$15,000	0%	20	Fully Amortizing (Special Terms)

Proposed Total Development Costs and Subsidy Allocations							
Total Loan Amount	Total Development Cost	Loan % of Total Development	Total cost per unit	Est. Cost Per Square Foot	Additional Subsidy Request	Total Subsidy	Total Est. Subsidy

		Cost					Per Unit
$30,000	$117,432	26%	$58,716	$101	None	$30,000	$15,000

No additional financing commitments have been made on the project, but a conventional loan is sought and a commitment is expected in April 2016. Developer also has relationship with bank and plans on using equity to finance the rehab. Construction is anticipated to start April 29, 2016. Project plans have been submitted for the rehabilitation and are building permit ready. Parcel is zoned residential (RM-6).

Pros:

- Offers housing for homeless families with children at 50% AMI or less (niche market)
- Development site within ¼ mile of transit and ½ mile to jobs, services, and groceries
- Architectural/construction plans are building permit ready
- Refinance of property will provide conventional loan

Con:

- Conventional loan has not been committed

Hearthstone, LLC - Commonwealth Court ($128,000) - Hearthstone Innovative Homes, LLC, owned by Joseph Kimmel and Bob Scheiderich with the primary partner being Eblen Charities, are proposing a 16-unit rental development on a .72 acres site for households earning 60% AMI or less. All units are two-bedroom apartments. The site is owned by the developer and does have P&Z zoning approvals for 8 units, but is requesting a 100% bonus density increase, which is required to go through P&Z, TRC and City Council for approvals. The Land Use Incentive Grant is an option for this project, but has not been committed by the developer. The project development team is still being structured but is backed by strong financial assets. Project has draft plans and cost estimates, but they could change as project progresses. The developer does have experience with both minor and major subdivisions, but not with local subsidies.

The proposed projected is located in South Asheville, just off of Sweeten Creek Road, south of the Sweeten Creek Road and Interstate-40 Junction. The site is within 1/4 mile of jobs, services, and transit, and is 4.3 miles to downtown. The project will have energy efficiency components and one of the proposed units will be fully ADA accessible – per building code requirements.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	Loan Amount	Subsidy Per Unit	Interest Rate	Term (Years)	Type
16	$128,000	$8,000	2%	15	Interest Only (Special Terms)

Proposed Total Development Costs and Subsidy Allocations							
Total Loan Amount	Total Development Cost	Loan % of Total Development Cost	Total cost per unit	Est. Cost Per Square Foot	Additional Subsidy Request*	Total Subsidy	Total Est. Subsidy Per Unit
$128,000	$1,410,347	9%	$88,147	$153	None	$128,000	$8,000

Applicant may apply for a Land Use Incentive Grant, but has not committed

The land is the only equity in the project. No additional financing commitments have been made on the project and the conventional loan commitment is expected in April 2016. Construction is anticipated to start in April 2016, as well. The project shows sufficient cash flow to perform on the debts.

Pros:

- Infill development close to transit and amenities
- Provides 16 2-BR units for 60% AMI or less
- The developer has local experience and strong financial backing
- Project is anticipated to start in April 2016

Cons:

- Land is the only equity in the project and no other financial commitments received
- Density Bonus requires City Council approval
- High cost per square foot ($153)
- Developer is new to local subsidy and affordable housing

Leah and James Kim – 25 White Pine ($150,000) - Leah and James Kim, sole proprietors, own the site at 25 White Pine Drive, where they currently house veterans in 11 units. The proposed project will add an additional fifteen (15) 1-BR units to the site and will accept all tenants through the VASH program (50% AMI). The project will have a 15 year affordability period, with the possibility of making it permanent. Project is in the early planning stages and does require a zoning change and conditional use permit. The project also requires city improvements including increased street width, curb and gutter, fire hydrants, sewer and water extensions, and sidewalks. The full extent of these improvements is still being discussed and will likely be determined in the conditional use permit process.

The site is 1.48 acres and is within walking distance (1/4 miles) to transit stops, jobs, grocery, and other amenities. It is within 2.3 miles of downtown and is located just off of Tunnel Road next to the Asheville Mall. The proposed project will be Energy Star Certified. One of units will have full ADA accessibility with one additional unit being equipped to have partial accessibility.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	**Loan Amount**	**Subsidy Per Unit**	**Interest Rate**	**Term (Years)**	**Type**
15	$150,000	$10,000	0%	15	Amortizing (Special Terms)

Proposed Total Development Costs and Subsidy Allocations							
Total Loan Amount	**Total Development Cost**	**Loan % of Total Development Cost**	**Total cost per unit**	**Est. Cost Per Square Foot**	**Additional Subsidy Request***	**Total Subsidy**	**Total Est. Subsidy Per Unit**
$150,000	$1,107,800	14%	$73,853	$153	$38,460	$188,460	$12,564
* *Land Use Incentive Grant – 12 year estimated benefit*							

No additional financing commitments have been made, but the conventional loan commitment is expected in the fall 2016 with construction scheduled to start in the winter of 2016. The subsidy is needed for the project, but land is the only equity in the project.

This project has also been analyzed in two ways: as a standalone project (15 new units) and in combination of the existing 11 units on site (26 units). The standalone project does show a marginal cash flow for the first four years, but in combination, the project shows significant cash flow that can cover any deficits in the stand-alone performance. Staff feels the developer has sufficient cash coverage in the existing 11 units that can cover any shortfalls in the development of an additional 15 units.

Pros:

- Project has 15 units that are 100% VASH voucher housing veterans (50% AMI)
- Project is 100% 1-BR units
- Subsidy/unit request, $10,000
- Development site within ¼ mile of jobs, services, groceries, and transit
- Energy efficiency with Energy Star 2.0 certification

Cons:

- Project is in preliminary stages and final cost estimates can change
- No other financing commitments have been received
- City requirements for streetscape improvements are not yet known
- Cash flow is low, but may be backed by income on existing 11 units
- Can project sustain 100% VASH vouchers?
- High cost per square foot ($153)

The Housing Trust Fund's projected balance for June 30, 2016 is $1,074,795. This amount is contingent upon the receipt of all scheduled loan repayments and the sale of two pieces of property the City currently owns: the Villas property and Sky Loft condominium. These two properties have a combined conservative estimated resale value of $285,520. If neither sale is executed, then the fund will have an estimated $780,000 cash balance on June 30, 2016. Based on the development schedules of the proposed projects, staff anticipates adequate cash flow in the Housing Trust Fund to cover all draw requests in FY-2015-16. If the HTF is allocated a similar amount in FY 2016-17 as in previous years, then no budget transfer for FY 16-17 would be anticipated either. In the unlikely event the Housing Trust Fund does not receive funding for FY-16-17 comparable to previous years, then the City can access the $500,000 of FY15-16 unused Capital Improvement Program (CIP) funds to cover any shortfalls.

The Housing and Community Development Committee recommends City Council approve a resolution approving the following loans subject to the developers meeting all program requirements for loan closing:

1. $90,000 to Beaucatcher Properties, LLC for the development of six (6) rental units on Virginia Avenue: three (3) 3-BR single family homes (80% AMI) and three (3) 1-BR garage apartments (60% AMI including vouchers 50% AMI) on three (3) lots. No additional conditions required. Loans are to be made immediately available for disbursement following loan closing.

    a. $45,000 to be repaid as a fully amortizing loan at 4.5% interest for 30 years.
    b. $45,000 to be repaid in annual interest-only payments at 2.00% interest with principal deferred for a term of 20 years.

2. $300,000 to Beaucatcher Properties, LLC for the development of sixty (60) multifamily rental units on Simpson Street (1-BR, 60% AMI including vouchers 50% AMI), amortized at 2.00% annual interest-only with principle deferred for 20 years. On the condition that

developer improve transit access by either contributing to walkway improvements along utility easement by installing lights, providing private transportation services for residents, or something thereof. Loan is to be made immediately available for disbursement following loan closing.

3. $520,000 to Biotat, LLC for the development of seventy-two (72) multifamily rental units, on Oak Hill Drive (thirty-two (32) dedicated affordable units; eighteen (18) 1-BR, eighteen (18) 3-BR; 60% AMI including vouchers 50% AMI), amortized at 2.00% graduated annual interest-only with principle deferred for 20 years. The graduated interest payment is as follows: year 1-5 at .05%, year 6-10 at 1%, year 11-15 at 1.5%, year 16-20 at 2%. This is an average yearly rate of 1.14%. There are no additional conditions on this project. Loan is to be made immediately available for disbursement following loan closing.

4. $30,000 to Groce United Methodist Church for the development of two (2) rental units for homeless with children on Tunnel Road (2-BR, 60% AMI including vouchers 50% AMI), amortized at 0% annual interest-only with principle deferred for 20 years. On the condition that developer installs energy star appliances and other green features when possible. Loan is to be made immediately available for disbursement following loan closing.

5. $128,000 to Hearthstone, LLC for the development of sixteen (16) rental units for on Booker Street (2-BR, 60% AMI), amortized at 2% annual interest-only with principle deferred for 15 years. There are no additional conditions on this project. Loan is to be made immediately available for disbursement following loan closing.

6. $150,000 to Leah and James Kim for the development of fifteen (15) rental units for veterans on White Pine Drive (1-BR, 60% AMI including vouchers 50% AMI), amortized at 0% annual interest-only with principle deferred for 15 years. There are no additional conditions on this project. Loan is to be made immediately available for disbursement following loan closing.

RESOLUTION BOOK NO. 37 – PAGE 388

K. RESOLUTION NO. 16-40 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT AGREEMENT WITH BUCKEYE BRIDGE, LLC, FOR THE VICTORIA ROAD WATERLINE IMPROVEMENTS PROJECT

Summary: The consideration of the following items relative to the Victoria Road Waterline Improvements Project ('Project'): (1) a resolution authorizing the City Manager to enter into a construction agreement with Buckeye Bridge, LLC for the bid amount of $673,514.50; and (2) a contingency amount of $81,000.50 for a total project budget in the amount of $754,515.00.

On January 12, 2016, the WRD issued an Advertisement for Bids for the Victoria Road Waterline Improvements Project. This Project consists of the installation of approximately 5,000 Linear Feet of 12-inch Ductile Iron Pipe (DIP) with related appurtenances and materials required in order to complete the work. The Project will replace existing undersized and failing waterline in order to improve hydraulics, aid fire protection and increase reliability for the entire length of Victoria Road. This Project will also include asphalt and/or concrete pavement repair and restoration of any grassed areas disturbed.

On February 2, 2016, the WRD received six (6) bids for the Project. Companies responding were:

1. Buckeye Bridge LLC – Canton, NC, $673,514.50
2. Cooper Construction Company, Inc. – Hendersonville, NC, $746,413.00

3. Davis Grading, Inc. – Shelby, NC, $786,426.00
4. Patton Construction Group, Inc. – Asheville, NC, $681,760.00
5. Thomas Construction Company, Inc. – Johnson City, TN, $799,865.00
6. T&K Utilities, Inc. – Asheville, NC, $804,950.00

Following a review of the bids by City staff, Buckeye Bridge, LLC was selected as the lowest responsible, responsive bidder in the amount of $673,514.50. A contingency amount of $81,000.50 has been added for a total project budget in the amount of $754,515.00.

Pros:

- This project will replace existing waterlines that are undersized, provide inadequate for fire protection, and have a high risk of failure causing costly repairs for the WRD and frequent outages for the customers with a durable, reliable sustainable water system for the project neighborhoods.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Approval of the construction contract to the lowest responsible, responsive bidder will invest City funds in the local economy.

Con:

- Failure to award a construction contract would prevent the completion of this waterline system improvement and goal of continued investment in our infrastructure.

The funding needed for this construction agreement is currently allocated within the Victoria Road Waterline Improvements Project in the Water Resources Capital Improvement Projects (CIP) Fund.

City staff recommends City Council authorize the following relative to the Victoria Road Waterline Improvements Project: (1) a resolution authorizing the City Manager to enter into a construction agreement with Buckeye Bridge, LLC for the bid amount of $673,514.50; and (2) a contingency amount of $81,000.50 for a total project budget in the amount of $754,515.00.

RESOLUTION BOOK NO. 37 - PAGE 390

L. RESOLUTION NO. 16-41 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH PATTON CONSTRUCTION GROUP INC. FOR THE WATER SERVICE RENEWALS WEST PROJECT

Summary: The consideration of the following items relative to the Water Service Renewals West Project ('Project'): (1) a resolution authorizing the City Manager to enter into a construction agreement with Patton Construction Group, Inc., for the bid amount of $346,800.00; and (2) a contingency amount of $34,680.00 for a total project budget in the amount of $381,480.00.

On January 8, 2016, the WRD issued a Request for Bids for the Project. The scope of the project is to renew existing water services that have been identified as sub-standard as part of the department's ongoing Automated Meter Reading (AMR) water meter conversion project in the Western part of the Water Distribution system. There will be 115 water services scattered across 78 streets renewed as part of this project, including new meter boxes, new meter setters, new connections to the existing house lines, and approximately 2,550 Linear Feet of copper line. This project will also include asphalt and/or concrete pavement repair and restoration of any grassed areas disturbed during the water service renewal project.

On February 9, 2016, Water Resources received two (2) bids for the project. Companies responding were:

1. Patton Construction Group, Inc. – Asheville, NC; $346,800.00
2. Cooper Construction Company, Inc. – Hendersonville, NC; $490,286.00

A review team comprised of City staff reviewed the bids and selected Patton Construction Group, Inc. as the lowest responsible, responsive bidder in the amount of $346,800.00. A contingency amount of $34,680.00 has been added for a total project budget in the amount of $381,480.00.

Pros:
- Approval of the project will allow Water Resources to renew existing, sub-standard water services to residential houses.
- The project will provide a local company with work for several months.

Con:
- This is not a required project to effectively operate the water system.

The funding needed for this construction agreement is currently allocated within the Automated Meter Reading (AMR) Project in the Water Resources Capital Improvement Projects (CIP) Fund.

City staff recommends City Council authorize the following relative to the Water Service Renewals West Project: (1) a resolution authorizing the City Manager to enter into a construction agreement with Patton Construction Group, Inc., for the bid amount of $346,800.00; and (2) a contingency amount of $34,680.00 for a total project budget in the amount of $381,480.00.

RESOLUTION BOOK NO. 37 - PAGE 392

M. RESOLUTION NO. 16-42 - RESOLUTION AUTHORIZING AN INCREASE IN THE CITY MANAGER'S AUTHORITY TO THE EXISTING CONTRACT WITH TENNOCA CONSTRUCTION COMPANY AND FOR THE CITY TO RECEIVE FUNDS FROM THE METROPOLITAN SEWERAGE DISTRICT FOR PARTNERSHIP FOR THE CONSTRUCTION SERVICES NECESSARY FOR THE COMPLETION OF THE CRAVEN STREET IMPROVEMENTS PROJECT

ORDINANCE NO. 4483 - BUDGET AMENDMENT FOR CRAVEN STREET IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing an increase in the City Manager's authority to the existing contract with Tennoca Construction Company and for the City to receive $35,000 from the Metropolitan Sewerage District (MSD) for the construction services necessary to complete the Craven Street Improvements Project; and a budget amendment in the amount of $35,000 to accept partnership funding from MSD.

On June 12, 2012 City Council approved a contract with ColeJenest & Stone for professional services for the design of the Craven Street Improvement project. This project includes improvements to the existing two lane roadway by implementing a complete street approach to the design. The new facility will include bike lanes, sidewalk, stormwater improvements, stream restoration, greenway, parking areas and two-way vehicular traffic. The bids for the project were opened on June 17, 2014 and the City of Asheville determined Tennoca Construction Company to be the low responsive and responsible bidder for the project. On June 24, 2014, City Council approved the contract with Tennoca Construction Company, Inc. for up to $6,901,570.66.

The City has three funding partners on this project, Golden Leaf Foundation has provided $300,000, the Economic Development Administration from the Department of Commerce has partnered to provide approximately $1.12M, and the Clean Water Management Trust Fund through RiverLink has provided $365,000 toward this great project. The remaining cost of the project is being paid through the Stormwater, Water, Parking Funds and General Fund utilizing a combination of pay-go funds and debt proceeds.

Within the scope of the project, Tennoca is performing the construction services necessary to provide improved transportation connections (including pedestrian, bike and vehicular) to the Craven Street area. New Belgium Brewery (NBB) is continuing their project and anticipates being complete in the spring of 2016. The City's project will be completed this summer.

The City and NBB has an existing Memorandum of Understanding (MOU) in place, which has allowed the city and NBB to partner on cost saving measures for both projects. The MOU has allowed partnerships on portions of the project including grading for the Stormwater Best Management Practices and Stream Restoration; the large box culvert, included in the City's contract, which occupies both the City's right of way and falls within NBB property; and efficient use of brownfield material on site, saving the cost of transportation offsite to a landfill. Upon completion of the project it is currently estimated that NBB will reimburse the city approximately $170,000 for these combined efforts.

An opportunity arose to partner with the Tourism Development Authority (TDA) for the work associated with the trail head. This agreement has added $150,000 in partnership revenue for this project which was not considered in the original budgeted contract. Additionally, the Metropolitan Sewerage District (MSD) has agreed to partner on the sewer work along the greenway, adding $35,000 in funding toward this project.

As the project has progressed, construction has proved extremely challenging. As noted above, the site was a brownfield, which complicated estimates. Construction plans have been required to be revised in order to successfully continue the project, creating additional cost relative to the original construction budget.

This project follows the commitment made to New Belgium Brewery to make improvements in this area. The project further benefits the environment by placing Stormwater Best Management Practices' devices in place to provide water quality treatment in the area. The project also helps to develop multimodal transportation connections.

Pros:

- Improvements to the transportation facility in this area, including vehicles, pedestrians and bike facilities
- Allows the project to be finalized
- Provides safe access for the citizens that visit this area
- Promotes the environment through water quality devices and stream restoration
- Makes safety improvements to the Hazel Mill and Craven Street intersection
- Provides bike lanes, sidewalk and a greenway to the area

Con:

- Continued coordination of the project requires significant staff time.

The budgeted construction contract amount, including a 15% contingency, totals $6,901,570.66. The additional contract authority of $185,000 that is requested will bring the total construction budget to $7,086,570.66. The City has secured the additional $185,000 toward this project.

City staff recommends City Council approve a resolution increasing the City Manager contract authority for the existing contract with Tennoca Construction Company which currently is $6,901,570.66 by an additional $185,000 for a total authorized contract amount of $7,086,570.66, and authorizing the City to accept $35,000 for the Metropolitan Sewerage District partnership funds for the project; and (2) a budget amendment in the amount of $35,000 to accept partnership funding from MSD.

RESOLUTION BOOK NO. 37 - PAGE 394
ORDINANCE NO. 30 - PAGE 235

N. RESOLUTION NO. 16-43 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON MARCH 22, 2016, TO CONSIDER THE PERMANENTLY CLOSING OF AN UNNAMED ALLEY LOCATED NEAR 119 AND 121 SAND HILL ROAD

Summary: The consideration of a resolution of intent to permanently close an unnamed alley located near 119 and 121 Sand Hill Road and setting the public hearing on March 22, 2016.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Debra Carter, owner of parcels 9638-04-0283, 9638-04-0025 and 9648-04-0159, and Katherine Wersel (on behalf of Vivianne Wersel), owner of parcel 9638-04-0395 have requested the City of Asheville to permanently close the unnamed alley located near 119 and 121 Sand Hill Rd. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission met on October 28, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley located near 119 and 121 Sand Hill Road and set the public hearing on March 22, 2016.

RESOLUTION BOOK NO. 37 - PAGE 395

O. RESOLUTION NO. 16-44 - RESOLUTION OF INTENT TO SET A PUBLIC HEARING ON MARCH 22, 2016, TO CONSIDER THE PERMANENTLY CLOSING OF AN UNNAMED ALLEY LOCATED BETWEEN OTEEN PARK PLACE AND PINE CONE DRIVE

Summary: The consideration of a resolution of intent to permanently close an unnamed alley located between Oteen Park Place and Pine Cone Drive and setting a public hearing on March 22, 2016.

N. C. Gen. Stat. sec. 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Edison and Lillian Degobbi, owners of parcel 68-26-6877, and Paul Ray, owner of parcel 9668-26-6765 have requested the City of Asheville to permanently close the unnamed alley located between Oteen Park Place and Pine Cone Dr. A copy of this resolution of intent shall be sent by registered or certified mail to all property owners abutting the unnamed alley, not joining in the petition to close.

The Multimodal Transportation Commission met on January 27, 2016, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley located between Oteen Park Place and Pine Cone Drive, and set a public hearing on March 22, 2016.

RESOLUTION BOOK NO. 37 - PAGE 397

P. ORDINANCE NO. 4482 - BUDGET AMENDMENT FOR ACQUISITION OF STORM CONTROL MATERIALS AND EQUIPMENT REPAIR AND ACQUISITION

Summary: The consideration of a budget amendment, in the amount of $431,000, from unassigned General Fund fund balance for the purpose of the acquisition of storm control materials and equipment repair and acquisition.

For the Fiscal Year 2015/2016, the original budget for storm control materials was $150,000. This value allowed us to fill our salt storage facility to capacity prior to the winter season. Our salt storage facility when at maximum capacity holds approximately 4000 tons of material. As a result of minor snowfalls, various ice locations due to water breaks or frozen runoff, and the large scale snowfall of January 22nd (Winter Storm Jonas), we are now at less than ½ capacity of our facility. This is also after we have ordered and received approximately 1300 tons of salt to re-stock what had been used as of the completion of all snow removal after the January 22nd (Winter Storm Jonas) event. In addition to the need more material we have also had several pieces of equipment that have been broken and been pushed to or beyond their usable life cycle. All of the equipment that is in this state is either snow plows or salt/sand spreaders. These pieces of equipment are vital to any snow removal efforts moving forward. In addition to snow storm control materials this line item is also used for the purchase of material such as stone, erosion control measures and concrete in flooding events that cause damage or destruction of city owned roads and sidewalks.

Pros:

- The availability of this material will position the Public Works Department such that it can properly respond to weather events that hamper the safe travel of the public.
- Replacing old worn out equipment will allow for less down time thus a faster removal time of snow from city streets.

Cons:

- The purchase of these material and equipment will consume and City Funds.
- Payment requires an appropriation from unassigned General Fund fund balance.

The additional funds for storm control materials will come from unassigned fund balance in the General Fund. The General Fund ended Fiscal Year 2014/15 with approximately $16.65 million in unassigned fund balance. After this appropriation, General Fund fund balance will be approximately $16.22 million or 15.7% of the current General Fund budget.

City staff recommends City Council a budget amendment for the funding to adequately stock storm control materials for the remainder of the fiscal year.

ORDINANCE BOOK NO. 30 - PAGE 233

R. RESOLUTION NO. 16-45 - RESOLUTION AMENDING CRITERIA 6 OF THE CITY'S ADOPTED CRITERIA FOR A DESIGN-BUILD DELIVERY METHOD OF CONSTRUCTION CONTRACTS TO MAKE IT CONSISTENT WITH THE CURRENT STATUTORY LANGUAGE OF N.C. GEN. STAT. SEC. 143-128.1A

Summary: The consideration of a resolution amending the established criteria for design-build delivery method for construction contracts.

On June 24, 2014, the City Council adopted Resolution 14-138 establishing the criteria for a Design-Build Method for Construction Contracts pursuant to N.C. Gen. Stat. sec. 143-128.1A, and authorizing the City Manager or his designee to review and approve the written criteria for each individual design-build project to ensure compliance with these adopted criteria. Later that year, the NC Legislature slightly amended the wording of one of these adopted criteria, Criteria 6, in Session Law 2014-42 and therefore, the City's criteria needs to be amended to reflect this change.

The beginning of Criteria 6 of the adopted Design-Build Delivery Method currently reads as follows:

Criteria 6: The criteria utilized by the City, including a comparison of the costs and benefits of using the design-build delivery method of a given project in lieu of the other delivery methods identified.

Session Law 2014-42, revised this Criteria 6 by replacing the terms "*costs and benefits*" with the terms "*advantages and disadvantages*". The City's adopted Criteria 6 needs to be updated to reflect this change.

Pro:

- The amendment will make the City's adopted Design-Build Delivery Method Criteria consisted with the current law.

Con:

- None noted.

Staff recommends that City Council adopt a resolution amending Criteria 6 of the City's adopted criteria for a Design-Build Method for Construction Contracts to make it consistent with the current statutory language of N.C.G.S. 143-128.1A.

RESOLUTION BOOK NO. 37 - PAGE 399

R. MOTION ADOPTING CITY COUNCIL'S 2036 VISION

Summary: In January 2016, Asheville City Council created a 20-year vision for the city. This Council vision reflects Asheville's unique character and the aspirations for the community. While recognizing that portions of the vision are not in direct control of local government and resources may be constrained, Council plans to use the vision as a guide when developing policies and priorities.

City management will use the adopted Council vision and the three-year short-range priorities to create a strategic work plan. In developing the strategic work plan, management will analyze existing and potential resources. The Council vision and progress on the strategic work plan will be communicated through an engaging multi-channel communication effort to include traditional and social media as well as communication networks involving community groups, boards and commissions.

DRAFT 2036 VISION

Asheville is a great place to live because we care about people, we invest in our city, and we celebrate our natural and cultural heritage. Our city is for everyone. Our urban environment and locally-based economy support workers, entrepreneurs and business owners, families and tourists, and people of all ages. Cultural diversity and social and economic equity are evident in all that we do. Our neighborhoods are strong, participation in civic life is widespread, and collaborative partnerships are the foundation of our success.

Here's what makes us special.

A DIVERSE COMMUNITY

Asheville is an inclusive, diverse community. We define diversity broadly, including but not limited to all races, ages, sexual orientations, gender identification, socio-economic backgrounds, and cultural beliefs. We have created a fair and balanced society where everyone can participate and has the opportunity to fulfill their potential because they have access to healthy, affordable food, transportation, quality education, and living wage jobs. Asheville promotes and supports minority business as a means of strengthening our local economy. We use a racial equity lens to review and achieve our city's strategic goals in health, education, housing, and economic mobility.

A WELL-PLANNED AND LIVABLE COMMUNITY

Asheville promotes community through thoughtful, resident-led planning that results in pedestrian oriented development for all ages and abilities, harmonized with an integrated transportation system. Asheville's unique character is reflected in our land use, preserved in our historic structures, and honored when incorporated in new development. Thoroughfares are lined with thriving businesses mixed with residential and office uses, and neighborhoods are socioeconomically diverse with a range of affordable housing choices. Open spaces, parks, greenways, community gardens, and edible landscapes are abundant throughout the city.

A CLEAN AND HEALTHY ENVIRONMENT

Asheville continues to be a leader in innovative technologies and conservation efforts in response to global climate change. The City is powered by locally-generated, clean sources of energy, and air quality problems have disappeared.

Views of surrounding mountains have regained clarity unknown since the late 1800s.

Clean energy is not the only priority when preserving our high quality of life. Recognized as a Tree City USA for decades, streets, greenways, and parks embody an urban forest. Emphasis on local resilience spurs the use of municipal land for gardening, farming, and urban orchards. Known as a food destination city, most restaurants serve locally grown foods.

Thanks to an extremely high-quality water source nestled in the gentle folds of the Blue Ridge Mountains, Asheville continues to attract companies that depend on clean water - from breweries to high tech start-ups to restaurants and food manufacturers. Our modern transportation system has increased options that reduce carbon emissions. Successful waste, recycling, and curbside composting programs have greatly reduced the city's landfill needs.

QUALITY AFFORDABLE HOUSING

Asheville is a city with abundant housing choices for people at all economic levels and stages of life. Chronic homelessness is a thing of the past and rapid rehousing strategies abound thanks to an effective network of service providers. Housing is affordable not only because of reasonable prices but also because of low energy and transportation costs. Innovative and historic housing options, from tiny homes and co-housing to apartments and single-family homes, are available throughout the city. Asheville's former public housing communities have been transformed into a diverse mix of affordable and market rate homes within vibrant neighborhoods.

TRANSPORTATION AND ACCESSIBILITY

Whether you drive a car, take the bus, ride a bike or walk, getting around Asheville is easy. Public transportation is widespread, frequent, and reliable. Sidewalks, greenways, and bike facilities get us where we want to go safely and keep us active and healthy. It is easy to live in Asheville without a car and still enjoy economic, academic, and social success.

THRIVING LOCAL ECONOMY

Asheville is unique in its locally-focused economy. Our local businesses are vibrant and, no matter where you are in the city, you see a diversity of customers, employees, and business owners. Our historic buildings are home to funky, eclectic businesses that reflect the character of the city, and a creative economy of artists, makers, and innovators is thriving.

As an employer, the City values its workers by paying living wages and offering benefits that ensure both security and opportunity. Businesses of all types that share those values locate, start, and grow in Asheville, offering a wide range of career opportunities. Plentiful educational options, workforce development, access to capital, economic incentives, and a culture that values homegrown businesses make our economy strong. Our public and private partners have demonstrated a unity of purpose. If you do your part, you will find opportunity for success.

CONNECTED AND ENGAGED COMMUNITY

We pride ourselves on building and growing partnerships – with regional and

state governments, nonprofits, the private sector, and neighborhood associations to name a few - to achieve our vision. If you live, work, or play here, you want to be involved and you have a voice. When you join a citizen board or commission, the City provides training and support. Diverse interest groups work together to tackle problems, and neighborhood engagement enables residents to express thoughts, visions, and concrete plans that build a collective and harmonious community. City government is trusted and transparent, and we use the latest technologies and methods to communicate with, engage, and empower community participants. When you live in Asheville, you belong and are valued.

SMART CITY

Asheville has an AAA bond rating. We use our debt capacity and revenue wisely in order to maintain and improve the City's infrastructure and invest in our public employees. We strive to control our costs and still provide the highest possible level of service. We have a diverse revenue base that enables us to plan far into the future and to benefit from our growth. Our individual and corporate citizens generously invest in our community through partnerships and public/private projects that enrich the quality of life in the city.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. REDUCING BARRIERS FOR INFILL HOUSING

Urban Planner Vaidila Satvika said that the 2015 Asheville Housing Needs Assessment concluded that the Asheville region has a significant gap in housing supply across all housing types, family size and income. The region's supply of housing is limited and the price of for-sale properties and rentals is on the rise. Approximately 43% of Asheville's renter households are considered to be cost-burdened, paying more than 30% of their incomes on housing costs. Further, one in five renters in Asheville are severely cost burdened, paying over 50% of their incomes on housing-related costs. Asheville's owner-occupied households are not much better off—one in three homeowners are cost burdened.

When taking into account both the cost of housing as well as the cost of transportation associated with the location of the home, we better understand the true cost of housing and housing-related decisions. In Asheville, 75% of the workforce commutes by driving alone. This is important to note because transportation options and location efficiency significantly affect the cost of housing.

In 2012, the Center for Neighborhood Technology (CNT) reviewed transportation costs as it relates to the location of housing and recommended that both land use and transportation policies should be reviewed and adjusted. The report's executive summary states "that the low-density, car-dependent development pattern that has dominated our landscapes over the last several decades is not only detrimental to the environment but also more expensive compared to location efficient areas where people can meet their needs with fewer cars and fewer miles." The report further indicates that individuals will only drive less if they can live closer to the jobs, schools, shops and other amenities they need, and if other modes of travel become more

appealing than single-occupancy vehicles. In sum, we need to move forward with plans and policies that support more compact, mixed-use development, and fewer subsidies for single-occupancy vehicle travel. Toward this end, consideration needs to be given to density requirements throughout the city, and whether there are opportunities to increase density in strategic locations.

Asheville's current residential density including all land is about one and a half units per acre. If one looks at only residentially-zoned parcels, the density is about three units per acre. In certain older neighborhoods, like Montford, residential density is closer to six units per acre, while some blocks within the same neighborhood reaching densities closer to 15 units per acre. Older neighborhoods are typically denser because they were designed before the dominance of the private automobile and before urban planners began separating residential use types. For this reason, in places like Montford and Chestnut Hills, single-family homes can be found adjacent to apartment buildings and there is more variety in lot sizes. The result in these locations is more efficient land use patterns, more varied housing choices for residents, and walkable neighborhoods. These neighborhoods are the densest and some of the most sought after locations in Asheville that are seeing increases in renovations and continued reinvestment.

A review of Asheville's historic code demonstrates the regulatory framework that supported a greater diversity of housing than we have today. Asheville's 1948 code allowed for denser neighborhoods by incentivizing multifamily development. A property owner was allowed to build two units on any lot that permitted multifamily development. Additionally, the owner could add one unit for every 500 square feet (SF) of additional lot area. Under the 1948 regulations, for example, a property owner with a 10,000 SF lot could build 12 dwelling units whereas today's rules would only permit two. This change is prevalent in newer neighborhoods that are primarily single-family and auto-oriented. The zoning change that discarded this multifamily incentive is a significant contributor to the lack of multifamily and varied housing options in Asheville today.

Current Plans and Policies

There are a number of current plans and policies that address the city's housing shortage, as well as recent policy decisions that were adopted by City Council:

General Plans: The city's 2025 Comprehensive Plan and the City Council Strategic Operating Plan for Fiscal Year 2015-16 are consistent and clear in policy direction to develop more housing. The 2025 Comprehensive Plan's first land use goal states that "The City should pursue compatible adaptive reuse, redevelopment and infill development, while ensuring that sufficient infrastructure capacity exists or will be provided to accommodate this development." Goal three states that "The City should permit and encourage transit supportive density (8-16 units/acre) along and adjacent to major corridors and at logical transit nodes"; and, goal five states that "The City should encourage the construction of affordable housing throughout the community."

The City Council's Strategic Operating Plan reiterates these goals by directing staff to "Research, develop and propose incentives for infill and redevelopment," and to "promote affordable housing located close to the CBD, jobs and transportation", and to "expand Asheville's supply of quality, affordable homes for current and future residents."

Commercial Districts: In 2014, City Council adopted Ordinance No. 4374 to promote residential density in certain commercial districts. This update increased the density between 10-88% and further doubled those densities for projects that incorporate at least 20% affordable units. This ordinance made commercial corridors and districts more attractive for developers of mixed-use projects with the goal that low-rise, commercial buildings will slowly be replaced with mixed-use, higher-density projects.

Residential Districts: In 2015, City Council adopted Ordinance No. 4431 that increased the allowable size of accessory dwelling units (ADUs), while also permitting ADUs on nonconforming lots as long as setbacks and other criteria are met. The intent of these wording amendments was to increase the supply of housing that is compatible with existing residential neighborhoods, incentivize infill housing and making efficient use of existing housing stock.

Downtown: In the Central Business District (CBD there is no maximum density but the current residential density is only about four units per acre, where seven to 16 units per acre is typically preferred for optimum transit performance.

Nevertheless, the CBD has experienced increases in multifamily and mixed-use development over the past few years. Since 2010, there have been 700 residential units proposed for renovation or new construction. That number may seem high but in actuality the CBD can accommodate significant residential growth because of the available development capacity, walkability, and access to goods and services that are already in place. As an example, the CBD area includes about 370 acres of land and if all of Asheville's projected residential growth between now and 2020 (approximately 3,000 households) would locate only in downtown there would be more than enough land to accommodate it. The resulting density would only reach about 15 units per acre, which is a density that is under the 16 units per acre that is recommended in the 2025 Comprehensive Plan.

Strategies for Small-Scale Infill Housing

Within residential districts, there is more that can be accomplished by removing barriers to infill housing in order to allow property owners and small-scale developers to help meet the city's housing needs. The intent of the following strategies is to bring housing options back into balance so that neighborhoods become denser, more varied, and walkable, as they once were intended. These UDO amendments would give more flexibility to landowners so that scarce land can be used more efficiently to offset the negative effects of sprawling development.

The following strategies are proposed to be studied in greater detail. Staff believes that with Council support, up to three of these could become UDO wording amendments within the 2016 calendar year:

- Cottage Developments
- Multifamily Districts
- Lot Standards
- Tiny House Zoning
- Higher Density Residential Buffer Zone
- Conservation Development
- Sustainable Development

Cottage Developments: Ordinance #3489 allows the cluster of housing between five to 12 units that are not subject to underlying density limitations in the RS8, RM6, RM8, and RM16 zoning districts. Cottage developments promote smaller housing units that focus on community. Review the ordinance's standards for lot size, separation requirements, site and parking requirements, number of units permitted, and pertinent zoning districts.

Multifamily Review: The UDO prescribes the number of units allowed per a parcel's area, regardless of the type of unit. There is a zoning disincentive to build multifamily units leading to a lack of rental units and varied housing options. Review of standards for multifamily developments and study community character in multifamily districts.

Lot Standards: Asheville is challenged with steep slopes and flood areas that reduce buildable land, and the 1997 UDO prescribed one-size-fits-all lot standards. Development

standards are inflexible and do not take into account natural features and unusually shaped parcels. Review lot standards.

Tiny House Zoning: The UDO defines minimum lot sizes irrespective of house size. There is a disincentive to build small because land is a significant cost component of home ownership. Review possible options for a tiny house overlay zoning district that would link lot standards to house size, making it more affordable for those interested in "small living" to purchase property for a small home.

Higher Density Residential Buffer Zone: The highest residential density district is RM16 (12-17 units/acre) and staff continues to review projects that are appropriate for higher densities. Commercial/Industrial areas are higher impact uses that often border residential zones. The UDO's highest density residential district (RM16) fails to offer sufficient density and scale to meet city goals adjacent to these higher impact zones. Investigate standards and possible locations for a higher density residential overlay zone.

Conservation Development: Asheville is challenged with steep slopes and river buffers that reduce buildable land and lot subdivision lacks flexibility. Conservation Development (or Cluster Development) is the grouping of separate residential parcels on a development site in order to use the undeveloped land to protect the natural landscape or to consolidate open space, recreation area or agriculture land. The UDO does not have an allowance for this type of development. Investigate standards to create a Conservation Development ordinance to encourage developers to preserve trees, sensitive land, and open space.

Sustainable Development: Ordinance #3980 provides density bonuses for projects that promote sustainable development practices but to date this part of the UDO (Sec. 7-16-1(b)(69)) has not been used. Investigate the regulations to determine why Sustainable Developments have not been used and make revisions to make a viable ordinance.

Public Outreach & Engagement

If authorized to proceed by City Council, Planning & Urban Design staff will work with the Communication & Public Engagement Department to develop a communication plan and community engagement process for proposed UDO wording amendments related to the above strategies.

After Mr. Satvika responded to questions raised by Council, it was the consensus of Council to authorize City staff to work with the Communication & Public Engagement Department to develop a communication plan and community engagement process for proposed UDO wording amendments related to the above strategies, along with an implementation schedule.

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Geoff Kemmish was concerned about the route of the Beaucatcher Greenway and asked that alternative routes be re-evaluated.

Mr. Teal Brown spoke in support of the infill housing tools, especially tiny homes.

Ms. Phyllis Pedersen asked for regulations that require tiny home property owners to be responsible for water run-off that was not there prior to the tiny home being built. In addition she asked for City buses to be free on election day.

Mr. Brew Davis was concerned about after-hour building permits and asked that consideration be given to the noise ordinance hours.

Ms. Kelly Palmatier supported the more infill housing tools, especially tiny homes.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 5:39 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – March 8, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

ANNOUNCEMENTS

Mayor Manheimer was pleased to announce the UNC-Asheville Big South Men's Basketball Championship and also the UNC-Asheville Women's Basketball Big South regular season crown. She also said that the City of Asheville enjoyed hosting the Southern Conference Basketball Championship and Wrestling Tournament last weekend.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 10, 2016, AS "ZELDA FITZGERALD DAY"

Mayor Manheimer read the proclamation proclaiming March 10, 2016, as "Zelda Fitzgerald Day" in the City of Asheville. She presented the proclamation to Mr. James MacKenzie, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

At the request of Vice-Mayor Wisler, Consent Agenda Item "E" was removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 23, 2016

B. RESOLUTION NO. 16-46- RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO PROVIDE A SECTION 5307 CAPITAL GRANT TO BE USED FOR THE STATE MATCH TO PURCHASE A REPLACEMENT VAN FOR HENDERSON COUNTY'S TRANSIT SYSTEM

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to provide a Section 5307 Capital Grant in the amount of $5,112 to be used for the State match to purchase a replacement van for Henderson County's transit system.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding

administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with Federal funds.

The estimated total cost of the subject project is $51,128. Federal funds will provide $37,834, covered with grant NC-90-X395; this grant requires a match of $13,294, $5,112 provided by NCDOT and the remaining $8,182 provided by Henderson County. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 74% of the total estimated project cost.
- Henderson County provides 16% of the total estimated project cost and NCDOT provides the remaining 10%.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $51,128, with 74% or $37,834 coming from Federal funds, 26% or $13,294 coming from Henderson County and the NCDOT. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation in the amount of $5,112, as State match to purchase one van for Henderson County.

RESOLUTION BOOK NO. 37 - PAGE 401

C. RESOLUTION NO. 16-47 - RESOLUTION TO ACCEPT EMERGENCY SOLUTIONS GRANT FUNDS FOR FISCAL YEAR 2016 AND PROVIDE FUNDING TO SELECTED AGENCIES

Summary: The consideration of a resolution accepting the 2016 Emergency Solutions Grant in order to fund local agencies.

In the process approved by Council at the October 27, 2016, Council meeting, the City submitted a timely application to the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit for Emergency Solutions Grant funding. Funding recommendations were made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations followed a process that included submittal of letters of intent from eligible agencies, review and preliminary selection by the ESG Subcommittee of the Advisory Committee, and endorsement of those recommendations by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee. The recommendations were reviewed by the Housing and Community Development Committee and recommended for approval.

We have received a contract from DAAS, with the following agency awards:

	Emergency Response	Housing Stabilization	HMIS	Total
Organization				
Helpmate	$ 28,000			$ 28,000
Homeward Bound		$ 61,379		$ 61,379
Salvation Army	$ 19,586			$ 19,586
City of Asheville			$ 10,000	$ 10,000
TOTAL AWARD	**$ 47,586**	**$ 61,379**	**$ 10,000**	**$ 118,965**

The award of funds was conditional on providing to the State additional information needed and/or assurances. All of the State's requirements have been met by the agencies being recommended for the grant award.

Pro:

- ESG funding is a key funding resource for emergency shelter, and is an important resource for rapid re-housing of persons experiencing homelessness.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing community development division staff will administer the program. No general funds are requested to support this program. Budget for this grant was included in the adopted FY 2015-16 Special Revenue Fund budget; however staff had estimated that total funding would be higher than the actual amount received. The budget will be reduced downward to reflect the actual amount.

The Housing and Community Development Committee recommends acceptance of these funds, and subgranting of those funds to the agencies for the programs approved by the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

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D. RESOLUTION NO. 16-48 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE EXISTING LEASE AGREEMENT WITH BELLSOUTH TELECOMMUNICATIONS, INC., D/B/A AT&T NORTH CAROLINA FOR PART OF THE SURFACE PARKING LOT LOCATED AT 24 O.HENRY AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the existing lease agreement between Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina and the City of Asheville for part of the surface parking lot located at 24 O.Henry Avenue.

In 2011, the City of Asheville entered into a lease agreement with Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina (AT&T) for public parking on AT&T property located at 24 O.Henry Avenue (identified as PIN # 9649-20-5843-00000). This action was taken in response to a deficit of public parking in that area as identified in the 2008 City of Asheville Comprehensive Parking Plan. For the past five years, the lease area has provided 47 public parking spaces in proximity to the U.S. Cellular Center, Grove Arcade, and the Haywood Street retail and business corridor. The lot is operated as a multi-user lot for monthly parkers, Indigo Hotel, merchants of Grove Arcade, Citizen-Times employees, and hourly parking. All monthly spaces are rented with a waiting list for vacancies. The hourly spaces are well used.

The current lease is set to expire in August 2016 and AT&T contacted City staff to understand if the City has interest in continuing the lease in that location. AT&T is agreeable to an extension of the parking lot lease for another 5 years. Since the monthly rental rate of $2,585 on the parking lot remained flat for the initial 5 year term, AT&T has proposed to increase the rent to $2,844 per month and add a provision that will provide for a 2% annual increase in the rent over the next 5 years. This rate is in line with downtown prices for monthly parking.

Existing terms of the lease will continue, such as AT&T's rights associated with emergency use. Given the responsibilities of a public utility, AT&T North Carolina reserves the right to use 20 of the 47 spaces in the event of an emergency, with rent to be abated if the use by AT&T exceeds 7 days.

Pros:

- Optimum location for downtown public parking
- Continues to utilize existing private surface parking for public benefit
- Annual revenues routinely exceed annual expenses

Con:

- None

The subject lease amendment includes an annual lease payment of $34,128 with 2% annual increases thereafter. The costs will be incorporated into the FY 16-17 operating budget of the Parking Enterprises Fund and city staff anticipates that the annual revenues would exceed annual expenses by approximately $3,000 per year.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an amendment to the lease agreement with Bellsouth Telecommunications, Inc., d/b/a AT&T North Carolina on behalf of the City of Asheville.

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E. RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE-FREE DAY ON MARCH 15, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Smith and carried unanimously.

ITEM REMOVED FROM THE CONSENT AGENDA FOR DISCUSSION AND/OR AN INDIVIDUAL VOTE

E. RESOLUTION NO. 16-51 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE-FREE DAY ON MARCH 15, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

Summary: Voting is the foundation of our democracy. March 15 is the primary election day for President, U.S. Senate, Governor, Lieutenant Governor, Attorney General, Commissioner of Labor, Treasurer, and Buncombe County Commission. Barriers to voting include difficulty accessing transportation. The Asheville City Council affirms that all registered voters should have

access to the polls. Fare-free transit days are an inexpensive way to demonstrate support for the population that does not have access to affordable transportation.

The City Manager is hereby authorized to implement a fare-free day on March 15, 2016, in order to reduce barriers to voting.

Vice-Mayor Wisler said that while she is supportive of this fare-free day, she would like to see other things that the City can do along these lines to help people get out and vote and actually incentivize voting as opposed to the day just being a fare-free day for everyone.

Councilman Smith said that he would support a fare-free day for the November General Election as well, noting that Council was advised that this would help the elderly get to their polling precincts.

Councilman Young was fully supportive of this effort as everyone should have the ability to exercise their civic duty and vote. Voting should be easy and accessible.

Councilwoman Mayfield said that the Multimodal Transportation Commission recommended further study, including issues like making it available for early voting, and using the free fare as an incentive, rather than just granting a fare-free day to people whether they vote or not.

City Manager Jackson said that staff will work with the Multimodal Transportation Commission on those issues.

Councilman Young moved for the adoption of Resolution No. 16-51. This motion was seconded by Councilman Smith and carried unanimously.

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III. PRESENTATIONS & REPORTS:

A. LEE WALKER HEIGHTS MASTER PLAN

Mr. David Nash, Chief Operating Officer of the Housing Authority, reviewed with Council the Lee Walker Heights Master Plan. He showed the current site and location, noting that 43 key goals and strategies from various City plans are highlighted and addressed in their Master Plan. He outlined the top ten City of Asheville policy priorities address by the Lee Walker Heights Redevelopment Project, along with a chart of Asheville-Buncombe Jobs and Gross Rent Affordability. He then summarized the numerous residential participation opportunities.

Two residents of Lee Walker Heights spoke in support of the Project and how the Housing Authority has included residents in every step of the way.

Mr. Patel, representing David Baker Architects, showed the proposed site plan, along with the different phases, floor plans and views of what the neighborhood would look like.

When Councilman Bothwell asked about additional density on the property, Mr. Nash replied that they have maximized the number of units that they can without building structured parking on the site, which would add significant cost to the site.

Mayor Manheimer appreciated the community involvement piece as it's vital to the success of this transformational concept.

B. UPDATE ON BODY WORN CAMERA IMPLEMENTATION

Police Chief Tammy Hooper provided Council with the Asheville Police Department's Body Worn Camera Implementation Fact Sheet. She then explained the history of the body worn camera implementation. The Police Department began researching body worn cameras in 2014 and spent more than a year of researching and testing. They started the implementing the plan in January 2016. She then explained the implementation plan noting that approximately 180 sworn officers serving in functional operations will be equipped with body worn cameras.

In Fiscal Year 2016, $142,258 is for 60 body worn cameras with unlimited video storage with a five year warranty/maintenance plan. Reoccurring annual costs for storage and maintenance is $78,414, with a $70,000 estimated cost for a Law Enforcement Technology Specialist (salary and benefits). Additional purchases in Fiscal Year 2017 and Fiscal Year 2018 for 120 remaining body worn cameras and support staff and equipment will be budgeted. The timeline will be accelerated if grant funding is received. She then explained the fiscal impact in the Fiscal Year 2016 budget, along with the administrative policy overview.

The administrative policy (1) was adopted by the Chief of Police as part of the Department Policy Manual; (2) is based on model policy issued b IACP and aligned with recommendations contained in PERF's "Implementing Body Worn Camera Program" report; (3) was vetted by the City Attorney's Office to ensure compliance with law; and (4) addresses rules and procedures for body camera use including when the camera is activated, who can view footage, and storage and retention. Officers will active body worn cameras to record all contacts with citizens in the performance of official duties with exceptions for circumstances where operating it may not be appropriate (hospital emergency room or other area where patients receiving treatment, at request of crime victim, or where footage would reveal identity of child victim of abuse). Officers must document and report to supervisors any instances where camera is not used.

Assistant City Attorney John Maddux said that regarding recordings - access/review, typically investigative in nature and not usually public records under N. C. Gen. Stat. sec. 132-1.4; like other recordings, will not be subject to release to the media or members of the public under North Carolina's public records law. The recordings will be reviewed by supervisors in chain of command, Chief, Professional Standards sworn staff, City Attorney's Office, and any other person designed by the Chief. Persons making complaints regarding an officer's actions or behavior who are the subject of a video recording, parent or legal guardian of minor subject of video, or deceased subject's next of kin or legally authorized designee shall be permitted to review the specific video footage upon request.

Chief Hooper said that regarding retention, retention shall be for the minimum time provided in the North Carolina Municipal Records Retention and Disposition Schedule. All recordings not flagged for evidentiary retention shall be retained for a maximum of 60 days after they are created, at which time they will be destroyed through an automated process.

Next steps include (1) continuing the implementation plan; (2) monitoring legislative action relative to body worn camera (retention, etc.); (3) monitor and pursue any grant funding opportunities fur future phases; and (4) complete an assessment as to the status of the program at the end of 2016.

Chief Hooper responded to various questions/comments from Council, some being, but are not limited to: can the 60 days retention period of the videos be extended and under what circumstances do videos require additional retention; further explanation on the pending bill in the legislature; what will monthly random audits entail if it is disclosed that an officer may be involved in any adverse action or does not comply with the standards of APD or the law; how was the 60 day retention period of videos arrived at; what would be the problem with people in the videos being able to obtain a copy; at what point would a video become a personnel record; request for cost breakdown information of the 180 body worn cameras; will every APD officer have a camera;

should the policy be amended to allow an incapacitated adult to review specific video footage upon request; and will the footage be reviewed as part of the officer's annual evaluation.

The following individuals voiced comments relative to the Police Department's Body Worn Camera Implementation Policy:

Mr. Sean McNeal - provided Council with a copy from the American Civil Liberties Union of a model act for regulating the use of wearable body cameras by law enforcement.
Christopher Chiaronmonte
Michael Collins

After hearing the questions/responses, Councilman Young felt Chief Hooper did an excellent job in crafting this policy following available best practices considering we are embarking on new territory when it comes to body worn cameras.

Councilman Bothwell, Chair of the Public Safety Committee, felt that we are in good middle ground with this policy.

C. QUARTERLY FINANCIAL REPORT AND BUDGET PLANNING UPDATE

Director of Finance and Management Services Barbara Whitehorn provided the Council with a review of (1) the quarterly financial report outlining the economic and financial drivers; (2) quarterly budget process; (3) budget theme linkages between Council and management; (4) General Fund revenues and expenditures; (5) fee recommendations; and (6) the budget process.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER RENAMING TWO DISCONNECTED PORTIONS OF MERRITT STREET TO "BIRD DOG WAY" FOR THE SOUTH SECTION AND "MERRITT PARK LANE" FOR THE NORTH SECTION

RESOLUTION NO. 16-49 - RESOLUTION TO RENAME TWO DISCONNECTED PORTIONS OF MERRITT STREET TO "BIRD DOG WAY" FOR THE SOUTH SECTION AND "MERRITT PARK LANE" FOR THE NORTH SECTION

Mr. Stuart Rohrbaugh, Emergency Access Coordinator, said that this is the consideration of a resolution to consider renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section. This public hearing was advertised on February 26, 2016.

The duplication of street names has the potential for misdirection or miscommunication, which can hinder the response of emergency services. He provided a map that shows two street segments with the exact same duplicated name. Property owners along the south section of Merritt Street brought this to staff's attention when they petitioned the City of Asheville to rename their portion to "Bird Dog Way." Both the north and south street segments are currently City maintained streets. The street segments no longer connect. No useable street surface is located between these street segments. Staff learned of another street named Merritt located outside the City limits in the nearby 28806 zip code. Therefore staff recommends the north section be renamed "Merritt Park Lane." Only one house address would be affected by this renaming. The owner / occupants of that home are the persons petitioning for the re-naming.

The Public Safety Committee reviewed a request to eliminate the duplicate street name on January 25, 2016, and they recommended it be forwarded to the full Council for approval.

Pro:

- Potential emergency response will be enhanced with specific unique street names.

Con:

- Cost of labor of replacing two street name signs.

The cost to re-install new street name sign blades to the existing poles are about $100 each and is included in the current operating budget for the Transportation Department.

City staff recommends City Council adopt a resolution renaming two disconnected portions of Merritt Street to "Bird Dog Way" for the south section and "Merritt Park Lane" for the north section.

Mayor Manheimer opened the public hearing at 6:43 p.m., and when no one spoke, she closed the public hearing at 6:43 p.m.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Young moved for the adoption of Resolution No. 16-49. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 404

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 16-50 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE ASHEVILLE DESIGN CENTER

ORDINANCE NO. 4484 - BUDGET AMENDMENT FOR ASHEVILLE DESIGN CENTER CONTRACT

APPROVAL OF ADVISORY TEAM ORGANIZATIONS

Director of Planning & Urban Design Todd Okolichany said that this is the consideration of (1) a resolution authorizing the City Manager to enter into an agreement with the Asheville Design Center related to a community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in the city's Central Business District (CBD); (2) a budget amendment in the amount of $15,000, from unassigned fund balance to contracted services, for the facilitation of a community visioning process for the aforementioned properties; and, (3) approval of an Advisory Team for this initiative.

At its December 12, 2015, meeting, the City Council directed staff to review alternatives for a potential process for the future use and design of two city-owned properties located at 68-76 Haywood Street. The two subject properties – which measure approximately 0.55 acres in total - are located on the southern side of the intersection of Haywood Street and Page Avenue. One of the properties is currently being leased to a company for construction staging purposes. The lease runs through July 31, 2016.

The Haywood Street properties have a long and well documented history of potential development opportunities. Their location within the city's CBD make them very desirable as urban infill sites. The property was acquired for the purpose of constructing a parking garage with adjacent private development. The property was then proposed for a hotel development that did

not occur. In the past year, the Economic Development Coalition solicited offers from developers for the purpose of developing an office building with an adjoining pocket park.

Many community members have expressed interest in a public space at this location, especially as the downtown continues to grow. A public process will be undertaken as part of the city's efforts to update its Comprehensive Plan in 2016-2017 in order to effectively sort through conflicting expectations, values and ideals for downtown parks and other types of public spaces in general; however, there is a current desire by the City Council to engage the public in an open process for a future vision for the Haywood Street properties so that these properties can begin to contribute to the downtown's dynamic environment and vibrancy.

In an effort to define the scope of the project, city-owned property located at 33/35 and 37 Page Avenue have been included. These properties are located just southwest of the Haywood Street parcels, directly across Battery Park Alley, and are currently being used as a surface parking lot (37 Page Avenue) and a vacant building (33/35 Page Avenue). The property at 33/35 Page Avenue, a part of the original plan for a parking garage at Haywood Street, was acquired to provide alternate access to the rear of properties on Haywood Street and Page Avenue. Currently these properties are served by an alley between the property at 68-76 Haywood Street and 37 Page Avenue. When combined with the city-owned Haywood Street properties and the surrounding rights-of-way, the Page Avenue properties create a larger study area and potential larger master planning opportunity for this area. It should be noted that Council direction on 33/35 Page Avenue is being sought under a separate memorandum and item on the March 8, 2016 Council meeting agenda.

The Asheville Design Center proposes to work with City staff to facilitate a community visioning process for city-owned properties at 68-76 Haywood Street and 33-37 Page Avenue in downtown Asheville. The outcomes will be designed to inform future actions on the subject sites and surrounding rights-of-way, which may include a design competition and/or a Request for Qualifications/Proposals (to be completed under a separate phase and as determined by City Council).

The project's scope will include strategic planning and coordination with an Advisory Team, key stakeholders, as well as the broadest community interests who express a desire to participate in an open, democratic "town hall" process of consensus building. The Asheville Design Center will work with City staff to form an Advisory Team for the public visioning process and implementation plan. The Advisory Team will have representation, at minimum, from the following organizations (in no particular order), plus three at-large members:

- City of Asheville Recreation Board;
- Asheville Downtown Commission;
- Historic Resources Commission of Asheville & Buncombe County (HRC);
- Public Art and Cultural Commission (PACC);
- Buncombe County liaison;
- Asheville Downtown Association;
- The Basilica of St. Lawrence;
- Friends of St. Lawrence Green;
- Grove Arcade;
- Battery Park Hotel/Vanderbilt Apartments representative(s);
- Downtown Asheville Residential Neighbors (DARN);
- And Asheville Area Chamber of Commerce.

The at-large members would apply and be appointed by City Council in the same process as boards and commission appointees.

Engagement with local stakeholders and property owners will inform a long-term vision for the properties, while also serving to identify opportunities for temporary installations to enliven the space now and suggest appropriate permanent uses on the site over time.

The Asheville Design Center will also conduct site visits to existing nearby Downtown public spaces, including Pritchard Park and Pack Square Park, in order to review existing programming and design elements, while observing best practices and potential impediments to successful placemaking.

The Asheville Design Center proposes to undertake the following major tasks over the course of approximately seven months:

Task 1: Initial Project Analysis Tasks
Task 2: Information Gathering and Synthesis
Task 3: Public Engagement
Task 4: Final Visioning Documentation and Presentations

On January 26, 2016, and February 16, 2016, Planning and Urban Design staff presented a recommended process for the city-owned properties at 68-76 Haywood Street and 33-37 Page Avenue to the Planning and Economic Development Committee. The committee recommended the process contained in this memorandum, including the hiring of the Asheville Design Center to conduct a community visioning and public engagement process for the study area. The Planning and Economic Development Committee deferred the decision to include 33/35 Page Avenue to City Council.

At its November 4, 2015, retreat, the Downtown Commission also made a recommendation to City Council that they initiate a meaningful public process that is transparent to develop a plan for the Haywood Street property and surrounding rights-of-way. The Downtown Commission requested that the city engage the Asheville Design Center to facilitate the process with the public.

The contract with Asheville Design Center would have a financial impact of $15,000 to the city. The overall project cost is $30,000, which includes the city's financial commitment plus the following additional funding sources:

- $5,000 from the Asheville Downtown Association
- $5,000 from Friends of St. Lawrence Green
- $1,500 anonymous donor
- $500 Michael McDonough
- $200 DARN
- $2,800 (pending funds from other sources)

For the city's $15,000 commitment, a budget amendment, from unassigned fund balance to contracted services, is required.

City staff resources would also be required to manage the project, coordinate with the consultant team, participate in the public engagement and visioning process, provide relevant information and data on existing plans, maps, utility and roadway information, etc., promote engagement opportunities and regularly share updates through multiple communication channels, and coordinate/provide potential meeting locations for the public. Staff resources are anticipated from the following departments: Planning and Urban Design, Parks and Recreation, Communication and Public Engagement, Transportation, Community and Economic Development, Public Works and Legal Services.

Unless directed otherwise, the proposed visioning process would take approximately seven months to complete. As noted, the outcomes of the visioning process will be designed to

inform future actions for the study area, which may include a design competition and/or a Request for Qualifications/Proposals (to be completed under a separate phase and as determined by City Council). Funding for design, construction and maintenance of a newly activated space is not currently in the city's budget.

City staff recommends that City Council (1) adopt a resolution authorizing the City Manager to enter into an agreement with the Asheville Design Center related to a community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue; (2) authorize a budget amendment in the amount of $15,000, from unassigned fund balance to contracted services, for the facilitation of a community visioning process for the aforementioned properties; and, (3) approve the Advisory Team for this initiative.

Mr. Chris Joyell, Executive Director of the Asheville Design Center, discussed the proposed scope of work for the visioning process, which will ultimately give them input to produce the materials for Request for Proposals.

At the request of Councilwoman Mayfield, it was the consensus of Council to include a representative of the Civic Center Commission.

At the request of Councilman Bothwell, it was the consensus of Council to include a representative of the busker's alliance.

At the request of Vice-Mayor Wisler, it was the consensus of Council to ask Mr. Okolichany to draft some specific questions that Council can review to send out with applications, in order to make sure Council is not duplicating people already being represented. Council will review the applications/responses and determine who, if any, to interview.

Mr. Timothy Sadler felt that the Advisory Team consists largely of the government and business community. He suggested Council incorporate other public groups that may be directly impacted with the project.

Mr. Christopher Chiaronmonte felt that a representative from one of the homeless coalitions be on the Advisory Team.

Mr. Andrew Craig, President of Asheville Sister Cities, and Mr. Russ Martin, Past President of the Asheville Sister Cities, recommended a representative from Asheville Sister Cities be appointed to the Advisory Team.

Ms. Diana Davidson, representing the Downtown Area Residents Association, spoke in support of the Asheville Design Center's scope of work and was excited to give their input.

Mr. Bob Swanson noted that there is a group of facilitators that meet regularly in this area that have done facilitation before.

Mayor Manheimer asked that staff make a special effort to reach out to the property owner of the alley regarding easement rights.

Councilman Smith noted that there will be broad community engagement meetings and urged anyone interested to attend the public visioning process.

Mayor Manheimer said that members of Council have previously received copies of the resolution and ordinance and they would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-50. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 405

Vice-Mayor Wisler moved for the adoption of Ordinance No. 4484. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 237

Vice-Mayor Wisler moved to approve the Advisory Team outlined above, with the addition of a representative from the busker's association and the Civic Center Commission. This motion was seconded by Councilwoman Mayfield and carried unanimously.

B. MOTION TO PROCEED WITH THE DEMOLITION OF CITY-OWNED BUILDING AT 33-35 PAGE AVENUE

ORDINANCE NO. 4485 - BUDGET AMENDMENT FOR 33-35 PAGE AVENUE

Assistant City Manager Paul Fetherston said that the purpose of this staff report is to provide the City Council with an update on the condition, estimates and next steps relative to the City-owned building located at 33/35 Page Avenue within the Central Business District; and a potential budget amendment up to a maximum amount of $138,805 from unassigned fund balance.

In 2002, the City of Asheville (City) purchased the land and improvements at 33/ 35 Page Avenue for $850,000 through the Parking Services Capital Project Fund. In August 2004, the City and the local Sister Cities organization entered into a lease for space at 33D Page Avenue for a period of one month – month to month thereafter with language articulating "In no event shall this lease remain in effect for more than one year from the date of commencement." The Lease specifically indicated the following: (a) the City planned to demolish the structure, (b) that no improvements or normal maintenance to the property would be provided by the City, and (c) that the Lessee was responsible for maintenance and accepted the premises as is.

In late November 2015, City staff was contacted by Sister Cities indicating that the building was in disrepair and that recent rain damage had caused interior ceiling tiles to collapse. In response to this contact, City building inspectors toured the facility on December 3 to determine conditions of the premises and observed a large amount of water intrusion inside the building, evidence of water within the electrical system, standing water on the roof and active water leaks throughout. As a result, the City's building inspectors posted the property as unsafe for occupancy and required that the building remain vacant until life-safety items were addressed. Since that time, the Sister Cities moved out and the City disconnected the electricity, secured and restricted access to the building.

In an effort to keep the City Council informed, an update was provided to the Governance Committee during its December 8 meeting. At that time, staff provided rough estimates for various options related to the building with the understanding that staff would seek quotes for the various options during December. The rough estimates as of December 8, detailed below, were based on previous estimates received by the City escalated for time and conditions, as well as staff experience in similar projects.

ITEM	Estimate-Dec 8
Secure the building – NOT for occupancy (roof repairs, etc.)	$150,000
Secure the building – FOR occupancy (no up fits, etc.)	$500,000
Demolition	$200,000

As with standard protocol within Development Services, the City has approximately 90 days from the date the building was posted as unsafe to develop a plan and next steps (March 4,

2016). City staff has communicated with the City's building inspectors the timing of this discussion regarding next steps at its March 8 regular meeting.

During the December 8 meeting, the Governance Committee requested the following information relative to 33/35 Page Avenue.

Request	Response
Is there a reversionary clause or condition that would be triggered (based on how the purchase of 33/35 Page Avenue was funded) if the property were to be sold to a third party?	While there is no reversionary clause of condition involved, it is important to note that the property was purchased through the Parking Services Capital Project Fund with the anticipation that the property would be utilized for purposes that were consistent with the Fund. Any transfer for a different purpose would require a formal budget amendment by City Council (repayment of the Fund). It is recommended that legal counsel be sought prior to any such budget amendment.
Market Value for 33/35 Page Avenue	8,900 square foot building Built in 1958 Acreage = 0.11 acres (4,791.6 square feet) Zoning: Central Business District Total Tax Value: $739,900 Land Value for Tax Purposes: $335,400 Building Value for Tax Purposes: $404,500 An appraisal of the property has not been completed.

Following the December 8 Governance Committee meeting, staff worked to obtain the following updated estimates from third party vendors to complete work on the building in support of the options originally outlined. It is important to note that based on the estimated cost of the work, a more formal competitive process would be required before work could be completed.

ITEM	Estimate
Secure the building – NOT for occupancy to include: roof repairs, cleaning roof drains and scuppers, labor and material, dumpsters and fees stop water penetration into building – new downspout and gutter, replace PVC, caulking, lift, debris removal, install steel screening for gas piping) 15% Contingency TOTAL	$33,400 5,010 $38,410
Secure the building – NOT for occupancy to include: Above referenced roof and water penetration work PLUS Secure interior by removing water damages ceiling tile, drywall and plaster; remove all carpet; dry out building and remediate extensive mold; remove damaged wood framing; treat all exposed framing; check all electrical boxes and repair as needed; get HVAC operational; 15% contingency TOTAL	$120,700 18,105 $138,805
Secure the building – FOR occupancy: Since significant remediation of the interior of the building would be required (wall removal and other interior modifications), the final design of the interior spaces would be	Not available

needed in order to secure third party estimates.	
Demolition of the structure including ground treatment	$100,000
Add 15% contingency	15,000
	$115,000

The Governance Committee was presented with this information during its January 12 meeting at which time the Committee requested that the item be presented to the City Council for consideration and direction

Staff requests City Council direction on next steps regarding the city-owned building at 33/35 Page Avenue. Identified options for such direction include the following:

- Secure the building (minimal): $38,410
- Secure the building (maximum): $138,805
- Demolition: 115,000

If Council chooses demolition, there will have to be a competitive process to secure estimates and then depending on that amount, they may need Council approval for the contract. There are also additional process steps necessary to demolish the building. Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville-Buncombe County, advised him that the Historic Preservation Master Plan was adopted by City Council in 2015, which should require the Historic Resources Commission (HRC) to review and give their recommendation. It was Mr. Fetherston's opinion that the Master Plan was not codified so those do not apply. However, even though the Plan is not codified, Council can ask staff to have the Historic Resources Commission (HRC) review and give their recommendation. In addition to a competitive process, we would have to go to the Downtown Commission for review and recommendation.

Mr. Fetherston said that Council should have received a copy of an e-mail from Asheville Sister Cities about their interest in the property and their interest to keep the facility and allow them to engage in a lease once the building is renovated.

In furtherance of City Council direction, action on a budget ordinance amendment will be required to allocate funding from unassigned fund balance. Following City Council direction, staff will meet with the Building Inspector to review the plans for the structure as required.

In response to Vice-Mayor Wisler, Mr. Fetherston said that if you secure the building with the $38,400 option, that would be just to secure the roof to stop the water penetration. It doesn't stop the growth of the mold or stabilize anything on the inside.

In response to Councilman Smith, Mr. Fetherston further explained that in 2015 City Council adopted the Historic Preservation Master Plan, which identified buildings (which 33-35 Page Avenue was a contributing building in 2011). The Plan sets forth recommendations for the City to begin looking at rules and regulations if there were any demolitions or treatment of buildings within that district. The Plan has not been codified so there has been no change in process. The Plan did recommend that any demolition would go through the HRC, and Council can ask staff to schedule an HRC review.

Councilman Bothwell was not sure how anyone can decide if the building is worth $138,805 to gut and have it ready for someone else to do something else with. He felt a buyer would be probably just demolish the building.

Mr. Fetherston said that the Governance Committee had asked about the fair market value of the building. While we do not have an appraisal, we did look at the taxes and we are pretty confident that the property is worth $850,000 if not more. Based on some of the conversations with our Real Estate Manager, she was confident that if the building is allowed to remain on the property it will be a detriment to the value.

Councilwoman Mayfield said that from a fiscal standpoint and future of the property standpoint, the demolition option seems to make the most sense to her. However, even though the Historic Preservation Master Plan is not codified, we should make use of the processes we have in place - a Downtown Commission and an HRC. If this is a contributing structure in the historic preservation sense of that term, then she recommended we ask the opinion of our HRC.

When Councilwoman Mayfield asked if a decision had to be made tonight, Mr. Fetherston replied no but staff is seeking direction in order to comply with the protocol that within 90 days we are supposed to have an action plan. The longer the water intrusion goes on the condition of the building worsens. Councilwoman Mayfield then suggested sending this to the HRC and the Downtown Commission for their input.

Councilman Smith was leaning towards demolition, largely due to some of the site constraints on the Haywood Street property. Being able to factor this into that would be very helpful. Not knowing whether this would be part of open space or a built environment, it may lead to the fulfillment of City Council's strategic goals. He would like this on the table as we have the Haywood Street conversation.

In response to Councilman Haynes, Mr. Fetherston said that Asheville Sister Cities sent an e-mail that said they do not want the City to demolish the building, but to spend the required amount to repairing the roof, treating the mold, repairing plumbing, and getting the electrical system up to code. They would once again occupy the premises and accept responsibility for upkeep and even find additional occupants for other available space in the building, which would financially benefit the City. They would also be amenable to paying an negotiated amount of rent.

Councilman Young said that based on the last time this issue was before the Governance Committee, the fiscal health and stability of the organization possibly would not allow them to do take on some of these tasks. He wondered how that changed since December. In response, Mr. Craig said that Asheville Sister Cities is a strong organization and they will go through fund raising events. In the event they have the opportunity, they will continue to find ways to fund improvements.

When Mayor Manheimer asked what Asheville Sister Cities is offering to help the City bring the building up to occupancy. Mr. Craig said the City would spend the $138,805 (in addition to the electrical and plumbing), and he anticipated Asheville Sister Cities would spend around $75-80,000 to advance the building to a safe level.

When Mayor Manheimer asked what it would cost the City to bring the building up to occupancy, General Services Director James Ayers said to secure the building for occupancy would be approximately $500,000.

Councilwoman Mayfield felt it didn't make sense to spend $38,410 just to secure the roof to stop water penetration; and it doesn't make sense to spend $138,805 because the building still not be available for occupancy. There is a big gap to make the building for occupancy, even with what the City is willing to spend, along with what Asheville Sister Cities is willing to spend. She noted the Planning & Urban Design Director's recommendation for the public process on the Haywood Street site includes this property. She said that the HRC meets tomorrow and suggested Council ask them to review this building.

Mr. Fetherston said that if Council chooses demolition, staff will get together a timeline to get it before the Downtown Commission, and if Council would like staff to take the extra step and to to the HRC, they can also do that. He would bring their recommendation back to Council. He said he could talk to the HRC Director to see if they can get it on their agenda for review.

City Attorney Currin said that if Council sends this to the HRC, they will need to define the question to make sure the HRC is looking at what Council wants them to review.

Mr. Jack Thomson, Executive Director of The Preservation Society of Asheville-Buncombe, said that the building at 33-35 Page Avenue was listed in the National Register when the Downtown District was created in 1979. In 2011 the District was reviewed and this building was acknowledged as a contributing structure to the District. City Council adopted the Historic Preservation Master Plan and this would be the first demolition of a contributing structure in the District. He urged Council to follow the Plan recently adopted. The rush to demolish this building as a way to facilitate the planning effort is inaccurate and he felt there was no rush to demolish the building.

Mr. Andrew Craig, President of Asheville Sister Cities, said that regardless of the decision City Council takes on this building they will continue to be an advocate for our City both here and abroad. They would like to help the City rehabilitate 33-35 Page. He noted the City has kindly provided them with space at the Parks & Recreation offices for meetings and storage for 90 days. Should the City be willing to go the extra mile and prepare the building close to an occupancy state, Asheville Sister Cities will rehabilitate the interior of the space and solicit additional tenants for other areas of the building. He felt that Asheville Sister Cities is a downtown organization and they need exposure to facilities, to programs and to people and visitors.

Ms. Karen Korp, speaking on behalf of Asheville Sister Cities, urged City Council to work with Asheville Sister Cities in order for them to occupy this building again.

Mr. Christopher Chiaronmonte suggested Asheville Sister Cities pay for securing the building if they want to remain in it.

Mr. Russ Martin, Past President of Asheville Sister Cities, explained how 33-35 Page Avenue has meaning for them and how it has served them very well. They are willing to be a part of the rehabilitation and to help maintain an income producing asset for the City.

Mr. Timothy Sadler suggested using funds from the Affordable Housing Trust Fund to renovate the building and allow Asheville Sister Cities to stay on the lower level.

In response to Mayor Manheimer, Mr. Fetherston said that Asheville Sister Cities is temporarily occupying space and storage in the Parks & Recreation administrative building by the WNC Nature Center. Until we do our inventory of the Facilities Master Plan, the City does not have any space they can offer.

In response to Councilman Young, Mr. Fetherston said that Asheville Sister Cities has been in that building since 2004 at $1 for rent. The estimated rent for that building escalating till now would be approximate $12.00/square foot ($20,000 a year).

Councilman Bothwell said that property was purchased to be demolished for a parking deck, and part of the agreement was that the space was free because it could be demolished at any time.

Vice-Mayor Wisler stressed that the City's agreements with non-profits need to be reviewed often and expectations clarified with both parties. Regarding the Historic Preservation Master Plan, she didn't know that the 33-35 Page was in such disrepair and was not sure we would have committed to preserving it had we known it would cost $500,000 to get it occupied again. She could not justify spending that kind of money for occupancy.

Vice-Mayor Wisler moved to proceed with demolition of 33-35 Page Avenue. This motion was seconded by Councilman Bothwell.

Councilwoman Mayfield understood that Asheville Sister Cities acquaints this building with their organizational identity and she respected that. Hopefully there could be another wonderful place downtown that might not have the history of this building. She noted that the Historic Preservation Master Plan does not prevent Council from demolishing this building, but in adopting the Plan we indicated we wanted to have a little more process around demolition of historic buildings in downtown. She would like to see more of that process (HRC review) if there is time within that 90 day period.

In response to Councilwoman Mayfield, Mr. Fetherston said it was his understanding that the Downtown Commission has mandatory review with voluntary compliance. For the HRC, it would be a voluntary review.

Councilwoman Mayfield recommended an HRC review (at their March 9 meeting if at all possible); the Downtown Commission review, and then back to City Council as soon as possible. She stressed we have citizen commissions in place that are to provide Council with expertise.

Councilman Smith said that Councilwoman Mayfield's thoughts should be the process. But the fact that it came to Council first, and based on what he is hearing, he feels there is a majority of Council to move ahead in large part of its context with the Haywood Street site and the price tag associated with any of the renovations. He definitely wants to see those processes in place as well rather than come to Council first, go to the Commissions, then come back to Council.

In response to Mayor Manheimer, Mr. Fetherston said that the demolition contract will have to go out for bid for a certain period of time (60-90 days).

Mayor Manheimer said that within that timeframe the Downtown Commission and the HRC will have an opportunity to review this. Councilman Smith replied that the process this time was not ideal and it's not ideal to create unrealistic expectations amongst citizen commissions if Council is already at a decision-making point.

Councilman Haynes felt the Downtown Commission and the HRC should review this as they have the expertise to advise Council.

When Mayor Manheimer asked is this should be sent to the HRC for review during this 60-90 time period, City Attorney Currin advised Council that if they do send it to HRC, that Council define the question asked of them.

The motion made by Vice-Mayor Wisler to proceed with demolition of 33-35 Page Avenue, and seconded by Councilman Bothwell carried on a 6-1 vote, with Councilman Haynes voting "no".

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved for the adoption of Ordinance No. 4485. This motion was seconded by Councilman Young and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 239

VI. NEW BUSINESS:

A. RESOLUTION NO. 16-52 - RESOLUTION APPOINTING A MEMBER TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that because Julie Mayfield is now a seated member of City Council, there currently exists a vacancy on the HUB Community Economic Development Alliance until August 22, 2018.

The following individuals have applied for the vacancy: Hunter Goosman, Ed Manning, Grant Millin, Kendra Sherrod, Cheri Torres, Rebecca Crandall, Rita Yerby, Mark Collins, Sandra Frempong, Nick Hinton and Keaton Edwards.

On March 8, 2016, it was the consensus of Boards & Commissions Committee to appoint Sandra Frempong.

Vice-Mayor Wisler moved to appoint Sandra Frempong as a member of the HUB Community Economic Development Alliance, to fill the unexpired term of Councilwoman Mayfield, term to expire August 22, 2018, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 407

B. RESOLUTION NO. 16-53 - RESOLUTION APPOINTING A MEMBER TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that because Julie Mayfield is now a seated member of City Council, there currently exists a vacancy on the Multimodal Transportation Committee for a member representing transit interests until July 1, 2018.

The following individuals have applied for the vacancy: Mike Zukoski, Kelly Prime, Meredith Gregory, Eric Workman, Richard Rozzelle, Keaton Edwards, Seth Connelly, Michael Speciale, Devin Clancy, Adam Charnack and Kimberly Roney.

It was the consensus of the Boards & Commissions Committee, at the suggestion of the Transit Committee and the Multimodal Transportation Commission, to interview Adam Charnack and Kimberly Roney.

Councilwoman Mayfield said that she has had some communication with Mr. Charnack, Chair of the Transit Committee, and he said that he would be happy to have Ms. Roney as a member of the Multimodal Transportation Committee as well as the Transit Committee.

Councilman Bothwell moved to appoint Kimberly Roney as a member of the Multimodal Transportation Committee, to fill the unexpired term of Councilwoman Mayfield, term to expire July 1, 2018, 2018, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 37 - PAGE 408

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

The following individuals spoke regarding measures to address bathroom use as it relates to gender identity: Christopher Chiaronmonte, Andrew Sluder, Lacey Winter, Chris Oaks, Terry Garby and another individual. Mayor Manheimer explained what happened in Charlotte saying that no action on the existing non-discrimination ordinance was planned by the Asheville City Council.

Mr. Rick Clemenzi, representing Net Zero Foundation, talked about the clear and healthy environment out of the 2036 vision.

Mr. Timothy Sadler spoke about (1) integrating Lee Walker Heights into an innovation district; (2) the City partnering with Asheville Tourists to build a small parking deck in the area of McCormick Field; and (3) body worn cameras being a good investment.

Mr. Mac Swicegood, representing the Council of Independent Business Owners, urged Council to support I-26 from Buncombe County through Henderson County.

Closed Session

At 8:36 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a). The statutory authority Is contained in N.C. Gen. Stat. sec. 143-318.11 (a) (1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Robert H. Frost and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 9:15 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:15 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – March 22, 2016 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

City Manager Jackson was pleased to announce that the Association for Financial Professionals granted Barbara Whitehorn the highly regarded designation of Certified Treasury Professional effective July 1, 2015.

Director of Finance and Management Services Barbara Whitehorn used a PowerPoint while she provided the Council with a brief discussion of the Base Budget and the Capital Improvement Program (CIP), including the current cash flows and flexibility. She then explained the revenue forecast, expenditures and economic climate of the Operating Budget. She then explained some of the multi-year fee recommendations.

Issues and discussion included (1) new vehicle license fee - options and use of the fee revenue; (2) transit; (3) affordable housing - context and commitments, proposals and dedicated funding; and (4) Fire CIP and Operations - AFD operations and proposed CIP.

There was then an informational sharing of the Thomas Wolfe Auditorium.

Throughout Ms. Whitehorn's presentation and discussion, she responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised include: what is the 4.6% increase, based on trend, for the state utility taxes; breakdown of transit system subsidy increase of $569,000; clarification of the Other Post Employment Benefits Trust funding; implementation of Pay as You Throw is critical and the period for behavioral change may require a strong pilot program into a phased implementation; what can the new revenue stream of vehicle license fee be used for; breakdown of the $4.25 Million for Lee Walker Heights; and what is the next step for the Thomas Wolfe Auditorium.

At the April 12 worksession, staff will be asking for recommendations. She then reviewed the upcoming dates associated with adoption of the budget.

At 4:19 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – March 22, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. NORTH LEXINGTON AVENUE GREAT MAIN STREET AWARD

Director of Planning & Urban Design Todd Okolichany gave a brief introduction to the award and provided a very short history of Lexington Avenue. He then recognized some local visionaries. Mr. Adrian Vassallo introduced and recognized community members from Lexington Avenue and the downtown area. Mayor Manheimer then said that Lexington Avenue is a community of over 200 small business entrepreneurs who call this funky and eclectic avenue their home. They have provided the hard work and sweat equity and so, have created the unique character and vibe for the street in each of their businesses. They bring their energy and ideas to Lexington every day and this is what was recognized in the Great Streets Award.

B. PROCLAMATION PROCLAIMING MARCH 29, 2016, AS "WELCOME HOME VIETNAM VETERAN'S DAY"

Vice-Mayor Wisler read the proclamation proclaiming March 29, 2016, as "Welcome Home Vietnam Veteran's Day" in the City of Asheville. She presented the proclamation to Mr. Ron Mangilit, proud Vietnam Veteran.

C. PROCLAMATION PROCLAIMING APRIL 6, 2016, AS "TARTAN DAY"

Councilman Bothwell read the proclamation proclaiming April 6, 2016, as "Tartan Day" in the City of Asheville. He presented the proclamation to Mr. Judson Lohr, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 8, 2016

B. RESOLUTION NO. 16-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND AN EXISTING CONTRACT WITH SITEWORKS STUDIOS FOR THE CLINGMAN FOREST AND TOWN BRANCH GREENWAYS

Summary: The consideration of a resolution authorizing the City Manager to amend an existing architectural and engineering services contract in the amount of $45,000 with Sitework Studios, PLLC, for the project known as the Clingman Forest and Town Branch Greenways.

In preparation for Federal Grant approval of the Plans, Specifications, and Engineering Estimates (PS&E) package, additional documentation is required for the Clingman Forest Greenway and Town Branch Greenway projects. This contract amendment is to compensate Siteworks Studios, PLLC to finalize the PS&E package for Federal Highway Administration review and approval.

City Council initially adopted a resolution authorizing the City Manager to enter into a contract with Siteworks Studios in January 2013, Resolution No. 13-3, original contract amount of $370,000. The contract was amended to $495,000.00 to include preparation of engineering construction documents for the Five Points Roundabout in September 2013, Resolution No. 13-200. This amendment will amend the contract amount to be $540,000.

A summary of the greenway projects, the funding mechanism, and the bidding process follows:

The Clingman Forest Greenway and Town Branch Greenway constitute a priority alternative transportation corridor through the core of the East of the Riverway Target Area. These multi-modal greenways will eventually connect with the Beaucatcher Greenway and comprise a significant and important portion of the River-To-Ridge Initiative.

Clingman Forest Greenway – The Clingman Forest Greenway will stretch between Aston Park at Hilliard Avenue and Clingman Avenue. The off-road, 0.5-mile trail will largely follow the unopened city right-of-way of Eugene Avenue through a wooded ravine. Secondary trails to rock outcrops along the perennial stream will be considered as well as connections to Asheville Middle School, YWCA, Aston Towers, and other destinations.

Town Branch Greenway – The Town Branch Greenway will extend from Depot Street, in the River Arts District, to the intersection of Phifer and McDowell Street. The 1.3-mile corridor will begin adjacent to Green's Market on Depot Street and extend off-road along the rear of the Dr. Wesley Grant, Sr. Southside Center and fire station and out to South French Broad Avenue. The off-road trail will pick up across the street and extend through the wooded ravine along Town Branch Creek to Congress Street. The greenway will cross Congress Street, follow the creek through City park property, cross over Choctaw Street and extend north through city property along Old Asheland Avenue. The corridor will terminate at the intersection of Phifer and McDowell Street.

The development of final design and construction documents for the Clingman Forest and Town Branch Greenways is one of the deliverables of the East of the Riverway Sustainable Multi-Modal Neighborhood Program, supported by a TIGER II Planning Grant awarded to the City of Asheville by the US Department of Transportation.

City Council appropriated funds for staff to proceed with a land acquisition within these corridors by allocating funds in the CIP budgets of 2010-11 and 2011-12.

In February 2009, City Council approved the Parks, Recreation Cultural Arts, and Greenways Master Plan which identifies Clingman Forest and Town Branch Greenways as priority greenways.

Staff followed the municipal and required Federal Transportation Administration "Request for Qualifications" (RFQ) procurement processes to seek qualified, professional firms to develop final design and construction documents. Staff received eight applications, and a panel of staff and community members reduced this pool to three finalists. After thorough review and evaluation, the review panel recommended Sitework Studios, located at 352 Depot Street, Asheville, North Carolina as the most qualified to perform the architectural and engineering services for the Clingman Forest and Town Branch Greenways. Staff successfully negotiated a final scope of work and project budget with Sitework Studios. Per the February 2012 RFQ, the consultant was to provide all paperwork associated with the construction documents that are needed to obtain the necessary permits.

Pros:

- Expand the ability to provide recreation resources to a number of residences and
- neighborhoods that can be linked to this corridor
- Provide a critical linkage in the River to Ridge Initiative
- Enhance multi-modal transportation in the community
- Compliment the recent improvements made by the City and private sector in these
- neighborhoods

- Engage community members in the design process
- Complements other multi-modal transportation planning efforts in the community

Con:

- Once complete, the project will require additional maintenance resources.

Sufficient budget is included the adopted CIP to fund the change order request for this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to amend the current contract with Sitework Studios to develop the architectural and engineering construction documents for the Clingman Forest and Town Branch Greenways for an amount not to exceed $45,000.

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C. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF INTENT AND ACCEPT SEVERAL GREENWAY EASEMENTS FOR THE RHODODENDRON GREENWAY GREENWAY

This item was removed from the Consent Agenda for an individual vote.

D. MOTION TO WAIVE THE CITY COUNCIL RULES ON BOARDS & COMMISSIONS WHICH LIMIT BOARD MEMBERS TO NO MORE THAN TWO CONSECUTIVE THREE YEAR TERMS, TO ALLOW A SEATED ASHEVILLE ABC BOARD MEMBER WHO IS APPOINTED TO THE N.C. ASSN. OF ABC BOARDS TO HAVE HIS/HER TERM AUTOMATICALLY EXTENDED FOR AN ADDITIONAL THREE-YEAR TERM. IF, HOWEVER, THE TERM OF THE SEATED ABC BOARD MEMBER EXPIRES ON THE N.C. ASSN. OF ABC BOARDS, THEN SAID SEATED ASHEVILLE ABC BOARD MEMBER WILL RESIGN IMMEDIATELY

E. RESOLUTION NO. 16-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE N.C. DEPT. OF PUBLIC SAFETY, DIVISION OF EMERGENCY MANAGEMENT, TO PROVIDE A REGIONAL HAZARDOUS MATERIALS EMERGENCY RESPONSE TEAM SIX - ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to accept a contract agreement with the N.C. Dept. of Public Safety, Division of Emergency Management, to provide a Regional Hazardous Materials Emergency Response Team Six - Asheville.

The N.C. Dept. of Public Safety (NCDPS) has offered a contract agreement to the City of Asheville (City) for Hazardous Materials Emergency Response Services for the contract years of July 1, 2016, through June 30, 2020. The City has been a regional hazardous materials provider since FY 1994-1995. The State of North Carolina provides funding that fully supports the operational costs of the program.

North Carolina is divided into seven geographical regions for the purpose of hazardous material emergency response. The NCDPS contracts with municipalities across North Carolina to respond into the geographical regions and provide technician level hazardous materials emergency response. The Region 6 areas encompass the westernmost twenty counties.

This action will be reviewed by the Finance Committee during its March 22 meeting, and if anything other than support, will be mentioned at the Council meeting.

Pros:

- The State of North Carolina provides the hazardous materials response truck, all response equipment and provides for administrative costs of operating the team. In addition, the state funds extensive training for members of the Asheville Fire Department to enable us to competently handle hazardous materials emergencies.
- The City has full use of the truck and all specialty equipment. Without the state hazardous materials contract, taxpayers would need to provide much of the resources necessary to properly respond to emergencies within the city. With the contract, the City benefits from the equipment and resources being funded at the state level, rather than at the local level.
- During the eighteen years that the City has provided regional hazardous materials response services, there have been no difficulties or disadvantages
- Firefighter and citizen safety will be enhanced.

Con:

- None have been identified or known at this time.

This contract generates approximately $69,000 in revenue for the City which is expended on operating our hazardous materials emergency response program.

City staff recommends City Council authorize the City Manager to enter into the four year contract agreement with the NCDPS to provide regional hazardous materials emergency response for Region 6.

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F. RESOLUTION NO. 16-57 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY FOR A GRANT FROM THE US DEPT. OF HOMELAND SECURITY TO OBTAIN FUNDING FOR NINE ADDITIONAL FIREFIGHTER POSITIONS

Summary: The consideration of a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant in the amount of $868,032 from the U.S. Dept. of Homeland Security to obtain funding for nine additional firefighter positions.

Recently, the U.S. Dept. of Homeland Security solicited submissions for the FY 2015 Staffing for Adequate Fire and Emergency Response (SAFER) program which is a two year grant opportunity for fire departments to increase or maintain the number of trained, 'front line' firefighters within communities. The grant, which provides 100% funding for the additional firefighter's salaries and benefits over two years, requested the submission of applications by March 25, 2016 with grant awards being made between June 1 – September 30. Recipients awarded under the grant program have no obligation to retain the SAFER funded positions after the conclusion of the grant funded period.

The SAFER grant opportunity could enable the Fire Department to utilize funding that supports the maintenance of trained, front line firefighters within the community.

Pros:

- Hiring nine new firefighters will help reduce overtime.
- The grant covers 100% of the cost for these firefighters for two years.

Cons:

- In year three (FY 2019), the City would be responsible for assuming the full cost of firefighters added by the grant. However, since the grant is non-matching the City would

not have to absorb the costs if it chose not to. The firefighters would be absorbed into the Fire Department's current full time equivalent (FTE) count.

If awarded, the grant would provide the City with $434,016 each year for two years. In year three, the City could chose to absorb the $434,016 annually. The additional positions will also assist to offset annual overtime expenses due to increased staffing per shift would increase the number of personnel available to meet current minimum staffing requirements.

City staff recommends that City Council authorize a SAFER grant application in the amount of $868,032 from the U.S. Dept. of Homeland Security to obtain funding for 9 additional firefighter positions.

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G. RESOLUTION NO. 16-58 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE TO APPLY FOR A GRANT FROM THE US DEPT. OF HOMELAND SECURITY TO OBTAIN FUNDING FOR FIRE PREVENTION AND LIFE SAFETY PROGRAMS, AND TO ACCEPT GRANT FUNDING IF AWARDED

Summary: The consideration of a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant in the amount of $110,000 from the U.S. Dept. of Homeland Security to obtain funding for fire prevention and life safety programs, and to accept grant funding if awarded.

The U.S. Department of Homeland Security has recently issued guidance for the Fiscal Year (FY) 2015 Assistance to Firefighters Grant (AFG) program specific to Fire Prevention & Safety (FP&S). This is a grant opportunity for fire departments to purchase needed equipment to improve fire safety and injuries in the community as well as enhance firefighter safety and service delivery. Towards that end, if the grant request is approved, the Fire Department would purchase materials necessary for a comprehensive home fire safety program, digital fire extinguisher training props and an inflatable fire safety house. The Fire Department is not alone in this effort, Fire is Everyone's Fight™ is a national effort led by the U.S. Fire Administration (USFA) to lower the number of home fires and home fire injuries in America. Partnering with USFA adds resources and support to programs to make sure the Fire Department is successful by speaking out with a unified message of fire prevention and safety to the public. The goal is to change how people think about fire and fire prevention by getting into the community to address the broadest possible audience. All eligible applicants seeking a FP&S Grant to carry out an activity shall agree to make available non-federal funds to carry out such activity in an amount equal to and not less than five (5) percent of the grant awarded, or $5,500.

Staff recommends participation in the AFG Program for the following reasons:

- Assist in decreasing the risk of death in home fires and provide greater safety for firefighters.
- If awarded, the City would be able to utilize grant funds for the purchase of equipment.
- If awarded, the City would be able to directly improve fire safety in the City of Asheville.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- Decrease the occupant alerting and fire department response times for fires and carbon monoxide incidents in 400 homes by installation of smoke alarms, carbon monoxide alarms, street address identification and stove top fire extinguishing agent.
- Provide fire extinguisher classes to a greater number citizens as well as businesses in our community.

- Enhance the fire safety of our high risk communities which include our children under 6 years of age, persons with disabilities, as well as our older citizens.

Con:

- 5% share amount of the total purchase cost required $5,500

This grant would increase the Fire Department's budget request as these funds are not already programmed into the budget. It will allow a greater amount of funding for prevention and life safety initiatives.

City staff recommends that City Council authorize the Fire Department to apply for a grant in the amount of $110,000 from the U.S. Dept. of Homeland Security to obtain funding for equipment and supplies necessary for a comprehensive home fire safety program, fire extinguisher training props, an inflatable fire safety house and to accept the grant funding if awarded.

RESOLUTION BOOK NO. 37 - PAGE 413

H. RESOLUTION NO. 16-59 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A 99 YEAR GROUND LEASE FOR 48 ACRES OF REAL PROPERTY AT 98 DESOTA STREET WITH DUKE ENERGY PROGRESS

Summary: The consideration of a resolution authorizing the City Manager to enter into a 99 Year Ground Lease for 48 acres of real property at 98 Desota Street with Duke Energy Progress.

In 2014, Duke Energy Progress (formerly known as Progress Energy of the Carolinas, and Carolina Power & Light) agreed to donate 48 acres of real property at 98 Desota Street to the City of Asheville for the French Broad River Greenway West and City Council passed a resolution to accept the donation. However, the donation transaction was not completed and since that time, Duke upgraded the existing transmission lines on the property and the City began work on the greenway design for the property. The City and Duke Energy have had several conversations on the real estate transaction and at this time both parties agree that a long-term ground lease is the most appropriate method to grant the property to the City. Duke has offered to enter into a 99 Year Lease with the City for a $1 per year. This long term ground lease would serve as the primary land conveyance to the City to support implementation of the French Broad River Greenway – West Bank.

The long term ground lease is the preferred property transfer because Duke Energy maintains significant infrastructure on the subject property, including an electric substation and transmission lines that traverse the property along its western-most boundary. A long term ground lease would allow Duke, as land owner, to maintain this infrastructure and at the same time allow the City to install the French Broad River Greenway West. This leasing structure is typical for Duke Energy when working with cities or counties to permit public access at or near Duke infrastructure. For example, Duke and Buncombe County have a long-term ground lease for the County park at Lake Julian.

A long-term lease of this property will enable the City to secure 48 acres of open space, construct the French Broad River Greenway – West Bank, and explore opportunities to create edible and pollinator landscapes where possible.

Pros:

- Provides for multi-modal transportation along the French Broad River adjacent to the West Asheville Neighborhood and River Arts District

- Donation of land from Duke Energy Progress via a 99-year ground lease at $1 per year
- Lease will permit Duke to continue to maintain the electrical infrastructure located on the property

Con:

- None

No fiscal impact is noted for the long-term ground lease.

City staff recommends City Council to adopt the resolution authorizing the City Manager to enter into a 99 Year Ground Lease with Duke Energy Progress.

RESOLUTION BOOK NO. 37 - PAGE 414

I. RESOLUTION NO. 16-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PUBLIC/PRIVATE STORMWATER AGREEMENT FOR PATTON PLACE APARTMENTS

ORDINANCE NO. 4486 - BUDGET AMENDMENT FOR THE STORMWATER RELOCATION AGREEMENT FOR PATTON PLACE APARTMENTS

Summary: The consideration of a resolution authorizing the City Manager to execute a public/private stormwater agreement with the developer/owner of 248 Patton Avenue (Delray at Patton Avenue, LLC), to construct a new storm drainage system within the public right of way beginning on Haywood Road continuing on Patton Avenue to the intersection with Pearl Street and traveling down Pearl Street to Hilliard Avenue where it will end at the connection with an existing storm drainage system on Hilliard Avenue; and the associated budget amendment in the amount of $600,000 from Stormwater fund balance to provide budget authorization for the City's cost share amount.

During the investigation of a future development for 248 Patton Avenue, the development team approached the City of Asheville concerning a potential partnership for new infrastructure located within the public right of way. The development team had discovered issues to an existing drainage system located downstream of their property which the pipe was totally blocked. Through previous research by the City's legal staff, it was determined that during the early 1900's the City had constructed the drainage structure in this location, but there were no established easements or rights of way where the system currently exists.

Through previous City legal team research, it was discovered that there was special legislative language written that stated the City would not be responsible for the ongoing maintenance of the existing system, which is currently not functioning as constructed.

As staff discussed the potential partnership with the development team, a plan to relocate the system within the public rights of way and reconnect the system along Hilliard Avenue became the most cost effective and viable option to add new drainage infrastructure and solve the drainage issues currently existing along the private properties.

The City's stormwater staff is currently working with an engineering consulting team to develop a comprehensive assessment of our stormwater systems. As part of this process, areas were identified that had outstanding issues. One area of concern was located along Carter and Ann Street. Currently water is flooding a church during heavy rain events due to damaged infrastructure that lies outside of the city's control. A project has been identified that will alleviate this issue and falls within the next few construction seasons. The project partnerships the City is working on with Delray Ventures will aid this future Stormwater capital improvement project by keeping the entire system within public right of way.

The city will partner with this project with a 50%/50% cost share up to a maximum of $600,000. The plan would be for the development team to design and construct the new stormwater system and the City would then reimburse the development team up to 50% of the cost of design and construction not to exceed $600,000.

This work will involve placing a new storm drainage system beginning on Haywood Road continuing on Patton Avenue to the intersection with Pearl Street and traveling down Pearl Street to Hilliard Avenue where it will end at the connection with an existing storm drainage system on Hilliard Avenue. The project will be within existing public rights of way and will not need additional easements to make the connections.

Staff recommends that a new pipe be installed as noted above.

Pros:

- If approved, the construction team would be able to move quickly on the construction of the new pipe, minimizing future damage to properties.
- The project will provide this infrastructure to be located within the public right of way
- Pearl Avenue currently has minimum storm drainage infrastructure and this project will allow new drainage infrastructure to be installed.
- This project will maximize city's stormwater funding to allow for more infrastructures to be installed through this public private partnership.
- This project would compliment previously identified stormwater infrastructure needs.

Cons:

- The City Stormwater Utility is paying a portion of the cost of the project.
- The city will be responsible for the ongoing maintenance of this system

: The estimate for this project is $1,660,000. A maximum of $600,000 is proposed to be funded by the Stormwater Utility Enterprise Fund using fund balance. The remaining cost is proposed to be paid by the private property owners. The project will be completed by the developer's construction team.

By City policy, the Stormwater Fund must maintain a fund balance equal to 8% of annual expenses. At the end of FY 2014-15, the Stormwater Fund balance exceeded the policy target by approximately $2.0 million. Based on this historical amount and budget performance in the current fiscal year, staff is confident that Stormwater Fund balance will continue to exceed City policy at the end of FY 2015-16 even after the $600,000 appropriation associated with this project.

Staff recommends City Council approve a resolution authorizing the City Manager to execute a public/private stormwater agreement with the developer/owner of 248 Patton Avenue (Delray at Patton Avenue, LLC), to construct a new storm drainage system within the public right of way beginning on Haywood Road continuing on Patton Avenue to the intersection with Pearl Street and traveling down Pearl Street to Hilliard Avenue where it will end at the connection with an existing storm drainage system on Hilliard Avenue; and the associated budget amendment in the amount of $600,000 from Stormwater fund balance to provide budget authorization for the City's cost share amount.

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ORDINANCE BOOK NO. 30 - PAGE 241

J. RESOLUTION NO. 16-61 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT TO CIP

CONSTRUCTION & DEVELOPMENT INC. FOR THEIR BUSBEE MOUNTAIN VIEW SUBDIVISION ON WEST CHAPEL ROAD

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to CIP Construction & Development Inc. for their Busbee Mountain View Subdivision on West Chapel Road.

Michael Cook of CIP Construction and Development Inc. is developing the Busbee Mountain View subdivision on West Chapel Road. They have been working with Development Services for plan review and permitting. A home has been built on one of the lots and they are requesting a Certificate of Occupancy (COs). It was during this process that the City discovered that a sewer line had been installed on a small corner of city property without an easement being obtained. Apparently a water easement was obtained by the developer from Water Resources in 2014. MSD will not grant any COs, permanent or temporary until this easement is obtained. If the City of Asheville grants this easement, then upon execution, it will be conveyed to MSD. The City Attorney's office was contacted by the developer's attorney asking that the easement be granted. The matter has been referred to Real Estate for processing. The developer's attorney has provided an easement agreement and a plat. It has been approved by MSD and their Planning and Development Manager has indicated that he will accept it once it is signed.

The sewer line has already been installed and they are requesting 108.69 square feet of permanent easement. Real Estate has notified the developer's counsel that there would be a $170 real estate transaction fee along with a value based on the tax assessed value of the land which is $221. The total amount will be $391.

Pro:

- Granting this easement encourages infill development within city limits

Con:

- Developers should be strenuously encouraged to obtain easements prior to installing infrastructure on city property.

The City is requiring a real estate transaction fee plus an assessment of the value of the land comprising the permanent easement.

City staff recommends City Council approve a resolution authorizing the City Manager to convey 108.69 square foot permanent easement across a city owned parcel at West Chapel Road.

RESOLUTION BOOK NO. 37 - PAGE 416

K. RESOLUTION NO. 16-62 - RESOLUTION AMENDING RESOLUTION NO. 16-16 REGARDING THE PRIVATE SALE OF CITY-OWNED REAL PROPERTY ON STATE STREET TO REFLECT THAT ONLY THREE OF THE HOMES TO BE BUILT BY MOUNTAIN HOUSING OPPORTUNITIES WERE TO BE DEED RESTRICTED

Summary: The consideration of a technical correction to Resolution No. 16-16 approving an offer by Mountain Housing Opportunities to purchase, by private sale, real property owned by the City of Asheville located off State Street.

On January 26, 2016, Council approved Resolution 16-16, approving the sale of a small (.18 acres) parcel off State Street in West Asheville to Mountain Housing Opportunities.

As stated in the staff report for that meeting, MHO offered to purchase the property from the City on the following terms:

- Purchase Price: $34,700. This is the appraised value of the site.
- City to provide non-warranty deed
- MHO will develop 3 single family homes on this site or adjacent property that will be sold to households with incomes below 80% AMI
- City to loan $34,700 to MHO with the following terms:
    - Zero Interest to MHO during construction.
    - Upon sale, loan funds will be transferred/loaned to 3 income eligible households with the City as a lender –3rd mortgage, deferred for 30 years with an equity sharing clause due upon repayment.

MHO indicated that they planned to develop 12 single family homes in total, In addition to the 3 homes committed as part of the State Street lot acquisition, 3 additional homes (for a total of 6) are planned to be sold affordably, pending the site being adequate for density of 12 homes and the availability of additional needed subsidy.

The original resolution incorrectly required a deed restriction for six (6) affordable homes, not the three (3) that MHO can commit to at this time. This amended resolution makes the correction to require that three (3) homes be deed restricted.

Pros:

- Three units of affordable for-sale housing will be created.

Con:

- None

No City funding is requested other than making the value of the land available as a loan.

Staff recommends approval of the amended resolution that changes the number of deed restricted homes from six homes to three homes. No other changes are proposed.

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L. RESOLUTION NO. 16-63 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A GRANT APPLICATION TO THE PARKS AND RECREATION TRUST FUND, AND TO AUTHORIZE THE CITY MANAGER TO SIGN A LETTER OF COMMITMENT TO PROVIDE MATCHING FUNDS IF THE CITY IS AWARDED THE GRANT

Summary: The consideration of a resolution (1) authorizing the City Manager to submit a grant application to the Parks and Recreation Trust Fund for recreation and park amenities on City owned property designed for public use; (2) to authorize the City Manager to sign a letter of commitment to provide matching funds if the City is awarded the grant; and (3) to accept the grant funds if awarded.

The Parks and Recreation Trust Fund (PARTF) provides dollar-for-dollar matching grants to local governments for the acquisition and/or development of park and recreational projects to serve the general public. The City is requesting the maximum funding of $500,000 with this application. A project must be located on a single site. The City is requesting funds for recreation and park amenities on the East Bank of the French Broad River Greenway.

Pros:

- Provides public recreational resources and amenities

- The PARTF grant is a significant funding opportunity that will allow the City to move forward on these investments.
- The City has already shown a commitment to improving the parks and greenway infrastructure on the East Bank of the French Broad River as a part of the East of The Riverway Plan
- The City already has the required matching funds to move forward with this project

Con:

- None

Matching funds for this grant are already in place via the existing Capital Improvement Program.

City staff recommends City Council adopt a resolution authorizing the City Manager to submit a grant application for the PARTF grant; and to authorize the City Manager to sign a letter of commitment to provide matching funds if the City is awarded the grant.

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M. RESOLUTION NO. 16-64- RESOLUTION ESTABLISHING A CITY OF ASHEVILLE, BUNCOMBE COUNTY AND DUKE ENERGY PROGRESS "ENERGY INNOVATION TASK FORCE"

Summary: The consideration of a joint City/County/Utility resolution establishing the Energy Innovation Task Force.

On October 23, 2013, Asheville City Council adopted the Resolution 13-228 Supporting Clean Energy Economy which includes the following six action items:

1. Support a local clean energy future for the City and the region;
2. Call on Duke Energy Progress to partner with the City to help meet its carbon reduction goals by decreasing reliance on fossil fuels including transitioning from coal to electricity provided by clean, renewable energy sources while continuing to meet the company's obligation to provide affordable and reliable electricity to all customers 24 hours a day, 7 days a week;
3. Call on Duke Energy to continue and expand its investments in and programs supporting renewable energy, energy efficiency and energy conservation;
4. Call on Duke Energy to stop the spread of coal ash pollution and remediate existing coal ash pollution;
5. Develop a Clean Energy Partnership Progress Report that documents the achievements of this new partnership with Duke Energy, and;
6. Seek input from a variety of stakeholders when identifying collaboration opportunities for this partnership, which was adopted as an amendment to the Resolution as it was presented (this was added as an amendment to the resolution by Mayor Terry Bellamy as reflected in the meeting minutes).

After the resolution was adopted, the Sustainability Advisory Committee on Energy & the Environment (SACEE) formed an Energy Task Force and invited stakeholders to participate in a community input process. Two sessions were held in August and September 2014, and a final session in July 2015. During the first input session participants were asked to brainstorm action items on what a community clean energy plan would address; including areas of focus in policy, programming, education outreach and projects. Participants were able to prioritize action items through a survey and results were vetted during the second session. The final session in July 2015, the participants were give the framework in which the prioritized action items were developed into the Community Clean Energy Policy Framework.

A resolution adopting the Community Clean Energy Policy Framework was approved by City Council on October 27, 2015 as a guide for ongoing policy decisions and City staff work plans. The Clean Energy Framework included an effort to launch a collaborative partnership with Duke Energy Progress to build a foundation for a longer term community energy efficiency, clean renewable energy sources; decreasing the City's reliance on fossil fuels.

In early December of 2015 representatives from the City of Asheville, Buncombe County, Duke Energy and interested non-governmental organizations began meeting to discuss this partnership, which has developed into the Energy Innovation Task Force.

This Energy Innovation Task Force will be made up of governmental, business (large, institutional and commercial), non-profit finance and environmental advocacy groups, shown below. Duke Energy supports the resolution and has served as a co-convener of this group.

Industry	Organization	Representative
Environmental Advocacy	Sierra Club	Kelly Martin
Utilities	Duke	Jason Walls
Local City Government	City of Asheville, City Council	Julie Mayfield
Local County Government	Buncombe County Board of Commissioners	Brownie Newman
Non-Profits	Green Opportunities	George Jones
Institutional Users	Mission Hospital	Sonya Greck
Development	Biltmore Farms	Paul Szurek
Industrial Users	New Belgium	Jim Spencer
Hotel Industry	BCTDA	Himanshu Karvir
Institutions Higher Education	UNCA	Ed Katz
Banking	Self Help Credit Union	Jane Hatley
Local Business Association	Asheville Chamber	Toby Weas
City Advisory Board	SACEE	Sonia Marcus
Green Development	Green Building Council	Sam Ruark
Solar	Sundance Power	Dave Hollister

The task force will focus its work around:

- Education/training/communication through active community engagement to drive more energy-efficient behavior.
- Technology development and implementation through deliberate investment in distributed energy resources (primarily solar) and storage.
- Greater access to and promotion of energy efficiency products/programs and demand-side management offerings.

Pros:

- Continues sustainability efforts including carbon footprint reductions and a clean energy economy through a partnership with Buncombe County, Duke Energy, and community stakeholders.
- Reducing energy consumption will make our community less dependent on fossil fuels and more reliant on renewable energy.
- Duke Energy Progress has agreed to postpone or avoid the construction of an additional turbine engine at the Lake Julian power plant if our community demonstrates less reliance on the fuel powered plant.

- Opportunity to provide the residents of Buncombe County and City of Asheville a cleaner, affordable and smarter energy future.
- The successful collaboration of public and private partnerships moving the Western North Carolinas into a clean energy future.

Cons:

- The funding to implement the recommendations has not been identified.

City staff recommends that City Council adopt the resolution establishing the joint City/County/Utility Energy Innovation Task Force.

Councilwoman Mayfield said that in October of 2013, City Council adopted a resolution calling on Duke Energy Progress to create a partnership to help reduce the City of Asheville's reliance on fossil fuels and energy use generally. More recently when Duke Energy Progress revised its Modernization Plan it also suggested a partnership between the City, the County and itself with that same goal to reduce our overall energy use, to avoid construction of additional fossil fuel capacity in the early 2020s. She asked that the Task Force be amended to include a representative from GE Aviation. She explained how this Task Force is precedent-setting in North Carolina.

Mr. Benji Burrell spoke in support of this Task Force.

Mr. Jason Walls, representing Duke Energy Progress, said that they were delighted to be a partner on this Task Force and they look forward to getting started.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda, with an amendment to the Energy Innovation Task Force to include a representative from GE Aviation. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 16-55 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF INTENT AND ACCEPT SEVERAL GREENWAY EASEMENTS FOR THE RHODODENDRON GREENWAY GREENWAY

Councilwoman Mayfield recused herself from voting because the greenway runs behind her home and her homeowners association is one of her parties to this agreement. Even though she stepped out of the negotiations when she was elected to Council, she asked to be recused from voting.

Summary: The consideration of a resolution authorizing the City Manager to execute a Letter of Intent and accept several greenway easements that are granted by property owners Mountain Sun Building & Design, Davenport Park Homeowners Association, Inc., and Green Development, LLC, that lie contiguously along Rhododendron Creek between Shelburne Road and Estes Court.

In 2015, the City was contacted by the owner of Mountain Sun Building & Design, LLC and the Davenport Park Homeowners Association, Inc. to discuss the possibility of the donations

of easements on their properties for the Rhododendron Greenway. The homeowners' association believed they had previously granted a greenway easement to the City on their property but that with a new greenway easement from Mountain Sun, a different alignment would be more logical. At this time, staff has not been able to find any record of another greenway easement but will allow language in the legal document that allows the annulment of prior easements. Green Development, LLC, the developer of Davenport Park subdivision, consulted with the City during these negotiations and also agreed to provide additional easements on three contiguous parcels that will be developed in the future.

The three property owners have agreed to donate the following easements:

Property Owner	PIN	Size of Easement
Mountain Sun Building & Design, LLC	9628-92-4520	6070 SF / /0.1393 AC
Davenport Park Homeowners Association, Inc.	9628-92-7134	12,253 SF / 0.2813 AC
Green Development, LLC	9628-92-6562 9628-92-6513 9628-92-5672	1449 SF / 0.0333 AC 1411 SF / 0.0324 AC 3571 SF / 0.1477 AC

The total size of the combined easements is 24,754 square feet or 0.57 acres.

Rhododendron Creek Greenway, as seen on the Greenway Master Plan begins at Hominy Creek Greenway on Shelburne Rd. near the former Armory and extends to Sand Hill Road near Vance School. Implementation of this greenway is not in the near future, but staff agrees that donation of these easements areas beneficial to the City and fit with the planned alignment.

The City has drafted a Letter of Intent which outlines the major conditions regarding the offer and acceptance of the greenway easements. These include the following:

- Easements will be donated to the City at no cost.
- The granting property owners acknowledge and agree that while the City has conceptually identified the Rhododendron Creek Greenway Corridor of the Asheville Greenway Master Plan, the City has no current action to implement this greenway corridor as a paved trail or otherwise and by accepting these greenway easement donations, the City will not be making this greenway project a priority and will have no obligation to maintain or make any improvements to the easement areas unless, and until, the greenway project is implemented.
- By accepting this offer of donation, the City recognizes that this property represents the preferred location of the greenway corridor rather than the property along the east side of Rhododendron Creek and the City further agrees to amend the any greenway easement that was granted to it by the Davenport Park HOA regarding PIN 962-92-5672, to reflect this new alignment along the west side of the creek.
- Any and all terms associated with the donation and acceptance of these greenway easements are subject to the final approval of the City of Asheville. Monthly updates were given to the Greenway Committee but due to time sensitivity of this agreement on the developers' part, no vote was taken. Nor was this issue brought to the Multimodal Transportation Commission.

Pros:

- Accepting the easement will provide legal access to the land area needed for the Rhododendron Creek Greenway.

- The property owners propose to donate the easement at no cost to the City.

Con:

- None noted.

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to execute the Letter of Intent, and to accept and sign easements totaling 24,754 square feet on private property for purposes of land banking easements for Rhododendron Creek Greenway.

Councilman Bothwell moved for the adoption of Resolution No. 16-55. This motion was seconded by Councilman Young and carried unanimously (with Councilwoman Mayfield being recused from voting).

III. PRESENTATIONS & REPORTS:

A. UPDATE ON HOMESTAY PERMITTING PROGRAM

Director of Development Services Jason Nortz said that this report is an update on the Homestay Permitting Process enacted via a wording amendment that was adopted on November 17, 2015. The data in this report spans a time frame from November 18, 2015, to March 1, 2016.

Due to strong demand for home based lodging, City Council passed a text amendment to Section 7-16-1(c)(9) to modify the requirements for a Homestay Permit. Some of the major changes to the requirements for Homestay Permitting were:

- The removal of a 500-foot separation requirement (between homestays)
- The removal of the minimum home size requirement of 2,500 sf.
- The removal of the need for additional off-street parking
- The removal of the requirement to provide a morning meal
- Only one homestay shall be permitted per lot
- Provisions requiring appropriate insurance
- Provisions for a required annual inspection
- Requirement that a maximum of no more than two (2) bedrooms be used for the homestay.

With these and other smaller changes, a Homestay shall:

- Be operated by a full time resident
- Meet all applicable life safety codes
- Exist as the only homestay on the parcel
- Provide all proper insurance policies
- Pay all applicable taxes.

Applications for the Homestay permit are submitted to and reviewed by the Development Services Department (DSD). In response to the changes made by this text amendment, the DSD retained a Development Review Specialist working within the Planning & Zoning Division to carry out all Homestay related tasks and conduct all Short-Term Rental enforcement activities. Additionally, the DSD produced a single page application, checklist and guide to be used when preparing a submittal for this permit.

The DSD began receiving applications for Homestay permits under the new provisions on November 18, 2015. Through March 1, 2016, there have been 52 applications submitted for the

Homestay permits. The properties subject to these applications have been primarily focused within a few neighborhoods.

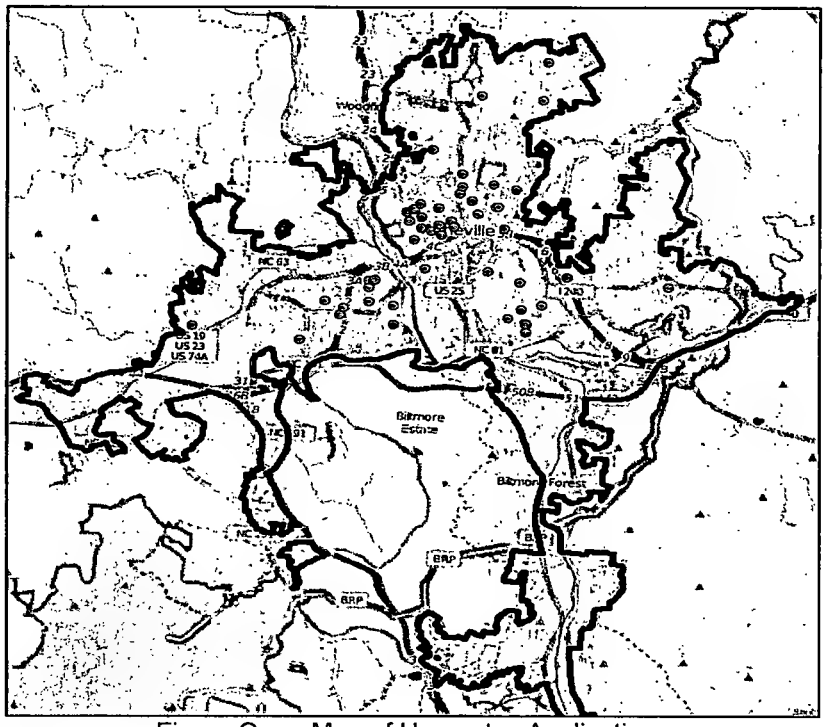

Figure One. Map of Homestay Applications

As the above map shows, the majority of the properties for which a Homestay use is desired are located generally in the area known as "North Asheville". To date, approximately 85% of homestay permit applications have been approved and issued. The table below (figure two) contains further information related to Homestay permitting thus far.

Number of Applications Submitted	**52**
Number of Permits Issued	**46**
Average Total Home Size	**2,049 sf**
Average Homestay Area Size	**293 sf**
Average Percentage of Total Home Size	**15%**
Average # of Bedrooms	**1.5**
Average Age of Structure	**70 years**
Homestays Providing Off-Street Parking	**72% (33 sites)**

Figure Two. Homestay Data Through 3.1.2016

Enforcement: Along with creating new allowances for Homestay uses, the ordinance changes also set forth a commitment to enforcement of these rules in the form of identifying and notifying properties that are in violation of the allowances. At the onset of the new regulations, there were also several ongoing enforcement cases that now had the opportunity to convert to legal Homestay uses through the permitting process. Prior to the adoption of the Homestay

amendment, there were over 50 existing short-term rental violations. Roughly 22 percent have come into compliance through the Homestay permitting process. Since the adoption of the changes to the Homestay Ordinance, the City has received 17 complaints that have resulted in active enforcement for violation of the Homestay Ordinance or operation of a short-term rental where it is prohibited by zoning district.

Thus far, proactive enforcement has been promoted through the review of the various online advertising outlets for short-term rentals (i.e.; Air BnB, VRBO), responsive investigation of complaints made via email, phone and the Asheville App and visual surveys conducted by the Development Review Specialist. Moving forward, proactive enforcement is planned to be enhanced through possible partnerships regarding homestay tax revenue information received by Buncombe County and other short-term rental websites.

Staff Concerns: Through the administration of the revised permitting program, staff has encountered many different scenarios through homestay applications and enforcement. Included among these concerns are:

- Possible false representation of residency;
- Floorplans not representing legally permitted building work;
- Accurately identifying livable space and unit separation;
- Correctly identifying possible violation locations based upon limited information provided online (such as the lack of exterior photos of properties); and
- Continuing press and recognition of the value of the short-term rental market in Asheville.

Next Steps: Staff will continue to explore ways to more proactively enforce short-term rental violations as well as look at other ways to enhance the efficiency of the program. Our next 4 month update will be in July.

In response to Councilwoman Mayfield, Mr. Nortz said that of the 50 existing homestays that were in non-compliance before the update to the ordinance, 11 have since been permitted, 33 are no longer in violation, and 6 are pending follow-up from our Development Review Specialist.

When Councilman Bothwell asked if there was a predominant violation, Enforcement Officer Shannon Morgan said that most violations were basically operating a short term rental without a permit, or operating a short term rental with no one living in the residence.

In response to Councilwoman Mayfield, Mr. Nortz felt that are people who are trying to comply with our ordinance but there is a good portion of properties that are operating as illegal short term rentals and we are working on pro-active enforcement of those.

Councilman Bothwell wondered if the lack of applications predominately reflects that people are operating illegally or really reflects that there weren't as many as we thought there were in the first place.

In response to Councilman Smith, Mr. Nortz explained the concern of possible false representation of residency and said they are working on a process to deal with that now.

B. QUARTERLY I-26 CONNECTOR UPDATE

Transportation Director Ken Putnam brief Council on the quarterly I-26 Connector update as follows: (1) purpose of the quarterly updates; (2) benchmark data - December 16, 2015 (City comments regarding the Draft Environmental Impact Statement submitted to Raleigh); (3) post-hearing meeting on January 25, 2016; (4) working group created; and (5) working group's first meeting on March 24, 2016.

Councilwoman Mayfield said that the City's working group is made up of herself, Vice-Mayor Wisler, City Transportation Director Ken Putnam, Director of Planning & Urban Design Todd Okolichany, Chair of the Multimodal Transportation Commission Bruce Emory; and Alan McGuinn, with the Asheville Design Center. She said they will be working with the N.C. Dept. of Transportation to work through the City's/public's concerns.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF AN UNNAMED ALLEY LOCATED NEAR 119 AND 121 SAND HILL ROAD

RESOLUTION NO. 16-65 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY LOCATED NEAR 119 AND 121 SAND HILL ROAD

Stormwater Division Manager McCray Coates said that this is the consideration of a resolution to permanently close an unnamed alley located near 119 and 121 Sand Hill Road. This public hearing was advertised on February 26, March 4, 11 and 18, 2016.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owner, Debra Carter, owner of parcels 9638-04-0283, 9638-04-0025 and 9648-04-0159, and Katherine Wersel (on behalf of Vivianne Wersel), owner of parcel 9638-04-0395 have requested the City of Asheville to permanently close the unnamed alley located near 119 and 121 Sand Hill Rd.

The Multimodal Transportation Commission met on October 28, 2015, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close an unnamed alley located near 119 and 121 Sand Hill Road.

Mayor Manheimer opened the public hearing at 5:30 p.m., and when no one spoke, she closed the public hearing at 5:30 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-65. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 421

B. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF AN UNNAMED ALLEY LOCATED BETWEEN OTEEN PARK PLACE AND PINE CONE DRIVE

RESOLUTION NO. 16-66 - RESOLUTION TO PERMANENTLY CLOSE AN UNNAMED ALLEY LOCATED BETWEEN OTEEN PARK PLACE AND PINE CONE DRIVE

Stormwater Division Manager McCray Coates said that this is the consideration of a resolution to permanently close an unnamed alley located between Oteen Park Place and Pine Cove Drive. This public hearing was advertised on February 26, March 4, 11 and 18, 2016.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Edison and Lillian Degobbi, owners of parcel 68-26-6877, and Paul Ray, owner of parcel 9668-26-6765 have requested the City of Asheville to permanently close the unnamed alley located between Oteen Park Place and Pine Cone Drive. A copy of this resolution was sent by registered or certified mail to all property owners abutting the unnamed alley not joining in the petition to close.

The Multimodal Transportation Commission met on January 27, 2016, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close an unnamed alley located between Oteen Park Place and Pine Cone Drive.

Mayor Manheimer opened the public hearing at 5:32 p.m., and when no one spoke, she closed the public hearing at 5:32 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-66. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 423

C. PUBLIC HEARING TO CONSIDER REZONING THE COMMUNITY BUSINESS I DISTRICT PORTION OF SPLIT-ZONED PROPERTY (COMMUNITY BUSINESS I DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT) LOCATED AT 338 HILLIARD AVENUE TO CENTRAL BUSINESS DISTRICT AND AN AMENDMENT TO THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

ORDINANCE NO. 4487 - ORDINANCE TO REZONE THE COMMUNITY BUSINESS I DISTRICT PORTION OF SPLIT-ZONED PROPERTY (COMMUNITY BUSINESS I DISTRICT AND RM-8 RESIDENTIAL MULTI-FAMILY MEDIUM DENSITY DISTRICT) LOCATED AT 338 HILLIARD AVENUE TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4488 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

Assistant Director of Planning & Urban Design Alan Glines said that this is the consideration of an ordinance to rezone the the Community Business I District portion of split-zoned property (Community Business I District and RM-8 Residential Multi-Family Medium Density District) located at 338 Hilliard Avenue, to Central Business District; and an amendment to the officially adopted Height Zone Map. This public hearing was advertised on March 11 and 18, 2016.

The site proposed for rezoning consists of a single parcel currently split zoned between Residential Multifamily Medium Density District (RM8) and Community Business I District (CBI), approximately 2.35 acres in size, located at 338 Hilliard Avenue. There are several existing structures on the parcel, which has been used as a city park maintenance facility since 1975. The parcel has frontage on both Clingman and Hilliard Avenues and has the potential to provide a prominent entrance into the West End Clingman Avenue Neighborhood (WECAN) and downtown. The site drops off at the southern end of the parcel where a natural drainage swale has out fall from underground pipes that provide stormwater runoff from the downtown area. This portion of the property corresponds with the RM8 section of the site and is part of the Clingman Forest Greenway currently under construction.

The City of Asheville, the owner, is proposing a standard rezoning of the CB 1 portion of a single parcel to Central Business District (CBD) with an amendment to the Height Zone Map to expand the Intermediate Height Zone. No specific development is proposed with this request. The Council and staff have worked together to identify city-owned parcels that could be used to meet city goals. The Residential Multifamily Medium Density District (RM 8) zoned portion of the parcel is not proposed to be rezoned in this application.

Recent Zoning Actions – Nearby on Hilliard Avenue and Asheland Avenue, a number of rezonings have occurred to expand the CBD zoned area. The parcel at 200 Asheland Avenue was approved for CBD rezoning in September 2015. The properties at 226 and 230 Hilliard Avenue were rezoned in 2014. The properties at 86 Asheland and 172 Asheland Avenue was similarly rezoned in 2013. Staff continues to pursue a large-area rezoning along Asheland Avenue with an informational meeting for the neighborhood being planned for March 2016. The vision for the downtown area was studied during the Downtown Master Plan process and expanding the boundaries of the CBD is consistent with the goals of the plan. Also nearby, the Patton Place Apartment project was approved in 2015 at 246 Patton Avenue at the corner of Clingman Avenue and Patton Avenue and will contain 116 residential units and associated parking.

Downtown Guidelines / Special Zoning Considerations – The rezoning request to CBD requires an adjustment to the Height Zone Map which governs the height for future buildings. Staff and the Downtown Commission recommend that the Intermediate Height Zone be applied to this parcel. The Intermediate Height Zone has been applied to parcels along Clingman Avenue and Hilliard Avenue as a buffer from Taller Height zone areas. In addition, any future development would be required to comply with CBD design requirements and review standards.

The rezoning request and the amendment to the Height Zone Map were considered by the Downtown Commission at their meeting on January 8, 2016, and were unanimously recommended for approval. Information was also shared at the West End/Clingman Avenue

Neighborhood (WECAN) board meeting on February 4, 2016. Staff answered general questions about the application and next steps if the zoning is approved.

The Planning and Zoning Commission reviewed the request at their meeting on March 2, 2016, and voted unanimously to recommend approval. Although no one spoke during the public hearing, after the meeting, several neighbors asked questions of staff about the rezoning application.

The area to the north and west of the site are zoned CBD. The Central Business District is the only non-residential zone in the vicinity of the developable portion of the parcel. Uses in this area include residential, commercial and vacant parcels. To the east, Aston Park is residentially zoned and contains restrictions on all non-public uses. It includes the Tennis Center, a playground and walking paths. The park provides a buffer to commercial and higher density residential areas in the CBD and S. French Broad to the east and south. As previously noted, the RM8 portion of the subject property is proposed to remain residentially zoned. It is expected that this area will be used to provide support for Aston Park and the Clingman Forest Greenway, which is consistent with uses allowed for residentially zoned parcels.

The Comprehensive Plan recommends higher density infill development in areas where there are options for employment, transportation and recreation following a more sustainable development pattern. The Downtown Master Plan makes greater residential infill a priority for downtown especially in the neighborhoods surrounding the traditional downtown core. The West End Clingman Avenue Master Plan recommends that the area surrounding Clingman and Hilliard Avenues become the location of mixed-use development with commercial and residential uses.

City Council's 2036 Vision places an emphasis on a Well Planned and Livable Community by encouraging thriving mixed-use areas with business and residential uses linked by an integrated transportation system. This location has the potential to be redeveloped meeting these goals.

Considerations:

- The rezoning is consistent with the vision of growth for the area
- An isolated zoning classification on an single parcel is eliminated
- Adopted plans encourage higher density infill in the Central Business
- The Intermediate Height Zone has been applied to other parcels in the vicinity of this parcel

Staff recommends approval of the proposed rezoning, finding that the request is consistent with City-adopted plans and strategic goals for development in this area.

Mayor Manheimer opened the public hearing at 5:39 p.m. on the rezoning and the amendment to the height zone map.

Ms. Charlene Mayfield, resident in the area, was concerned that the elderly residents on her street were not notified of this change. Mr. Glines explained that the rezoning only affects the area closest to Hilliard Avenue, and that there is no development proposed on the RS-8 portion (affecting Ms. Mayfield) and no connection between the CBD property and Charles Street. He said staff went to the WECAN meeting and sent letters to property owners on Charles Street. The RS-8 portion will remain as is, which is to support the other uses in the area and the greenway (parking). He said that to reach that parking would be from Hilliard Avenue.

Mayor Manheimer closed the public hearing at 5:42 p.m. on the rezoning and the amendment to the height zone map.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Bothwell moved to approve the zoning map amendment for the portion of the property zoned Community Business One (CB 1) to Central Business District (CBD), including the amendment to the Height Zone map in the same area and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that, (1) the rezoning is consistent with the vision of growth for the area; and, (2) the request aligns with goals for a well-planned and livable community. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ORDINANCE NO. 4487 - ORDINANCE BOOK NO. 30 – PAGE 243
ORDINANCE NO. 4488 - ORDINANCE BOOK NO. 30 - PAGE 246

PUBLIC HEARING TO SEEK CITIZEN COMMENTS ON THE RELEASE OF A DEED RESTRICTION ON THE CITY-OWNED PROPERTY LOCATED AT 338 HILLIARD AVENUE

RESOLUTION NO. 16-67 - RESOLUTION AUTHORIZING ACTIONS FOR RELEASE OF U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT DEED RESTRICTION AND APPROVAL OF THE REQUEST FOR PROPOSALS PROCESS FOR THE DISPOSITION OF CITY-OWNED PROPERTY LOCATED AT 338 HILLIARD AVENUE FOR AFFORDABLE HOUSING

Assistant Community & Economic Development Manager Jeff Staudinger said that this public hearing is to seek citizen comments on the release of a deed restriction on the City-owned property located at 338 Hilliard Avenue. This public hearing was advertised on March 11 and 18, 2016.

Also, requested is considerations contained in the Request for Proposals (RFP) for the disposition of that City-owned property (Parks Maintenance Facility) for affordable housing.

Repurposing City-owned property for affordable housing is a mechanism to increase housing supply, supported by Council at their October 2014 worksession on affordable housing. As reported at that worksession, the property at 338 Hilliard was the first property targeted for that repurposing.

In order to achieve that, a suitable site for relocation of the parks maintenance facility function was needed. It has been determined that the city-owned 75 Shelburne Road site meets the facility needs. Capital funds have been budgeted to support the relocation to that site, which is now being planned. Staff anticipates that move will occur prior to January 1, 2017.

The site for redevelopment of affordable housing is about .75 acre of the total 2.5 acre site. The southern portion of the site will be available for use as Aston Park Tennis Center and Clingman Forest Greenway parking,

Staff investigated the suitability of the subject site for affordable housing. Phase 1 and Phase 2 environmental assessments have been performed, as has geotechnical testing. The site has evidence of historical use as a gas station, and some minor soils remediation may be necessary. The site also was filled, and this information will inform the choice of building foundation systems. No red flags to development were discovered. Staff has also initiated rezoning of the parcel to Central Business District, and anticipates completion of that process on March 22, 2016.

1) Public Hearing Release of Deed - The site is subject to a deed restriction associated with original acquisition funding provided by the US Department of Housing and Urban Development (HUD), limiting the parcel's use to "open space." HUD has informed the City that that the current Parks Maintenance parcel can be used for whatever purposes

the City wishes. If funded under the now discontinued Neighborhood Facilities program, the restrictions have already been released, under a blanket ruling from HUD. If the source was CDBG, the property would either need to be used in a manner that meets a National Objective (which affordable housing would do); or the City would need to reimburse the CDBG program in the amount of the fair market value of the property, less any amount of the value created through purchase or improvements attributed to non-CDBG funds.

Because the funding program that led to the deed restriction is not clear, staff recommends treating the property as funded through CDBG, and holding a public hearing, to comply with CDBG regulations. The proposed use as affordable housing meets a national CDBG objective, and therefore the property can be used for this purpose without requiring any repayment of CDBG funds.

2) Considerations for Request for Proposals - Staff is preparing a Request for Proposals (RFP) to solicit concrete proposals from qualified developers to redevelop the .75 acre site on that property for affordable housing.

The RFP outlines the minimum qualifications required to submit a proposal; the project objectives of the City; how the response to those objectives and how qualifications will be scored; the required proposal submittals; the review process; the selection process; and a timeline. Staff proposes that a staff committee, under the Director of Community and Economic Development, be charged with the review of proposals, and making a recommendation to Council of the developer for the project. The Housing and Community Development Committee and the Planning and Economic Development Committee reviewed the Objectives and Timeline, and their input was incorporated into the proposed RFP.

Proposals will be scored for their response to the proposal Objectives:

Housing Program Objectives:

1. Income Targeting:

Requirement:

- A minimum of 51% of all units must be affordable to and leased to households earning 80% or less of Area Median Income.
- The highest score will be awarded to proposals with the highest percentage of units affordable to and to be leased to households earning 80% or less of Area Median Income.

Other Competitive Factors:

- Percentage of Units to be leased to households earning 60% or less of area median income.
- Percentage of Units to be leased to households earning 30% or less of area median income.

2. Maximum Rents:

Requirement:

- The maximum gross rents will be 30% of the targeted incomes and only families and seniors whose incomes are at or below the targeted incomes will be eligible to occupy the housing.

Other Competitive Factor

- Percentage of units with rents lower than 30% of the targeted incomes.

3. Minimum Number, Mix and Sizes of Housing Units:

Requirement:

- At least 40 units must be proposed in the development.

- At least 50% of the units must be proposed as 1-BR units, and 15% of the units as 3-BR units.

Competitive Factors;

- Maximizing the number of units within the site constraints.

4. Term of Affordability

- The unit must be affordable to the income targeted households for a period of no less than 20 years.

Competitive Factors:

- Commitment to longer term of affordability, including but not limited to permanent affordability.

Design Objectives:

1. Sustainability:

Competitive Factors:

- To maximize the overall sustainability of the Development through the integrated use of sustainable building elements, including those that improve indoor air quality, reduce resource consumption, and approach zero-energy consumption.
- Third-party certification of sustainability measures.

2. Housing Habitability

Competitive Factors:

- Appropriately sized units and unit layouts.
- Appropriately located and accessible interior resident amenities such as on-site laundry facilities, and community gathering spaces.
- Exterior amenities such as open spaces accessible only to residents.

3. Urban Design:

Competitive Factors:

- To reinforce the city street pattern and provide for substantial street trees and plantings along the sidewalks, and thoughtful landscaping.
- To consider the scale of neighborhood buildings
- To recognize the relationship of the development to the River Arts District, the Clingman Forest Greenway and Aston Park.

4. Neighborhood/Community Amenities:

Competitive Factors:

- To provide benefits to the broader community by incorporating community-oriented amenities such as an after-school program open to older non-resident children or a senior center open to non-resident seniors.

Financial Objectives

1. Use of City Financing

Competitive Factors:

- The value of the property, whether purchased or leased, is the primary City resource available to subsidize the project. Note: If the property is sold, it will be subject to competitive bidding (upset bid) unless there is a commitment that at least 20% of the units will be affordable to and leased by household at or below 60% of AMI, in which case the City would be authorized to sell as a private negotiated sale.
- The least use of other City subsidy resources as permanent financing.

Preliminary Timeline:

RFP issued by City	Friday, April 15, 2016

Pre-submission meeting at the site	Thursday, April 24 2016
Proposal Submission Deadline	Monday, June 6, 2016
Preliminary Scoring for Minimum Qualifications by Selection Panel and Notice to Respondents	Friday, June 17, 2016
Developer team interviews (if necessary)	Week of June 20, 2016
Staff review and recommendation of development team	Tuesday, July 12, 2016
HCD Committee Review	Tuesday, July 26, 2016
City Council review and approval	Tuesday, August 2016
Contract for Sale or Lease developed, reviewed and approved	September, 2016
Contract executed (potential leaseback of property to City)	October, 2016
Plans and Permits developed and approved	March, 2017
Mobilization, demolition and commencement of construction	May , 2017
Completion of construction, occupancy	April, 2018

Pros:

- The process will lead to the creation of new affordable housing.
- The process will inform future city-land repurposing.
- The process will provide the City with the best value for its resources.
- The City will retain most of the subject parcel for access and parking uses.

Con:

- Any issues with the relocation of the current site function could delay the anticipated outcome.

Fiscal Impact:

- The cost of the relocation of the current parks maintenance facility is budgeted in the City's 2016 Capital Improvement budget.
- The amount of City affordable housing subsidy that will be required to achieve the objectives is currently unknown, but anticipated to be all or a portion of the value of the land that could otherwise be received in a market-based sale of the property.
- The cost of developing parking and improved access to serve the Tennis Center is not known at this time.

Staff recommends approval of actions for the release of the deed restriction on City-owned property located at 338 Hilliard Avenue; and approval of the consideration of the RFP for the disposition of approximately .75 acre located at 338 Hilliard Avenue

Mayor opened the public hearing at 5:51 p.m.

Mr. Timothy Sadler asked that emphasis on building performance be placed on the scorecard on the RFP.

Mayor Manheimer closed the public hearing at 5:52 p.m.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-67. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4489 - ORDINANCE ADOPTING THE 2016-17 FEES & CHARGES MANUAL

Finance and Management Services Director Barbara Whitehorn said that this is the consideration of an ordinance adopting proposed fee adjustments for Fiscal Year (FY) 2016-17.

The proposed FY 2016-17 fee adjustments were reviewed by the Council Finance Committee on February 23, 2016. She provided Council with a full list of the proposed fees and charges that was presented to the Finance Committee. A summary of Finance Committee recommendations is shown below. As staff continues preparation of the FY 2016-17 Manager's Recommended Budget, there may be additional fee adjustments that are brought forward as part of the budget process in May.

Fee Change Summary:

Parks & Recreation
- Aston Park increases according to schedule; $22k
- Adjustment to WNC Nature Center fees (no change to admissions)

Solid Waste
- Fee Increase from $10.50 to $14/mo.; $1.1 million

Stormwater Fee
- 5% overall increase; $252k

Water Rate Increases
- 1.5% single family, multi-family and small commercial
- 3.5% large commercial and manufacturing
- $473k

US Cellular Center
- Various fees and charges changes; $28k

Motor Vehicle Fee
- Recommend $30/year fee, increase of $20
- $1.4 million in additional restricted revenue

Parking Fund fees
- Parking study currently underway

Development Services Department fees
- Fees to be evaluated
- Cost recovery
- Benchmarking

Councilman Smith wanted to know what the relation is between the solid waste increase and the possible roll-out of the Pay as You Throw Program. He understands this increase is intended to get us closer to a full cost recovery. The idea behind Pay as You Throw is people who send less material to the landfill will be able to pay less. For him to be supportive of this

increase, he will need to be confident that we will be able to move forward with ways for people to decrease their fees with regard to solid waste. Ms. Whitehorn responded and Councilwoman Mayfield noted that the Pay as You Throw program may still be an option to implement mid-year as it is still a work in progress.

Regarding the motor vehicle fee increase to be slated for street maintenance, Councilwoman Mayfield noted that 60.8% of our streets rank either poor or very poor. This increase will help in addressing the backlog of needs and free up some of the General Fund money to be used for other priorities. Councilman Smith also noted that currently Powell Bill funds are used for street maintenance; however, there is a concern that the General Assembly may no longer make those funds available to cities.

City Manager Gary Jackson said that transit fees are not included in this recommendation. At this point, staff is focusing on budget worksessions as the means for Council to tell staff if they would like to pursue other forms and means to fund transit programming. We currently use General Fund dollars, ridership revenues, parking transfer, grant funds, etc. All those options are available to Council as we put together the plan going forward. Staff hopes to get direction from City Council regarding transit on April 12.

Councilman Smith could not support this based on the solid waste fee and the uncertainty of the Pay as You Throw Program.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4489. This motion was seconded by Councilwoman Mayfield and carried on a 6-1 vote, with Councilman Smith voting "no".

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B. MOTION ACCEPTING THE HAYWOOD ROAD CORRIDOR PARKING STUDY

Transportation Director Ken Putnam said that this is the consideration of a resolution to accept the Haywood Road Corridor Parking Study.

The Haywood Road Vision Plan, which was adopted by City Council via Resolution No. 14-37 on February 25, 2014, recommended that a parking study be prepared along the Haywood Road Corridor. The plan was developed through an initiative by the West Asheville Business Association (WABA) and interested local residents to improve the corridor and identify revitalization strategies. An initial meeting was held in 2002 involving local residents, business owners, and City staff to discuss the successes of Haywood Road and opportunities for improvement. This group formed the Haywood Road Corridor Committee and the committee met regularly from 2003 through 2007 and again from 2010 through 2013 to develop the vision plan.

City staff contracted with Kimley-Horn and Associates, Inc. during September 2014 to perform a parking study along the Haywood Road Corridor. The study was accomplished in two phases. Phase I included collecting, summarizing, and analyzing the existing data, meeting with the directly affected stakeholders, and documenting concerns and suggestions. It was completed during June 2015 at a cost of $53,400.

Phase II included collecting, summarizing, and analyzing the existing data along the neighborhood streets in the study area, meeting with the stakeholders who live along the neighborhood streets, developing and analyzing strategies to manage parking demand,

developing recommendations, and preparing the final report that would include potential projects to be considered in the capital improvements process. Phase II has been completed at an anticipated cost of $48,800 and the report is going through the review process.

The projection of future parking demand includes (1) estimate of development in 2022 assuming shared parking; development projections provided by Planning Department; and (3) 180 additional parking spaces needed for projected development.

This item was reviewed by the Planning and Economic Development Committee on February 16, 2016, and they recommended that it move forward to City Council for their review and approval. This item was also reviewed by the Multi-Modal Transportation Commission on January 27, 2016, and their comments have been incorporated into the report.

Pros:

- Accomplished a recommendation from the Haywood Road Vision Plan.
- Inventoried parking supply along the Haywood Road Corridor.
- Identified potential parking deficiencies and issues along the Haywood Road Corridor.
- Provides recommendations to balance parking supply and demand.

Con:

- Cost of potential projects which may be included in the capital improvements process in future years (potential projects may compete with other needed projects).

There is no immediate fiscal impact regarding the subject action. The total cost of the parking study was $102,200 and it was covered by the Parking Enterprises operating budget during FY 2014-15 and FY 2015-16.

Staff recommends that City Council accept the Haywood Road Corridor Parking Study that was prepared by Kimley-Horn and Associates, Inc.

Mr. Fred Burchett, Principal at Kimley-Horn, summarized the data collection. Using charts, he showed the Haywood Road on-street parking in various scenarios, along with their public outreach. He explained the projection of future parking demand. Finally, their recommendations were (1) add parking supply for bicycles and autos by entering into shared parking agreements; (2) construct additional parking supply at Hanover and Haywood; (3) implement residential permit parking program; (4) implement fee for on-street parking in areas with high parking demand; and (5) enhance enforcement of parking regulations. Recommendations are co-dependent.

Councilman Smith was excited to see some of the ideas, especially the residential permit parking program. He said that he would be interested in ways we might look at revenue from private parking lot agreements in addition to the on-street parking areas. He hoped we would also look at expanding mobility and parking options.

In response to Vice-Mayor Wisler regarding the cost and timing of implementing the recommendations , Mr. Putnam said that they are trying to lay out a 10-year parking Capital Improvement Project Program. Once they plug in where they will do all the needs over the next 10 years, the financial model they will be using will help them set the stage to come to Council with a recommendation on what the parking fees will need to be set. They plan to start plugging in some of these recommendations in the year 2018 and to use 2017 to fully vet what the procedures would be for the residential permit parking program. He envisioned the residential permit parking program to be City-wide guidelines, similar to the Traffic Calming Policy. In crafting the residential permit parking program guidelines, staff will utilize some of our advisory committees.

In response to Councilman Bothwell, Mr. Burchett said that the parking demand was higher in the evenings but varied from place to place.

Councilman Bothwell pointed out that may people are using Uber drivers and was that taken into account for future parking demands. Mr. Burchett said that there are no good data sources in the industry now on how to accommodate for that.

In response to Councilwoman Mayfield, Mr. Burchett said that they did contact some churches to see about shared parking agreements. He did say that some were concerned about the trash left in the lot and the City might have to step in with some type of cleaning agreement.

Councilwoman Mayfield said that there was a semi-offer from the Chamber of Commerce leadership to work with the City in contacting with some of the private lot property owners for shared parking arrangements.

Councilman Smith moved to accept the Haywood Road Corridor Parking Study. This motion was seconded by Councilman Bothwell.

Mayor Manheimer pointed out that if we just accept the report, staff will not have been given direction to move forward with any of the recommendations.

Mr. Putnam said that staff would like to proceed with the idea of developing the residential permit parking program.

Therefore, Councilman Smith withdrew his motion.

Councilman Smith then moved to accept the Haywood Road Corridor Parking Study and authorize staff to explore the following: (1) residential parking permit program; (2) efforts towards securing private parking lot agreements; (3) potential for metering Haywood Road; and, (4) continue attention to multimodal transportation. This motion was seconded by Councilman Bothwell.

Regarding enforcement, Vice-Mayor Wisler said that she can support staff looking into these items; however, she would need to understand the cost implications before any implementation.

When Mayor Manheimer asked for public comments, none were received.

The motion made by Councilman Smith and seconded by Councilman Bothwell carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Christopher Chiaronmonte spoke about time.

Mr. Ron Greenberg spoke about a fire pit at his neighbor's house at 23 Nixon Terrace, which is affecting his well-being and health.

Mr. Timothy Sadler suggested using a lottery system to cap the number of homestays. He also spoke about trash in downtown Asheville and the possible use of a gentrification fee.

Ms. Dana Davis, representing the Asheville Parks and Greenways Foundation, spoke in support of the Beaucatcher Greenway plans.

Ms. Jane Bilello, Chair of the Asheville Teaparty, and Mr. Paul Valone, President of the Grass Roots North Carolina Forum for Firearms Education, spoke to Council about the City complying with the no weapons signs in the parks, and hoped for a permanent solution of the signs.

Ms. Jane Mathews spoke about the homestay ordinance.

Mr. William Spoon was concerned about the number of trees to be cut for the Beaucatcher Greenway.

Closed Session

At 7:12 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a potential lawsuit. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5); and (4) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:36 p.m., Councilwoman Mayfield moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:36 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – April 12, 2016 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Director of Finance and Management Services Barbara Whitehorn used a PowerPoint to provided Council with information that the base budget is balanced.

She explained the restructuring the plan for employee compensation and health care (1) 3.5% pool allocated; (2) market adjustments and other changes - $500,000; and (3) healthcare changes (a) additional tier - employee plus children; and (b) premium increases across the board.

She expanded the operating budget (on-going) investments which included: (1) a Diverse Community (a) Equity Program Manager; (2) Transportation & Accessibility (a) transit improvement of funding of Multimodal Transportation Commission No. 1 priority for S3 - more flexibility of bus service to Airport; (3) A Clean & Healthy Environment (a) Solid Waste Service Improvements - Sanitation Equipment Operator; (b) Food (a) Add $85,000 for Strategic Partnerships ($40,000 for LEAF Programming and $45,000 for IRL Programming); and (5) A Smart City (a) Project Manager in Information Technology to address increased work order volume; (b) Planner/Urban Designer for the Downtown Master Plan and other projects; and (c) Crime Prevention Analyst. She then reviewed the Fiscal Year 2017-18 Public Safety planning.

One-time strategic goal investments include (1) South Slope/Downtown Visioning ($150,000); (2) Real Estate & Facilities Diagnostics ($357,000); (3) Deferred Maintenance Fund ($200,000); (4) Parks & Recreation Services & Facilities Assessment ($60,000); (5) Staff Created Solutions Fund ($100,000); (6) Program and Process Improvements (a) actuarial analysis of OPEB ($25,000); (b) Health Fund and Health Care Actuarial Study ($150,000); (c) Payroll & Benefits Audit ($90,000); and (d) Organizational Development & Performance Management ($100,000); and (7) Proposed Buncombe Community Capital Fund - $250,000 Seed Capital for a $1 Million Small Business Loan Program.

Using charts, Ms. Whitehorn then reviewed the Fund Balance Analysis. Her recommended fund balance recommendations included (1) allocate $850,000 to one-time investments in strategic goal areas; (2) reserve $1 Million for Lee Walker Heights; (3) reserve $1.3 Million in infrastructure capital reserve; and (4) allocate $1.75 Million to unrestricted, unassigned fund balance - 16.9%.

Issues and discussion included (1) goal area recommendations; (2) unrestricted fund balance, general fund; and (3) employee compensation & benefits.

Throughout Ms. Whitehorn's presentation, she and other staff members responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised included whether it would be better to wait until the disparity study has occurred before hiring an Equity Program Manager in order to better understand the skill-set needed; approximately when will the Equity Program Manager be hired; City Manager Jackson to route initial Equity Program and objectives through the Governance Committee and then develop the job description; what costs are associated with the Backyard Composting Program; will we work with other partners for waste reduction efforts; what is involved with the Food Action Plan coordination; explanation of the costs associated with LEAF Programming; request for complete list of formalized relationships with all

non-profits to include process on how funds are awarded (application process; agreement, etc.), total amounts to include any in-kind donations, grants, etc., and whether they are one-time allocations or on-going; what is the Downtown Association's partnership regarding the July 4 celebration; how will the Small Business Loan Program be different from other loan programs; what outcomes are anticipated from the Crime Prevention Analyst; request for information on the Downtown District, understanding it is not being proposed for funding in Fiscal Year 2016-17; more information relative to the need for Fire Station 14; need for ultimate Council decision on vacant Fire Station on Merrimon Avenue; explanation of federal requirement to have 4 firefighers per truck; request for additional information concerning the need for $150,000 for the South Slope/Downtown Visioning; request to have a good understanding of the City's real estate assets, with maintenance status on each, how they were purchased and if there are any restrictions; is the actuarial analysis of OPED and the Health Fund and Health Care Actuarial Study needed at this time; consensus to rename the South Slope/Downtown Visioning to include a range of services around growth and development city-wide; what does the 3.5% salary increase to City employ come to in dollars; and, consensus to see less in the Section 108 Fund for Lee Walker Heights Project.

Direction was given to Ms. Whitehorn to not only add the additional bus on S3 to the Airport at $384,000, but to also add the extended hours (8 additional) for buses at a cost of $250,000 and to add the City Transportation Planner Positions at a cost of $73,000.

Direction given to Ms. Whitehorn to continue with the direction of funding in Fiscal Year 2017-18 the Fire Station #14 (with request to see if the $750,000 price could be reduced and if there are any other ways to address the coverage issue), along with the Asheville Police Department Downtown District.

Direction given to Ms. Whitehorn to look at a range of 16.4 to 16.5 unrestricted, unassigned fund balance.

Ms. Whitehorn then reviewed the upcoming dates associated with adoption of the budget.

At 4:45 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 12, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding (recused from meeting at 7:18 p.m.); Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITION

City Manager Jackson recognized chief codes official Mark Matheny for receiving an award from the International Code Council (ICC) as Code Official of the Year for Region VIII. Region VIII includes Georgia, Tennessee, South and North Carolina.

Mayor Manheimer thanked Mr. Matheny and all employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. SIGNING OF 2X4 FOR THE FIRST WALL FOR THE ASHEVILLE AREA HABITAT FOR HUMANITY HOUSE BUILT IN RECOGNITION OF GENEROUS SUPPORT FROM THE CITY OF ASHEVILLE AND BUNCOMBE COUNTY

Mayor Manheimer recognized Mr. Andy Barnett, Executive Director of the Asheville Area Habitat for Humanity, who then recognized Ms. Tera Jabs.

He said that next week Asheville Area Habitat for Humanity will be celebrating its relationship with the City of Asheville and the County of Buncombe by beginning to build a new house. This affordable, Green Built NC house is named in honor of the public funds that helped create the infrastructure for the West Asheville subdivision, where it will be the last and 25th house constructed.

The house is located on Soulshine Court, a new street built off Johnston Boulevard and named for a Warren Haynes song, in honor of the musician's years of commitment to Asheville Area Habitat. The street was created with a combination of funds from Housing and Urban Development's HOME program through the City of Asheville and grants and loans from Buncombe County's Affordable Housing Services Program. This creative collaboration between the County, the City, a private foundation and a nonprofit demonstrate the commitment needed from many sources to address the affordable housing crisis faced by so many Buncombe County residents.

The energy-efficient 3-bedroom house will be purchased by a Tera Jabs, a single mother with two children, who works for another nonprofit performing intake services for veterans. Like so many others in our County, she works hard on behalf of others but falls short in her ability to purchase a safe, affordable home for her family without a hand up. After completing 200 hours of sweat equity – or volunteer labor helping to build her house – she will close on the home and begin paying a zero-percent interest mortgage.

House construction begins on April 12 and will be completed by mid-October.

Mayor Manheimer was pleased to note that when completed, the City/County House will be the 293rd house built by Asheville Area Habitat for Humanity in Buncombe County.

C. PROCLAMATION PROCLAIMING APRIL AS "PARKINSON'S DISEASE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming April, 2016, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Nancy and Jim Hall, and others, who briefed City Council on some activities taking place during the month.

D. PROCLAMATION PROCLAIMING APRIL, 2016, AS "CHILD ABUSE PREVENTION MONTH"

Councilman Smith read the proclamation proclaiming April, 2016, as "Child Abuse Prevention Month" in the City of Asheville. He presented the proclamation to Mr. Geoff Sidoli and Ms. Jennifer Nehlsen who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING APRIL 18, 2016, AS "LINEMAN APPRECIATION DAY"

Vice-Mayor Wisler read the proclamation proclaiming April 18, 2016, as "Lineman Appreciation Day" in the City of Asheville. She presented the proclamation to Mr. Jason Walls, representing Duke Energy Progress, and linemen who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. **APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 22, 2016**

B. **RESOLUTION NO. 16-68 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE RACE TO THE TAP CATAWBA**

RESOLUTION NO. 16-69 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INTERLUDE CLOSING PARTY

RESOLUTION NO. 16-70 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT EARTH FARE 5K

RESOLUTION NO. 16-71 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL

RESOLUTION NO. 16-72 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT ASHEVILLE VEGANFEST

RESOLUTION NO. 16-73 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE CLIPS BEER & FILM TOUR

RESOLUTION NO. 16-74 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY CUP

RESOLUTION NO. 16-75 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BLUE RIDGE PRIDE FESTIVAL

RESOLUTION NO. 16-76 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE HOWL-O-WEEN WALKATHON

RESOLUTION NO. 16-77 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ZERO-PROSTATE CANCER RUN/WALK

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at Race to the Taps Catawba, Interlude Closing Party, Earth Fare 5K, Beer City Festival, Asheville VeganFest, Clips Beer & Film Tour, Beer City Cup, Blue Ridge Pride Festival, Howl-o-Ween Walkathon, and Zero-Prostate Cancer Run/Walk.

- Asheville Humane Society has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Race to the Taps Catawba and allow for consumption at this event.

  Race to the Taps Catawba will be held on Saturday, April 23, 2016 from 12:00 p.m. to 4:00 p.m. within the boundaries of Banks Avenue as per the area limits referenced on the accompanying site map.

- Black Mountain College Museum + Arts Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Interlude Closing Party and allow for consumption at this event.

  Interlude Closing Party will be held on Friday, April 29, 2016 from 6:00 p.m. to 10:00 p.m. within the boundaries of Walnut Street as per the area limits referenced on the accompanying site map.

- Asheville Track Club has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Earth Fare 5K and allow for consumption at this event.

  Earth Fare 5K will be held on Saturday, May 14, 2016 from 6:30 a.m. to 11:30 a.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

- Asheville Brewers Alliance has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Beer City Festival and allow for consumption at this event.

  Beer City Festival will be held on Saturday, May 28, 2016 from 1:00 p.m. to 7:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Brother Wolf Animal Rescue has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Asheville VeganFest and allow for consumption at this event.

  Asheville VeganFest will be held on Sunday, June 12, 2016 from 11:00 a.m. to 5:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Asheville on Bikes has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Clips Beer & Film Tour and allow for consumption at this event.

  Clips Beer & Film Tour will be held on Friday, August 26, 2016 from 6:30 p.m. to 10:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- WNC Soccer Foundation has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Beer City Cup and allow for consumption at this event.

Beer City Cup will be held on Sunday, September 4, 2016 from 8:00 a.m. to 10:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on the accompanying site map.

- Blue Ridge Pride Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Blue Ridge Pride Festival and allow for consumption at this event.

  Blue Ridge Pride Festival will be held on Saturday, October 1, 2016 from 11:30 a.m. to 7:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Brother Wolf Animal Rescue has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Howl-o-Ween Walkathon and allow for consumption at this event.

  Howl-o-Ween Walkathon will be held on Saturday, October 29, 2016 from 11:30 a.m. to 3:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

- Zero-The End to Prostate Cancer has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Zero-Prostate Cancer Run/Walk and allow for consumption at this event.

  Zero-Prostate Cancer Run/Walk will be held on Saturday, November 5, 2016 from 8:00 a.m. to 1:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Humane Society, Black Mountain College Museum + Arts Center, Asheville Track Club, Asheville Brewers Alliance, Brother Wolf Animal Rescue, Asheville on Bikes, WNC Soccer Foundation, Blue Ridge Pride Center, and Zero-The End to Prostate Cancer

Con:

- Potential for public safety issues

There is no fiscal impact.

City staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Race to the Taps Catawba, Interlude Closing Party, Earth Fare 5K, Beer City Festival, Asheville VeganFest, Clips Beer & Film Tour, Beer City Cup, Blue Ridge Pride Festival, Howl-o-Ween Walkathon, and Zero-Prostate Cancer Run/Walk.

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C. RESOLUTION NO. 16-78 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND AN EXISTING CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE PROJECT KNOWN AS CONCRETE REPAIR - UTILITY CUTS

Summary: The consideration of a resolution authorizing the City Manager to amend an existing concrete repair contract in the amount of $50,000 with Appalachian Paving and Concrete, Inc., for the project known as Concrete Repair – Utility Cuts.

City Council initially adopted a resolution authorizing the City Manager to enter into a contract with Appalachian Paving and Concrete, Inc. in October, 2014, (resolution #14-238), in the amount of $257,183.75 plus a contingency of $42,816.25 (17%), for the repair of concrete infrastructure that has been damaged by the installation of utilities. Due to the volume of utility cuts that have been repaired by the contractor, the previously approved funding has been nearly exhausted.

The City is in the process of executing a new contract to perform these services (which is also on this agenda). This increase in funding is being requested to ensure that repair work can continue until the replacement contract, Concrete Repair – Utility Cuts FY15-16 (on this agenda), can be approved and fully implemented.

Pro:

- Provides for the timely repair on concrete infrastructure that has been damaged by the installation of utilities.

Con:

- Project management and contract administration will consume staff time.

The Street Cut Utility Program is an enterprise fund that is funded by fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery.

City staff recommends City Council adopt a resolution authorizing the City Manager to amend the current contract with Appalachian Paving and Concrete to repair concrete infrastructure damage by utility installation for an amount not to exceed $50,000.

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D. RESOLUTION NO. 16-79 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NELSON/NYGAARD CONSULTING ASSOCIATES INC. TO PREPARE A COMPREHENSIVE PARKING STUDY

ORDINANCE NO. 4490 - BUDGET AMENDMENT TO FUND COMPREHENSIVE PARKING STUDY

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a general services contract in the amount of $120,000 including contingencies (the contract amount is $109,433) with Nelson \ Nygaard Consulting Associates, Inc. to prepare a comprehensive parking study; and (2) a budget amendment in the amount of $45,000 from current year parking services revenue to provide sufficient budget authorization to fully encumber the contract.

Although the Parking Enterprises Fund has been and continues to be very healthy, staff continues to receive requests regarding parking needs on a regular basis. In order to address these needs and to make the most efficient use of the overall limited funds, staff is moving

forward with plans to develop a long-term parking program including a 10-year capital improvements program.

As a first step, the comprehensive parking study when completed will serve as a guide to help City staff and City Council formulate policy direction to address parking needs during the next 10 to 15 years. The study will include a background section listing general statutes and City ordinances related to parking functions, a benchmarking section providing information on public on-street and off-street parking facilities for 50 peer cities, a section on various parking strategies used throughout the United States that are thoroughly researched and described including pros and cons and probable costs for each strategy, a detailed analysis regarding a downtown shuttle to include two phases; specifically, the first phase would only include the downtown central business district and the second phase would include the downtown central business district, Biltmore Village, the River Arts District, and Haywood Road in West Asheville, and a section on various funding strategies used throughout the United States that are thoroughly researched and described including pros and cons for each strategy. In addition, a 10-year financial model will be prepared that will help staff determine when additional debt could be incurred including any fee and rate increases that would be needed to meet the anticipated capital needs (The 10-year financial model will be completed and submitted to the City by June 1, 2016 so that it can be tested and tweaked if necessary to enable staff to proceed with the appropriate analyses for a possible parking rate increase that might go into effect on January 1, 2017).

Five proposals were received and after a thorough review, the Selection Committee decided that Nelson \ Nygaard Consulting Associates, Inc. would be able to provide the best final product to the City. The Selection Committee included staff from the Transportation Department, the Planning Department, and the Finance Department. A member of the Multi-Modal Transportation Commission was also part of the Selection Committee but was unable to participate.

Pros:

- Reference guide to help set policy direction to address parking needs.
- Balance parking supply and demand throughout the City of Asheville.
- Provides a 10-year financial model to help staff make recommendations regarding possible rate increases.

Con:

- More potential projects for the capital improvement program.

The amount of the contract is $120,000 including contingencies (the contract amount is $109,433). Transportation Department staff has identified $75,000 in the existing Parking Enterprise Fund operating budget for the contract. In order to have sufficient budget authorization to encumber the full contract amount of $120,000, staff is recommending a budget amendment in the amount of $45,000. Funding for the budget amendment will come from Parking Services revenues that are performing better than budget in the current fiscal year. Through nine months of FY 2015-16, revenues in the Parking Enterprise Fund operating budget have been trending 9% higher than the budgeted amount.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into a general services contract in the amount of $120,000 including contingencies (the contract amount is $109,433) with Nelson \ Nygaard Consulting Associates, Inc. to prepare a comprehensive parking study, and a budget amendment in the amount of $45,000 from current year parking services revenue to provide sufficient budget authorization to fully encumber the contract.

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E. RESOLUTION NO. 16-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APPALACHIAN PAVING & CONCRETE INC. FOR THE CONCRETE REPAIR CONTRACT - UTILITY CUTS

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $253,654.83 plus a contingency of $46,345 (18%) for a total of $300,000.00 with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP 15-16-001.

As part of the Street Cut Utility Program, utilities that damage public concrete infrastructure during the installation or maintenance of their underground infrastructure do not perform repairs to the concrete. This is the third year that a private contractor has performed this service. The project was advertised on January 28, 2016 and bids were opened on February 25, 2016 with the following results:

Appalachian Paving and Concrete, Inc., Swannanoa, NC	$253,654.83
Patton Construction Group, Arden, NC	$274,420.00
Armen Construction Group, Charlotte, NC	$368,895.00

Pro:

- Provides for the timely repair on concrete infrastructure that has been damaged by the installation of utilities.

Con:

- Project management and contract administration will consume staff time.

The Street Cut Utility Program is an enterprise fund that is funded by fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery.

City staff recommends City Council adopt the resolution awarding the contract to Appalachian Paving and Concrete, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $253,654.83 plus a contingency of $46,345 (18%) with Appalachian Paving and Concrete, Inc. for the project known as Concrete Repair – Utility Cuts, City of Asheville Project # SP-15-16-001.

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F. RESOLUTION NO. 16-81 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH NOVUS ARCHITECTS TO DEVELOP FACILITY ASSESSMENT AND ARCHITECTURAL CONCEPT DESIGN SERVICES FOR MCCORMICK FIELD

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Novus Architects to develop facility assessment and architectural concept design services for McCormick Field for an amount not to exceed $180,000.

The City of Asheville (City) issued a Request for Qualifications (RFQ) for architectural services for the facility assessment and conceptual design improvements to McCormick Field. The primary goal of the project is to provide the City and its partner, the Asheville Tourists, a comprehensive understanding of the current conditions of the facility, existing maintenance concerns, and what future capital improvement opportunities are possible for the facility in order to maximize investments in the property for its highest and best use.

In response to the RFQ, the City received eight Statements of Qualifications.

1. CHA, Raleigh, NC
2. Clark Nexen, Asheville, NC
3. Clark Patterson Lee, Asheville, NC
4. LS3P/AECOM, Greenville, NC
5. Mathews Architecture, Asheville, NC
6. Novus Architects/Ewing Cole, Asheville, NC
7. Odell, Charlotte, NC
8. Padgett Freeman Architects, Asheville, NC

After thorough review and evaluation, staff recommended Novus Architects, 24 South Pack Square; Suite 400, Asheville, North Carolina as the most qualified to perform the architectural services for the McCormick Field assessment and concept studies.

Pros:

- Novus Architects has provided architectural services on previous renovations to McCormick Field when doing business as Bowers, Ellis, & Watson Architects. Novus will partner with Ewing Cole, a leading firm with extensive experience in sport stadium design and engineering.
- This project will allow the City to identify deferred maintenance and possible capital improvement projects for McCormick Field.

Con:

- None

The $180,000 to support the Novus Architects contract to develop facility assessment and architectural services for McCormick Field is budgeted in the capital improvement budget in the Parks and Recreation Department.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a contract with Novus Architects to develop facility assessment and architectural services for McCormick Field for an amount not to exceed $180,000.

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G. RESOLUTION NO. 16-82 - RESOLUTION AMENDING THE 2016 CITY COUNCIL MEETING SCHEDULE

Summary: The consideration of amending the 2016 City Council meeting schedule as follows: (1) addition of formal meeting on Tuesday, May 17, 2016, at 5:00 p.m. in the Council Chamber, 2nd Floor of City Hall; (2) reschedule Fiscal Year 2016-17 Annual Operating Budget public hearing from May 24, 2016, to May 17, 2016; and (3) cancel the May 24, 2016, formal meeting.

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H. ORDINANCE NO. 4491 - BUDGET AMENDMENT TO FUND THE INSTALLATION OF A CROSSWALK ALONG AMBOY ROAD

Summary: The consideration of a budget amendment in the City's General Capital Projects Fund in the amount of $25,000 from Tourism Product Development Funds (TPDF) from the Buncombe County Tourism Development Authority (BCTDA) to fund the installation of a crosswalk along Amboy Road.

At its January 12, 2016, meeting, City Council approved a resolution authorizing the City Manager to sign a grant agreement with Buncombe County Tourism Development Authority

(BCTDA) for $1 million in Tourism Product Development Funds (TPDF). A portion of that funding ($25,000) was designated for the installation of a crosswalk along Amboy Road to support safe pedestrian access to the French Broad River at Amboy River Park. Work began on that project last month. In order to accurately account for the use of the funds, staff is recommending the establishment of a project in the City's General Capital Projects Fund, and a budget amendment to appropriate the revenue and provide authorization for the expenses in that fund.

Pro:

- Provides budget authorization for expenditure of TPDF grant funds previously accepted by City Council.

Con:

- None

The grant from the TPDF was for two projects, the Beaucatcher Greenway and the Amboy Road Crosswalk & River Access. The grant includes a 50% City match. The match requirement is met through the City's contribution to the Beaucatcher Greenway project and $25,000 in grant funding provided by RiverLink.

Staff recommends that the City Council adopt a budget amendment in the City's General Capital Projects Fund in the amount of $25,000 from Tourism Product Development Funds (TPDF) from the Buncombe County Tourism Development Authority (BCTDA) to fund the installation of a crosswalk along Amboy Road.

ORDINANCE BOOK NO. 30 - PAGE 261

I. RESOLUTION NO. 16-83 - RESOLUTION AFFIRMING THE DIGNITY OF LESBIAN, GAY, BISEXUAL, AND TRANSGENDER PEOPLE AND CALLING FOR THE REPEAL OF SESSION LAW 2016-3/HOUSE BILL 2

Mayor Manheimer said that Council has worked on a more enhanced resolution that was originally posted. She noted that several other cities have passed resolutions opposing House Bill 2. She said that Governor Pat McCrory said that he will ask the General Assembly to reinstate people's right to sue in state court for discrimination - undoing a portion of House Bill 2 law.

Said resolution reads: "WHEREAS, on February 22, 2016, the Charlotte City Council demonstrated admirable leadership by approving a local ordinance that adds marital status, familial status, sexual orientation, gender identity, and gender expression to its list of categories protected from discrimination in city contracting and public accommodations; and WHEREAS, on March 23, 2016, in response to the Charlotte ordinance, the North Carolina General Assembly in special session ratified, and Governor Pat McCrory signed, House Bill 2 (Session Law 2016-3), the Public Facilities Privacy & Security Act; and WHEREAS, House Bill 2 appears to repeal the Charlotte ordinance by establishing new statewide standards for what constitutes discriminatory practice in employment and public accommodations; and by establishing new statewide requirements for bathrooms and changing facilities in all public agencies, including schools; and WHEREAS, the omission of sexual orientation, gender identity, gender expression, and other categories from the statewide list of categories protected from discrimination means that not only do protections on these bases appear to be unavailable under state law, but further, that local governments appear to be preempted from offering these protections to their residents; and WHEREAS, the legislation also appears to eliminate the right of any person to bring a civil action in a North Carolina court for a claim of discrimination in employment or public accommodations on account of race, religion, color, national origin, age, or biological sex (as well as handicap for employment only); and WHEREAS, by enacting House Bill 2, our state's political leaders have once again taken extreme measures to attempt to diminish the legislative authority of local governments, and have once again used the laws of the State of North Carolina to codify

discrimination and division rather than to advance the rights and dignity of North Carolinians; and WHEREAS, the legislation, its brief twelve-hour legislative history, and lawmakers' public statements clearly demonstrate a discriminatory intent; a lack of knowledge and understanding of the experiences of transgender people; and a lack of respect for the dignity of lesbian, gay, bisexual, and transgender (LGBT) people on the part of the General Assembly and Governor McCrory; and WHEREAS, the legislation is inconsistent with the Equal Protection Clause of the United States Constitution, which provides that no state shall deny to any person within its jurisdiction "the equal protection of the laws" (US Const amend XIV, § 1); and the legislation is mean-spirited and "born of animosity toward the class of persons affected" (*Romer v Evans*, 517 US 620 [1996]); and WHEREAS, the General Assembly expended an estimated $42,000 to hold an urgent special session to enact House Bill 2, meanwhile neglecting to act with urgency to address real challenges facing the people of North Carolina: the state's 18% poverty rate (including 25% of children and 27% of African Americans); expansion of the Medicaid program and access to high-quality health care for all; funding for public education, including historically black colleges and universities; protection of the natural environment; mitigation of and adaptation to the effects of global climate change; and job opportunities and fair and living wages for all workers; and WHEREAS, Asheville is a community dedicated to the principles of equality, nondiscrimination, and full inclusion and engagement by any resident in the civil rights, benefits, and privileges of all residents; and WHEREAS, Asheville has a proud history of advancing the rights of LGBT North Carolinians, including creating a domestic partner registry and extending eligibility for employment benefits to same-sex partners of City employees; and among the first to support civil marriage for same-sex couples. NOW, THEREFORE, BE IT RESOLVED: SECTION 1. The Asheville City Council reaffirms its support for protecting and advancing the constitutional rights and equitable treatment of all residents and its opposition to discrimination, prejudice, homophobia, and transphobia. SECTION 2. The Asheville City Council applauds the people of Charlotte and the members of the Charlotte City Council for their historic achievement, and particularly for their courageous leadership in standing for dignity and equality in North Carolina's largest city. SECTION 3. The Asheville City Council extends gratitude to the Buncombe County Board of Commissioners, which approved a resolution regarding House Bill 2 on April 5, 2016. SECTION 4. The Asheville City Council urges the North Carolina General Assembly to repeal House Bill 2 at the earliest opportunity. Meanwhile, Council will look to the court system for remedy, seeking opportunities to partner with other local jurisdictions and advocacy organizations in taking appropriate legal action against this unconstitutional legislation; to adopt appropriate local ordinances to advance the cause of equal protection; and to encourage other local governments to exercise their legislative authority to promote equal protection and nondiscrimination. SECTION 5. The Asheville City Council encourages all businesses providing public accommodations in Asheville and throughout North Carolina to demonstrate their support for the dignity of all people by openly welcoming LGBT people to their places of business, and by providing gender-nonspecific bathroom facilities for their customers and employees wherever practicable. SECTION 6. The Asheville City Council encourages all municipalities, counties, and boards of education in North Carolina to adopt similar resolutions at a special meeting or at their next regular meeting calling for the repeal of House Bill 2. SECTION 7. The Asheville City Council asks the city clerk to send copies of this resolution to the members of the Buncombe County delegation to the General Assembly, the chair of the Buncombe County Board of Commissioners, and the mayor of the City of Charlotte."

Councilman Bothwell was appalled that our General Assembly adopted House Bill 2. He was not surprised that businesses have pulled out of North Carolina and are refusing to come to Buncombe County. He was pleased that Asheville will join the voices pointing out that many parts of House Bill 2 are unconstitutional and is entirely wrong.

Councilman Haynes said that with tonight's resolution we show our strong support for Charlotte's ordinance and the brave Council members who backed it. We also show our disdain for the highly discriminatory bill passed by the North Carolina legislature and immediately signed into law by Governor Pat McCrory. In addition, there was fear based propaganda spread that Charlotte's ordinance would both cause and allow predatory behavior. This could not have been

further from the truth. What this ordinance would have done is prohibit discrimination against LGBT people while allowing transgenders to use the restroom of the gender with which they identify. So, he would ask that those folks who felt that Raleigh acted properly with their reaction to Charlotte's ordinance, re-examine this through a lens of love and tolerance. These resolutions which are being passed across this great state should not be feared but instead celebrated. Since the time that Republicans gained control of both the legislature and the Governor's Mansion, they have forced their will on local governments. They have labeled our great city the cesspool of sin. Like a school bully they have taken away control of both our water and our Airport leaving us with little recourse. We have seemingly been forbidden to set our own minimum wage, to require contractors to pay a living wage, to pass inclusionary zoning, and to require developers to meet environmental standards. All in an attempt to prevent us from being the forward thinking progressive city we envision, a visionary place that strives for social equity while battling income equity. The Reverend Dr. William Barber challenged local governments to unite in a form of Political Civil Disobedience. To pass their own minimum wage ordinances and force Raleigh to react. It has long been said that the only way to stop a bully is to stand up to them. He was proudly supporting tonight's resolution calling for repeal of House Bill 2.

Fifteen individuals spoke in support of Asheville's resolution and in opposition of House Bill 2. One individual spoke in opposition of the ordinance.

Mayor Manheimer said that for her six years on City Council, the Council has done a number of things to try to reinforce that Asheville is a city that is a welcoming community and it strives to be a safe community for all of our citizens and residents. We have tried to do that through domestic partner registry and through offering same sex benefits to our employees. If there is one silver lining to this - it provides us with an opportunity to reiterate to our community that we stand together and that we see all of citizens as equals and that we won't tolerate, in her opinion, a fairly juvenile act on the part of the legislature. She assumes it is due in part to our political season. We are better than that and we will continue to be a strong community together here in Asheville and that will take constant work.

Councilman Young said that in the aftermath of what the North Carolina General Assembly adopted on March 23, he immediately sent the following message to his fellow Council members to let them know where he stood: "All, in light of the regressive legislation that has been passed by our state government, he has come to the personal conclusion that this egregious act requires condemnation. It erodes local government, it tramples decades of non-discrimination policies, and portions of the bill can even be determined to open up almost all forms of discrimination including those by the color of your skin. To believe these policies do not affect people in Asheville or others across the state are foolish. Despite anyone's personal reserves I will not stand idle while hatred looms under the blanket of religion or a straw argument about safety. These same arguments were made to continue despicable policies that enslaved millions and discriminated against blacks throughout our country's history. As the only minority member of Council I see this as a blatant act of discrimination. For those who stand idle and watch the horrors of our government in action, you are but equals and might as well have stood on the floor of the state house and championed this bill yourself. To take this lightly is to be complacent of our nations history. History that is less than 60 years old. This bill steps on the poor and brushes inclusiveness inside. I urge you to not fear retribution from the state or reelection because those that support this bill would not vote for us anyway. I believe you have to wrestle with your own consciousness to decide where you stand. I believe we all share the same heartfelt thoughts, but heartfelt action in defense of equality is the concrete that binds us together. It binds us with people who face discrimination everyday, including me. I stand firmly in my conviction that last night the state of North Carolina set out to firmly and definitely pass legislation weighted in discrimination. Our fight is not a fight for just LGBT or blacks or Hispanics or women. In my mind this is a fight for everyone who is not a white male. Discrimination in any form is deplorable. I don't stand by quietly. I will make a personal choice to speak out, and will attend today the Campaign for Southern Equality's rally at 5:00 p.m. My formal request now is to anyone on this Council who is not scared, embarrassed, or feels awkward about the optics to

stand up against all forms of discrimination and racism to join me today. I stand to be dinged up the most by speaking out, possibly based on my religious views. However, my Christianity teaches me love and acceptance. What others may choose to practice and justify within my faith is something foreign to me. Something I have never agreed with. You don't have to be of any faith to practice love and acceptance - just be a decent human being. Also, I request to immediately at the next Council meeting to have prepared resolution that is the embodiment of what I have said in this email. That we believe the bill opens up the doors for discrimination of all sorts and as a community we do not accept discrimination. To be fearful of retribution when standing on the side of an unpopular cause against those with all the power is the embodiment of "The Struggle." The embodiment of the civil rights movement! The courage of Dr. King! The fearlessness of Rosa Parks and many other historical figures. A righteous cause deserves a righteous defender. Evil sometimes hides in plain sight. It hides under the cover of religion. It hides under the cover of an argument of safety. It hides under the cover of the color of your skin. Truth be told, right now it is not hiding. And if you cannot see it, right now, at this very moment, we are in bad shape. If we choose to sit back for any reason, we give strengthen to another struggle and we will soon, very soon 'Make American Great Again'!"

Vice-Mayor Wisler urged supporters of the resolution to reach out to legislators and let your voice be heard.

Councilwoman Mayfield was interested in exploring other ways to guard against discrimination.

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J. RESOLUTION NO. 16-84 - RESOLUTION WAIVING PERMIT FEES ASSOCIATED WITH THE CONSTRUCTION/RENOVATION OF THE ASHEVILLE ART MUSEUM AT 2 SOUTH PACK SQUARE

Summary: The consideration of a resolution granting a permit fee waiver to the Asheville Art Museum (AAM) associated with construction at 2 South Pack Square (City-owned facility).

The AAM, which incorporated in 1948, has occupied an important place in the City's visual arts community in various locations – Charlotte Street, BB&T Building on Biltmore, Montford, and the Civic Center. In 1992, the AAM moved into its current location on South Pack Square – supplemented by an expansion in 1999 that now occupies approximately 24,000 square feet. In early 2016, the AAM culminated over ten years of planning and a capital campaign by starting the renovation and construction of the existing facility. When complete, the renovation and construction will result in a 55,000 square foot museum. With construction anticipated to be completed in early 2018, major demolition and reconstruction is anticipated to start in July 2016.

AAM, which is a tenant in the City-owned facility under a lease approved in 2014, has requested a waiver of permit fees. Based on a construction cost estimate of $18 million provided by AAM, staff estimates the value of the permit fee waiver to be approximately $90,000.

The City's policy limits the waiver of permit fees to property owned, operated, and occupied by the City. In the instance where a property is owned, operated and occupied by the City, permits for work conducted on such properties must be obtained but no permit fees paid. In this instance, while the building at 2 South Pack Square is owned by the City, it is neither occupied nor operated by City.

Pros:

- Supports local non-profit reinvestment of funds into public infrastructure improvement
- Enhances the improvement of a publicly-owned facility

Cons:

- Removes up to $90,000 from City's revenue stream collectible as a permit fee.
- Provides a permit fee waiver for a property that is owned by but not operated or occupied by the City as indicated in the permit fee waiver policy.

If approved, is the removal of up to $90,000 in permit fees from the City's revenue stream.

City staff requests City Council direction on a resolution granting a permit fee waiver for an amount up to $90,000 to the Asheville Art Museum associated with construction and renovation at 2 South Pack Square (City-owned facility).

Upon inquiry of Vice-Mayor Wisler, City Manager Jackson said that there is a precedent for waiving fees for the Art Museum.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda, with the revised Resolution No. 16-83. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE FOR THE PURPOSE OF UPDATING AND COORDINATING STANDARDS AFFECTING THE REVIEW AND RECORDATION OF SUBDIVISIONS

ORDINANCE NO. 4492 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE TO AMEND THE STANDARDS REGULATING SUBDIVISIONS AND THE SUBDIVISION REVIEW PROCESS

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend the Unified Development Ordinance for the purpose of revising and clarifying existing regulations affecting the review and administration of the City's subdivision standards. This public hearing was advertised on April 1 and 8, 2016.

At least since 1960, the City of Asheville has had standards regulating divisions of land. When a division of land is for the purpose of sale or development then it is referred to as a "subdivision". Prior to 1997 when the current ordinance was adopted, subdivision standards were codified and maintained as a separate land development ordinance. In 1997, all land development ordinances were compiled into one chapter, Chapter 7, and comprises what we now call the Unified Development Ordinance, commonly referred to as the UDO.

Since its adoption, the sections of the UDO that regulate subdivisions have been revised and updated several times in an effort to stay consistent with the North Carolina General Statutes and with city policies and goals. Standards affecting subdivisions are found primarily in Articles XV (Subdivision Standards) and V (Development Review Procedures) and collectively address, among other things:

- The purpose of having subdivision standards,
- What constitutes a subdivision as opposed to other exempt divisions of land,

- The plan submittal and plat recordation process,
- Infrastructure requirements; and,
- Subdivision parcel requirements and the coordination of these standards with other land development standards.

Over the last 18+ years, amendments to the subdivision standards, as well as other general amendments to the UDO and related documents, have resulted in a lack of cohesiveness in the subdivision provisions. In an effort to address this and to update and clarify the standards, this amendment proposes to re-draft and replace the existing code related to subdivisions. The basic development standards that control lot dimensions, access and infrastructure; however, would remain the same and are not proposed to change.

A similar update to the City of Asheville Standard Specifications and Details Manual has also been performed and was recently revised and updated on June 9, 2015.

Pursuant to North Carolina General Statutes § 160A-371 through 377, a division of land that is for the purpose of sale or development, and is found to meet other local standards for infrastructure, lot dimensions and access is reviewed and permitted as a "subdivision". These same statutes authorize cities to establish standards and review procedures for subdivisions designed to provide for the "orderly growth and development of the city", including standards for public infrastructure and community facilities.

Subdivisions are regulated by three sections of the UDO - Section 7-2-5 (Definitions); Section 7-5-8 (Subdivision Plat Approvals); and Section 7-15-1 (Subdivision Regulations). The City of Asheville differentiates two types of subdivisions: minor subdivisions and major subdivisions. A minor subdivision includes the division of land where the road infrastructure already exists. A major subdivision is the division of land where the extension or creation of new road infrastructure is required to provide access and frontage to the newly created lots. The dimensional requirements for new parcels vary depending on the zoning district while the infrastructure requirements are the same, regardless of the zoning.

While infrastructure standards strive for consistency, it is not uncommon to find that legitimate site constraints prevent full compliance with the city's preferred standard. In these instances, the city's Engineer, or his or her designee, may consider alternatives that are found to provide a comparable or appropriate level of service, provided they do not negatively impact on-going city maintenance. This process is specified in the City of Asheville Standard Specifications and Details Manual and is different and separate from an appeal of a subdivision approval, which is addressed in the UDO.

The review of all subdivisions is ministerial in nature and does not require City Council approval until 50 or more lots are created. For these larger subdivisions, as with other larger multi-family developments of 50 units or more, a Level III/CUP review is also required and can be processed concurrently with the major subdivision review. Once approved, the applicant/developer may submit the applicable site permits for the public infrastructure, which typically includes roads, sidewalks, street lights, water lines and sewer lines. Only when this infrastructure has passed all inspections, or a financial surety in lieu of this infrastructure is provided, may the final subdivision plat that legally creates the lots be recorded. After the plat is recorded, the owner/developer is free to sell or develop the lots and may also pursue a request to have the city take over maintenance of the infrastructure.

Much of the recommended changes in the proposed subdivision amendment are designed to clarify and update the language. There are, however, some more substantive changes, the most significant of which is the proposal to remove the final review and approval of a major subdivision from the Planning and Zoning Commission and return it to the Technical Review Committee (TRC).

For many years after the UDO was adopted, the TRC was the final review and approving body for major subdivisions. This was changed in 2011 and final review and approval was shifted to the Planning and Zoning Commission to explore whether there was a community benefit to holding a public hearing and providing the opportunity for public input. This change has had a mixed response and questionable success.

Section 7-2-5 removes language regarding exempt subdivisions.

In Section 7-5-8, the proposed amendment recommends moving the final review and approval from the Planning and Zoning Commission back to the TRC. This change is in alignment with the Planning & Zoning Commission's established priorities for 2016 where the Commission has cited concerns over having limited understanding of the technical standards and limited authority on ministerial reviews, impacting their ability to respond to community concerns. Moving the final review and approval back to the TRC focuses the conversation on the subdivision's ability to comply with the technical standards and places the approval responsibility on the technical experts. It also proposes enhanced notification.

Other substantive changes are grouped and summarized as follows:

Sec. 7-5-8. Subdivision Plat Approvals

(a) Major Subdivisions

1. Substitute "designated staff" for "planning and development director". Application processing and review responsibilities are shared between the Planning and Urban Design and Development Services departments, and are coordinated with other technical city departments. To keep the code language more flexible, this change is recommended and repeated throughout the applicable code sections.
2. Revise public notification requirements. Pursuant to North Carolina General Statutes, public notification for subdivisions is not required. However, providing public notification helps the community to be informed and is therefore proposed to be retained in the amendment, but with changes. Similar to the current public notification requirements for major subdivisions, the proposed amendment requires a posted sign on the subject property, and it is also highly recommended that the developer meet with neighborhood representatives. The amendment proposes that the TRC's decision on the major subdivision application be mailed to property owners within 200 feet of the subject property, which would replace the current standard of a mail notification prior to the Planning and Zoning Commission meeting. This change would continue to go above the State's public notification standard by keeping property owners informed, while providing notice.
3. Remove opportunity to revise a denied preliminary plat. The TRC may make one of three decisions when reviewing the proposed preliminary plat. They may approve, approve with conditions or deny. These reviews are ministerial so if a preliminary plat is disapproved, then there is always the option to revise and resubmit under a new application and it is unnecessary to attempt to codify this process.
4. Amend and relocate language related to appeals of subdivision decisions. Remove reference to the Planning and Zoning Commission's decision and relocate the appeal process to the end of the article where it can address both major and minor subdivisions.
5. Clarify that preliminary plat approval may be extended for up to one year. Duplicated language from elsewhere in the subsection to be repeated under the *Approvals* heading.
6. Remove duplicative language regarding guarantees. Remove duplicative language and refer to Sec. 7-15-1 detailing the steps needed to supply a guarantee in lieu of construction improvements.
7. Remove appeal to Asheville City Council. Appeals of subdivision plat approvals, by statute, must go to the Buncombe County Superior Court.

Ms. Tuch said that Councilwoman Mayfield suggested the following amendment for enhanced notification requirement to Section 7-5-8 (major subdivisions). This has been reviewed by Planning and Legal staff and both felt the suggestion was a good one. " Neighborhood Meeting. The developer is required to meet with representatives of the neighborhood in which the proposed project is located. This meeting is to allow the developer to explain the proposed project, be informed about neighborhood concerns, and explore opportunities to address those concerns in cooperation with the neighborhood. The meeting must be held in the pre-application stage no more than four months prior to the submittal date and must be at a location and time designed to allow interested neighbors to attend. It is recommended, but not required, that the developer retain a neutral third party to facilitate the meeting. The developer shall provide notice of the meeting by first class mail to all property owners within 200 feet at least ten days before the meeting. A written report of the meeting must be submitted with the major subdivision application."

(b) Minor Subdivisions

1. Substitute "designated staff" for "planning and development director". Same as above.
2. Amend and relocate language regarding appeals and violations to the end of the section. Appeals and violations of any subdivision, minor or major, follow the same process and by placing this language at the end of the subsection, keeps it from being repeated unnecessarily.
3. Remove language regarding modifications. Requests for modifications to infrastructure standards must follow the process included in the City of Asheville Standard Specifications and Details Manual.

Sec. 7-15-1. Subdivision Plat Approvals

1. Substitute "designated staff" for "planning and development director". Same as above.
2. Clarify subdivisions from other exempt divisions of land. Add statutory language defining subdivision to be followed by exemptions.
3. Remove limits on exempt divisions of land. Generally found not to be necessary. Other development standards require the extension of infrastructure in order to obtain permits so cumulative exempt divisions of land do not negatively affect the built environment.
4. Remove planned communities language. The Planned Community Act addresses property ownership and management and is unrelated to subdivision standards.
5. Remove Designation of approval agency. The statutes describe who is authorized to be the approving body on subdivision matters but it is not necessary to designate in the UDO and, given the shared responsibilities between Planning and Urban Design and the Development Services departments, it is best not to designate.
6. Update language on the option to provide a guarantee in lieu of construction improvements & remove language allowing an agreement in lieu of a performance guarantee. Update language to be simpler, more clear and consistent with statutes and remove the language that allowed an agreement in lieu of a performance guarantee. The agreement option was added during the recession and is no longer applicable.
7. Remove language on modifications. Same as above.
8. Amend and relocate language on phased development. Phased development is not a subdivision standard so it is recommended that it be relocated to the end of the article and that minor revisions are also made.
9. Remove two definitions. These are repeated in Article II – Definitions along with other definitions related to subdivisions. These are duplicative and should be removed.

Staff recommends approval of the wording amendment text modifying subdivision standards and review process as the amendment would revise and clarify existing regulations and is consistent with the Comprehensive Plan and other adopted plans in that it promotes infill development, updates development standards for orderly growth and development, and assists with the coordination of property development for access and transportation needs.

Councilwoman Mayfield suggested the enhanced notification requirement because people want an opportunity to be heard. This will allow an opportunity for the neighbors to have early interaction with the developer about what is going to happen in their neighborhood. It is critical that we allow neighbors an opportunity to speak and create a forum for real improvements to the development.

Mayor Manheimer opened the public hearing at 6:48 p.m.

When Mr. Timothy Sadler suggested that notices be mailed not only to property owners but residents of the properties, City Attorney Currin said the only way to track property owners is to use the County's tax records. He also requested the developer be required to send out a press release of the proposed project.

Mayor Manheimer closed the public hearing at 6:53 p.m.

There was a brief discussion, initiated by Councilwoman Mayfield, about requiring the developer to post a sign on the property announcing the neighborhood meeting. Ms. Tuch said that there may be a way to do that but it would be very difficult to enforce.

Mayor Manheimer suggested this be brought back in one year for an update the enhanced neighborhood meeting with developers.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the revised wording amendments to UDO Sections 7-2-5, 7-5-8 and 7-15-1, which modify the subdivision standards and review process, as amended by adding the new enhanced notification requirement, and find that the requests are reasonable, are in the public interest, and are consistent with the Comprehensive Plan and other adopted plans in the following ways: the amendments (1) promote infill development; (2) update development standards for orderly growth and development; and, (3) assist in coordinating the development of property for access and transportation needs. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 263

At 6:53 p.m., Mayor Manheimer announced a short recess.

BEGINNING OF CHANGE IN AGENDA:

NEW BUSINESS A:

A. RESOLUTION NO. 16-85 - RESOLUTION ADOPTING THE LEGISLATIVE AGENDA FOR THE SHORT SESSION

Mayor Manheimer said that this is the consideration of the Legislative Agenda for the 2016 Session of the North Carolina General Assembly.

Councilwoman Mayfield explained a deletion in what was sent out to the Council: The following statement under Environmental Stewardship has been removed: "Support legislation that strengthens the requirements for the clean up and disposal of coal ash in coal ash ponds along the French Broad River in a manner that is equitable to rate payers."

The agenda is below:

Municipal Authority
Like all municipalities in North Carolina, Asheville has unique economic, environmental, and cultural interests. Maintaining municipal authority to promote, regulate, and celebrate these interests is essential to enable local officials to best address local needs.

- Support legislation which preserves and/or enhances municipal authority, specifically:
  - Support legislation which enables municipalities' authority to opt in to regulating digital dispatching ("car sharing") services.
  - Continue municipal authority to establish and maintain Municipal Service Districts (MSD).

Municipal Revenue
The fiscal health and responsibility of municipalities require stable revenue sources that are proportionate to the need for local services. Responsible fiscal management requires the protection of revenue sources both under, and outside of, municipal control.

- Support legislation that enhances municipal fiscal sustainability, including:
  - Support legislation which restores lost revenue due to the repeal of Privilege License Tax authority.
  - Seek legislation to give municipalities the option to use electronic legal public notices in lieu of newspaper publication.
  - Oppose sales tax distribution reform that would decrease sales tax revenue to Asheville.

Mandates
Unfunded and burdensome legislative and regulatory mandates undermine the efficiency, effectiveness and success of municipal programs and services.

- Support legislation which enhances revenue for public education and transportation infrastructure without negatively impacting existing municipal revenues.

City Services
The City of Asheville, which provides high quality services to meet the dynamic needs of its residents, requires adequate authority and flexibility to finance, operate, and manage these services.

- Oppose legislation that limits or removes local control over public utility systems.
- Oppose legislation that limits municipal control of enterprise funds.
- Oppose legislation that removes or limits the authority of municipal building code enforcement officers. Proposals to remove building code enforcement officers' authority to order corrections during construction compromises public safety by limiting when corrections may occur solely to the design and review phase.

Transportation
A core responsibility of North Carolina's cities and towns is to provide for the safety and well-being of all transportation users while maximizing the gains to commercial and economic activity, arts, culture and entertainment, and quality of life for our residents, visitors and businesses.

- Maintain Powell Bill funding for municipal transportation infrastructure.
- Increase state funding for and preserve municipal authority to regulate, fund, and build multi-modal projects, including bike lanes, sidewalks, and traditional transit apparatuses. Preserve bicycle safety regulatory authority at the local level.
- Continue regional collaboration through active Municipal Planning Organizations (MPO) empowered to address region-specific transportation issues.
- Continue intergovernmental partnerships to plan, design, and build the I-26 connector.
- Maintain the independence of state transportation funding priorities through the data-driven Strategic Mobility Formula established by the Strategic Transportation Investments law (STI).

Economic Vitality

An economically vital community enables Asheville to provide for opportunity, mobility, and a high quality of life for its residents.

- Restore funding of the state's Housing Trust Fund.
- Increase funding of the Workforce Housing Loan Program.
- Restore the State Affordable Housing Tax Credit.

Community Standards

Asheville, the largest city in Western North Carolina, is nationally known for its natural beauty, rich architectural legacy, and entrepreneurial energy. In order to promote economic vitality in a manner that maintains the unique features that make our community a desirable place to live, work, and play, municipalities and local officials need to be enabled with the tools and authority to make local decisions.

- Oppose legislation that removes or limits local control of the regulation of trees.
- Oppose legislation that preempts municipal authority to regulate design and aesthetic controls in historic districts.

Environmental Stewardship

As a community committed to sustainability and environmental stewardship, Asheville needs adequate regulatory authority in order to maximize its partnership in environmental protection with state and federal agencies. As a city with a proud mountain heritage and identified as a destination for ecotourism and "green" industry, the Blue Ridge mountain region's natural beauty is recognized as a great benefit to the community. Environmental protection is essential to a high quality of life, cultural heritage, and economic development.

- Oppose legislation that would limit municipal authority to regulate environmental standards such as erosion control or stormwater quality.
- Continue to support the effective clean up and disposal of coal ash across the state.
- Increase funding to the state's natural resource focused trust funds.

Councilman Bothwell suggested (and it was agreed to by Council) that under Economic Vitality, repeal of Session Law 2016-3/House Bill 2 should be added.

When Mayor Manheimer asked for public comments, none were received.

Councilman Bothwell moved for the adoption of Resolution No. 16-85, with the addition to Economic Vitality as outlined above. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 37 – PAGE 464

END OF CHANGE TO AGENDA

V. UNFINISHED BUSINESS:

A. CONSIDERATION OF BEAUCATCHER GREENWAY PLANS

Councilman Bothwell moved to recuse Mayor Manheimer from participating in this matter due to a conflict of interest. She explained that one of her law partners represents someone who owns land affected by the Beaucatcher Greenway. This motion was seconded by Councilman Young and carried unanimously.

At 7:18 p.m., Mayor Manheimer left the dais and was not present for the remainder of the meeting.

City Greenway Coordinator Lucy Crown said that this is a review of the Beaucatcher Greenway section of the River-to-Ridge Greenway and Trail Network before proceeding to construction.

The City of Asheville (City) is in the formative state of developing a comprehensive greenway system that meets the needs and desires of the community. Greenways connect people to the places they live, work and play as well as preserve open space to promote air and water quality. Greenways consistently rank high on the community's list of infrastructure priorities and the city has been working diligently since the 1980's to advance the community's greenways goals.

Director of Parks & Recreation Roderick Simmons said that in 1920, City planner John Nolen started to author the first city plan (Nolen Plan) that delineated a circle of parks surrounding Asheville and major city parks in neighborhoods. The key component of the park system was an expansive overlook park along Beaucatcher Mountain, and open space connecting it to downtown Asheville and the surrounding neighborhoods.

The Nolen Plan, completed in 1922, identified a linear park along the Beaucatcher ridgeline overlooking downtown Asheville. Nolen's plan led to important land conservation by the City in 2008, without which today's Beaucatcher Greenway would not be possible. This action, along with a number of other key steps taken to implement concepts outlined in the Nolen Plan particular to the Beaucatcher Greenway, is highlighted below.

2008

- A key component of the implementation of the concepts outlined in the Nolen Plan occurred in 2008 with the acquisition of thirty acres of woodland covering the slope of Beaucatcher Mountain. The $2.6 million acquisition was the result of a successful funding partnership that included The Trust for Public Land, Buncombe County, City of Asheville, private donors and the State of North Carolina Parks & Recreation Trust Fund (PRTF). Asheville City Council (City Council) directed staff to apply for the PRTF grant for the land acquisition that would facilitate the development of Beaucatcher Greenway.

  The grant funds were awarded with the following conditions:

  "The site plan as submitted with this application is to be completed over a five year period. The first and second year will entail securing funds to survey, plan and design the park. The second and third year will involve fundraising to construct the project as well as developing construction drawings. The fourth and fifth year will entail project construction."

2009

- The Parks, Recreation Cultural Arts, and Greenways Master Plan, which supports the development of the Beaucatcher Greenway, was adopted by City Council.
- The Asheville Downtown Master Plan, which supports the development of vista parks to provide permanent public views of the downtown via the Beaucatcher Greenway, was adopted by City Council.
- A land exchange between the City and with owners of Festiva was approved by the City Council to enhance and extend the Beaucatcher Greenway experience.

2012

- $1.2 million was appropriated by City Council in the City's Capital Improvement Program (CIP) for pre-development cost such as acquiring easements, land surveys, conceptual design and construction drawings for the development of the Beaucatcher Greenway as

required by the land acquisition PRTF grant. Construction costs were expected to be added to the remaining budget when estimates became available.

2013

- City Council authorized a contract in the amount of $310,000 with Stewart Engineering, Inc. (project engineers) for Architectural and Engineering Services related to the design and development of construction documents for the Beaucatcher Greenway as an urban forest greenway.

  The project engineer has a proven track record for land design that limits environmental impacts, provides innovative stormwater management, reduces negative impact on water quality, reuses existing infrastructure, protecting green space and natural areas has help establish a reputation for being the best greenway designer in the state. In addition, the project engineer balances technical expertise with a commitment to safety, community health, aesthetic beauty and environmental stewardship.

  In recognition of its efforts in the field, Stewart Engineering was awarded the 2015 Landscape Architecture Firm of the Year by the NC State University faculty in Landscape Architecture.

The River to Ridge Greenway Network

The River to Ridge Greenway Network, which is intended to establish Asheville's first set of connected greenways, consists of the following: The Beaucatcher Greenway, French Broad River Greenways on the east and west banks, Town Branch Greenway; and Clingman Forest Greenway.

When necessary and appropriate, portions of these greenways will be connected by on-road facilities referred to as 'Greenway Connectors' that will provide improved pedestrian and bike facilities and wayfinding. When build out is completed (anticipated by 2020), the River to Ridge Greenway Network will be 10.25 miles of connected greenways.

The Beaucatcher Greenway

The Experience - The Beaucatcher Greenway provides a true mountain terrain experience with stunning views of downtown and the western mountains. As the City's population grows, public access to this type of urban outdoor experience will become more important.

Based on (i) a projected population increase of 14% by 2020; and (ii) plans to increase density through new zoning laws that will allow infill development and housing on smaller lots, access to quick and free open space and recreation opportunities will be a highly desirable and important amenity for maintaining the sense of place for which Asheville is recognized.

The Beaucatcher Greenway, which has been included in several planning efforts that received broad public participation and support including the 2008 Asheville Greenway Master Plan and 2012 Update, has been identified as a high priority project.

The Route and Design - The proposed Beaucatcher Greenway, a 1.25 mile route along a wooded corridor with commanding views of downtown Asheville, will connect the old White Fawn Reservoir (future park) and the old Beaucatcher Reservoir (future park) and is intended to serve as a major connection to Memorial Stadium, Mountainside Park, McCormick Field and the Town Branch Greenway corridor.

Traveling from McCormick Field parking lot to Helen's Bridge along the side of Beaucatcher Mountain, the completed trail will consist of a 10-foot wide asphalt trail that is accessible for trail users of all ages, abilities, and socio-economic demographics. Equitable access will be provided to incredible vistas of downtown Asheville nestled in the surrounding Blue Ridge Mountains.

As the City develops its young greenway system into a mature connected network, design efforts are focused on assets that are in harmony with the environment and infrastructure. The Beaucatcher Greenway is being designed with the guiding principles that impacts will be (a) minimal on the existing natural green space, private property, and (b) safe for pedestrians, hikers, bikers, and drivers. The community's strong value for and commitment to the environment has been communicated to the project engineers in order to ensure a design that minimizes impact on trees, stormwater system, and environment. Staff recognizes these are vital, functioning parts of the city's infrastructure and ecosystem.

Materials used along the greenway for walls, signs, seating and other amenities will complement the area's natural environment, cultural history, architectural influences and adjacent landforms. The selected materials will create a consistent feel along the greenway and trailheads that results in an identity for the Beaucatcher Greenway and connecting parks.

The Alignment - The first section of the Beaucatcher Greenway focuses on the following:

- off-road connection to Memorial Stadium,
- an on-road section along White Fawn Dr, and
- an off-road section beginning at the existing terminus of White Fawn Drive that ultimately connects to Ardmion Park.

Because of the steep grades along the route from Memorial Stadium, switchbacks will 1) be necessary to achieve accessible grades for all trail users and 2) minimize runoff.

The second section of the Beaucatcher Greenway focuses on the off-and on-road segments along Ardmion Park. Due to limited width, the on-road section design includes sidewalk and 'sharrows.' Sharrows are pavement markings that alert drivers that cyclist will likely be present on the road. Sharrows do not create a separate bike lane but rather signal that the road is to be shared.

Lastly, the third final section continues to focus on the off-road greenway segment which follows the right of way along Ardmion Park to its connection with Beaumont Street. The on-road portion trail along the Beaumont Street and College Street is a combination of sidewalk and sharrows leading up to the Helen's Bridge access.

Environmental Assessment - A formal environmental assessment as outlined in National Environmental Protection Act (NEPA) was not required for the Beaucatcher Greenway for the following reasons:

1. The funding sources secured to complete this project do not require the completion of an environmental assessment; and
2. Since 98% of the Beaucatcher Greenway corridor is located within or adjacent to a disturbed right-of-way (previously graded and sometimes in the form of paved streets) or disturbed drives (previously graded), an informal environmental assessment is considered reasonable in terms of best practices and cost. The project engineer was directed to locate the greenway within the existing rights-of-ways to minimize environmental impacts.

In order to ensure that the greenway construction would have minimal environmental impact, the project engineer was directed to assess the siting of the greenway in terms of various

important environmental conditions. Assessments included but were not limited to forest ecology survey, tree survey, soils analysis, stream analysis, important cultural features, and stormwater impacts

Comprehensive Tree Survey - A comprehensive tree survey was conducted with the the goal of providing useful information on the trees in order to help the project engineers make informed decisions about the greenway alignment. Based on the information received from the survey, the project engineers were able to decide what to do with the trees as it pertains to the greenway alignment. This information allowed the project engineers to determine which trees needed to be retained, and which trees could be removed.

The survey revealed information such as:

- Species of the tree based on scientific name.
- Physical measurements of the tree such as height and diameter.
- Age of the tree.
- Overall health of the tree.
- Life expectancy.

The comprehensive tree survey gave a good sense of what is on the particular pieces of land surround this greenway alignment. A summary of the results follows:

Summary	*Total*	*To Remain*	*To Be Removed*
Trees within Greenway Alignment	**408**	**301**	**104**

Breakdown by Greenway Map Section

DESCRIPTION SECTION 1	Total Trees	To Remain	To be Removed
Total Trees 1" to 10"	41	34	7
Total Trees 11" to 23"	87	76	11
Total Trees 24" or larger	33	25	8
	161	**135**	**26**

DESCRIPTION SECTION 2	Total Trees	To Remain	To be Removed
Total Trees 1" to 10"	49	25	24
Total Trees 11" to 23"	63	36	27
Total Trees 24" or larger	6	6	0
	118	**67**	**51**

DESCRIPTION SECTION 3	Total Trees	To Remain	To be Removed
Total Trees 1" to 10"	48	33	15
Total Trees 11" to 23"	60	48	12
Total Trees 24" or larger	21	18	3
	129	**99**	**30**

Greenway Design Alternatives - The current alignment was developed following the exploration of various alternatives. Factors considered in determining alignment alternatives included but were not limited to construction costs, Americans with Disabilities Act (ADA) compliance, environmental impacts, neighborhood input, and constructability. As the project engineers developed the greenway design, the existing conditions of the forest were assessed for environmental sensitivity. The Beaucatcher Greenway has been designed and will be constructed in a manner that minimizes impact on the existing natural green space, private property, and is safe for pedestrians, bikers, and drivers.

Community Input - During March 2016, the City actively sought community input about the Beaucatcher Greenway. The opportunities for input included (a) a public informational open house on March 16; (b) a Beaucatcher Greenway website offered through the project engineer with a function for feedback; and (c) an 'Open City Hall' on-line engagement tool available for public comment from March 22 to April 3.

In the Open City Hall forum, there were 332 attendees who contributed 5.6 hours of public comments. There were 92 on-forum statements and 20 off-forum (unverified) statements.

The information through these various avenues was compiled and categorized into five groups:

- **Yes!:** Absolute support of the greenway plan;
- **Yes, but...:** General support of the greenway and its progress with constructive criticism such as a preference to not using asphalt;
- **No because:** Unsatisfied with the greenway for a particular reason but would like the greenway if that issue were fixed;
- **No! :** Absolutely not in favor of the greenway; and
- **? :** Input is unclear or does not give enough information to be categorized (e.g., "Trees are good.").

The following table summarizes the results of the March 2016 community input efforts. All comments are available on the Project Page:

Response	Paper surveys	Online survey	Open City Hall	Total
Yes!	61	13	89	163
Yes, but...	14	4	7	2
No because	4	12	8	24
No!	7	5	7	19
?	1	4	1	6

Beaucatcher Greenway Project Funding and Budget - The Beaucatcher Greenway budget, which is part of the City's Capital Improvement Program (CIP), is comprised of funds from 2012 limited obligation bonds (LOBs) and a Tourism Product Development Fund (TPDF) grant awarded in 2015. It is important to note that the City is not eligible to receive the TPDF grant funding until the project is completed as specified in the grant award. To date, $331,811 of the City's contribution has been spent. With the additional funding from TPDF, the available project budget is $1,854,970. Stormwater staff reviewed the preliminary plans and do not anticipate a

need to allocate stormwater funds towards the project in order to address stormwater or erosion control issues.

The following is the budget to-date revenues and expenditures:

Beaucatcher Overlook 29.62 Acres	$575,000.00
Land Acq and Surveying for Greenway	$17,346.50
Cost in Design YTD	$294,132.87
Remaining Encumbrance	$37,678.31
Total Cost to Date	**$349,157.68**
Remaining City dedicated funds	$929,969.00
TPDF Grant	$925,000.00
Total dedicated funding remaining	**$1,854,969.00**
Total invested in the project	**$2,779,126.68**

The project engineer, which completed approximately 95% of the construction drawings and specifications, has provided preliminary cost estimates for the Beaucatcher Greenway. Based on the preliminary estimates detailed below, the completion of the Beaucatcher Greenway needs an additional appropriation of $972,137 for a total investment of $3,751,264.

In order to meet the financial needs of this project, funds previously planned for the John B. Lewis soccer field turf replacement will be reallocated to the Beaucatcher project. Turf replacement will proceed; the TPDF awarded grant funds speeding up the timeline of the turf project and allowing the reallocation of funds.

The reallocation of funds does not affect the cash flows or debt model. Unless otherwise directed, staff will proceed with the reallocation of funds from turf replacement to Beaucatcher Greenway.

Component	Base bid cost	% of base bid
L3 White Fawn Drive to Ardmion off road section	600,304	23.4
L4 Ardmion Park Road on Road Section • Has value engineering options that the project engineer is evaluating	269,094	10.5
L5 Alexander Drive to Skyclub/ Petersons • Has value engineering options that the project engineer is evaluating	758,399	29.5
L6 Skyclub on Road Section	268,174	10.4
L7 South Beaumont/ College Drive One Way Option on road section Skyclub Roadway to Lower Helen's Bridge • This is a value engineered component	283,639	11.0

L8REV - White Fawn Drive on Road Section	188,011	7.3
L9 Memorial Stadium to White Fawn Drive Off Road Section • Has value engineering options that the project engineer is evaluating	202,474	7.9
Total Probable Base Bid	**2,570,096**	**100**
Construction Phase Contingency	257,010	10%
Total Construction Cost (TCC)	**2,827,106**	**110%**

The table below outlines the estimated cost per mile for the project and how it compares with other completed or designed greenway projects.

Designs not completed -In Progress (Cost of the project unknown)

Name	Length in Miles	Targeted Start of Construction	Estimated assumption of unknown cost
Greenway Connectors	1.09	FY 17	$120,000
French Broad River Greenway West- Progress Energy	1.2	FY 17	$2,809,262
French Broad River Greenway - East	2.2	FY 17	$2,500,000
Beaucatcher Overlook Greenway	1.25	FY 16	$2,827,106
Total	5.74		

Design and Cost Estimations Completed

Name	Length in Miles	Targeted Start of Construction	Completed Cost Estimates (Projected budget)
Town Branch Greenway	0.72	FY 17	$2,465,930
Clingman Forest Greenway	0.45	FY 17	$2,761,563
Total	1.17		

Miles of Greenways under Construction

Name	Length in Miles	Construction Started	Approved budget for project

French Broad River West- New Belgium (Craven)	0.45	FY 15-16	$2,913,090
Total	0.45		

White Fawn Reservoir connector - Upon completion of the Beaucatcher Greenway, a connection to the future park will need to be built at the greenway terminus. This connector is not designed and cost estimates are not available at this time.

As outlined in this report, the Beaucatcher Greenway has been a project in development for some time. City Council has taken actions over the past several years to (i) adopt plans that support the construction of the Beaucatcher Greenway; and (ii) allocate funding through the City's CIP and TPDF grant funding. The design phase of the Greenway is nearing completion as anticipated in the Architectural and Engineering Services contract approved by City Council in 2013. In accordance with that policy direction, unless otherwise directed, staff is prepared to

(a) complete the design phase;
(b) move into the competitive bid process for construction of the Greenway; and
(c) include the reallocation of capital funds for the John B. Lewis soccer field turf replacement project to the completion of the Beaucatcher Greenway in the Recommended FY 2016-2017 to FY 2020/2021 Capital Improvement Program. The soccer field turf replacement project is funded through the Asheville Buncombe Youth Soccer Association and TPDF grant funding.

Once the bid process is complete, a bid award and contract for construction would proceed to the City Council for approval.

Ms. Iona L. Thomas, Bicycle & Pedestrian Practice Manager for Stewart Engineering Inc., reviewed with Council the current design, alternative design options, and addressed questions about potential design alternatives. With the three alternate design options (Beaumont Street; Ardmion Park Driveway; and Memorial to White Fawn) explained earlier, will result in roughly ½ Million in savings to the project.

Vice-Mayor Wisler opened for public comment at 8:05 p.m. explaining that unless directed by Council, staff will proceed with the RFP process (to include alternative design options). Once the bid process is complete, a bid award and contract for construction would proceed to City Council for approval.

The following individuals noted that even though most are not opposed to greenways, they do have concerns, some being, but are not limited to: maximum grade is too high; too many high retaining walls; views from homes will be views of retaining walls; tree removals; safety of people using the greenway and also those who live next to it; vehicular vs. greenway traffic conflicts; need for bear-proof fencing and warning signs; Sky Club is not a park and owners should not have strangers walking by their property; people already ask to get through Sky Club gates; historic ambiance will be adversely affected; materials are not consistent with the Sky Club; concern of extent of asphalt paving; erosion should be a priority; progressive landscapers should donate or bid on sections to show how it should be built; concern about crime in the area of the greenway; and rock erosion should be addressed:

Mr. Geoff Kimmish
Ms. Nancy Brown, President of the Skyclub Association
Mr. Steve Rasmussen
Previous resident of the Skyclub
Ms. Jan Kubiniec

The following individuals spoke in support of the Beaucatcher Greenway (and encouraged City staff and consultants to continue to seek ways to minimize impacts and address concerns of the community) for several reasons, some being, but are not limited to: dual greenway-sidewalk design which will combine a traditional greenway path through wooded areas and will transition to an urban pathway and sidewalk when the route approaches residential areas; greenway will provide both transportation and recreation benefits; greenway is just steps from downtown and will connect two future privately-funded mountain parks at either end enabling people to see great views without having to drive far or own a house on the mountain; studies show that being in nature positively impacts physical and mental health; greenway will enable people of all ages and abilities to easily access the 30-acre wooded property; the greenway will be well-used since over 5,000 people live within ¼ mile of the greenway; the diverse surrounding neighborhood has a median household income of approximately $31,000 and some of the most affordable housing is adjacent to the greenway; the greenway will serve as an important transportation connector to the Kenilworth neighborhood providing an alternative route for those residents to access downtown; greenway will also connect to downtown residents and workers of Mission Hospital and adjacent medical offices; centrally located greenway will be an asset to central and east Asheville neighborhoods which are currently underserved as most of the greenways are in north and west Asheville and the River Arts District; construction of the trailhead at Memorial Stadium since it has ample parking and restrooms and will alleviate the problem of visitors parking on or near White Fawn Drive; the trail embodies equity and access; if the project is stalled, it will have a rippling effect in the donors of the community; 1,038 people have signed a petition in support of the greenway; greenway will help reduce cars on the road resulting in a reduction of automobile and pedestrian traffic accidents; support for modifications described by consultant that will reduce costs and environmental impacts; greenways are essential to the quality of life; and more people on the greenway will make it safer for everyone:

Mr. Bruce Emory, Chair of the Multimodal Transportation Commission
Ms. Mary Weber, member of the Multimodal Transportation Commission and Chair of the Greenway Committee
Ms. Suzanne Molloy, President of Friends of Connect Buncombe
Ms. Dana Davis, Board member on the Board of Asheville Parks and Greenways Foundation
Ms. Linda Giltz, former Chair and member of the Greenway Committee
Ms. Terri March
Ms. Sharron Trammell, resident on Beaucatcher Mountain
Ms. Kim Roney, member of the Multimodal Transportation Commission
Mr. Mike Soule, Director of Asheville on Bikes
Ms. Claudia Nix, Kenilworth resident
Mr. Bob Roepnack, representing Friends of the Beaucatcher Overlook Park and Asheville Greenworks
Mr. Tom Sawyer, real estate investor

Vice-Mayor Wisler closed public comments at 9:07 p.m.

In response to Councilman Bothwell, Ms. Thomas said that the greenway follows the existing roadway grade.

Councilman Bothwell was pleased with some of the alternatives will save money in addition to eliminating some of the massive retaining walls, possibility of not removing the gate, cutting fewer trees, and saving the red oak tree. He believes we would be better off to do flat stretches of the greenway first because it should be cheaper, but would favor moving forward with the RFP.

Councilman Smith said it was time to get this greenway completed since we have the money, support and expertise.

City Manager Jackson said that at this time staff will go out for bid with the design (and alternates) and it will come back to Council for action on a contract with the lowest responsible bidder(s) with costs associated, with a budget amendment, if necessary.

VI. NEW BUSINESS:

B. BOARDS & COMMISSIONS

Regarding the Haywood Street Advisory Team, the following individuals applied for this vacancy: Grant Millin, Byron Greiner, Rob Carroll, Leslie LeBlanc, Gary Anderson, Susan Jones, Richard Fort and John Tyler Barnes. It was the consensus of Council to re-advertise to ensure that the applicant pool represents a broad cross section of the community.

RESOLUTION NO. 16-86 - RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Public Art & Cultural Commission.

Ms. Jenny Bowen has resigned as a member, thus leaving an unexpired term until June 30, 2017.

The following individuals applied for this vacancy: Monika Gross, Audra Gaiziunas, Ron Laboray, Matthew Lands and Alyssa Dryfus.

On April 12, 2016, the Boards & Commissions Committee recommended appointing Ron Laboray.

Vice-Mayor Wisler moved to appoint Ron Laboray as a member to the Public Art & Cultural Commission to serve the unexpired term of Ms. Bowen, term to expire June 30, 2017, or until his has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 16-87 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Recreation Board.

Ms. Laura Carlson has resigned as a member, thus leaving an unexpired term until June 30, 2017. In addition, Mr. Forrest Merithew has resigned, thus leaving an unexpired term until June 30, 2018.

The following individuals applied for this vacancy: Megan Archer, Zachary Eden, Ken Miller, Sheneika Smith and Tiffany DE'Bellott.

On April 12, 2016, the Boards & Commissions Committee recommended appointing Megan Archer and Sheneika Smith.

Vice-Mayor Wisler moved to (1) appoint Sheneika Smith as a member to the Recreation Board to serve the unexpired term of Ms. Carlson, term to expire June 30, 2017, or until her has been appointed; and (2) appoint Megan Archer as a member to the Recreation Board to serve the unexpired term of Mr. Merithew, term to expire June 30, 2018, or until her successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Vice-Mayor Wisler adjourned the meeting at 9:21 p.m.

Magdalen Bourasson
CITY CLERK

Esther Manheim
MAYOR

Tuesday – April 26, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Councilwoman Julie V. Mayfield (City business)

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "UNC-ASHEVILLE WOMEN'S BASKETBALL DAY"

PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "UNC-ASHEVILLE MEN'S BASKETBALL DAY"

Mayor Manheimer read the proclamations proclaiming April 26, 2016, as "UNC-Asheville Women's Basketball Day" and "UNC-Asheville Men's Basketball Day" in the City of Asheville. She presented the proclamations to Coaches Mick McDevitt and Brenda Mock Kirkpatrick, and several players.

B. PROCLAMATION PROCLAIMING APRIL 26, 2016, AS "SUPPORT PUBLIC SCHOOLS DAY"

Vice-Mayor Wisler read the proclamation proclaiming April 26, 2016, as "Support Public Schools Day" in the City of Asheville. She presented the proclamation to Mr. Steve Agan, Asheville City Schools Foundation Board Member; Ms. Debby Maugans, President of the ACS Foundation Board; Ms. Kate Pett, Executive Director of the ACS Foundation; Mr. Spencer Cranfill, ACS Foundation Advocacy Coordinator; and others who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING MAY, 2016, AS "BUILDING SAFETY MONTH"

Councilman Bothwell read the proclamation proclaiming May, 2016, as "Building Safety Month" in the City of Asheville. He presented the proclamation to Director of Development Services Jason Nortz and Chief Code Official Mark Matheny, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 12, 2016

B. RESOLUTION NO. 16-88 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LEASE OF CITY-OWNED PROPERTY AT 224 LOUISIANA AVENUE WITH THE UNITED STATES OF AMERICA FOR CONTINUED OPERATIONS OF AN ARMY RESERVE CENTER

Summary: The consideration of a resolution authorizing the City Manager to execute a lease of city-owned property at 224 Louisiana Avenue with the United States of America for continued operations of an Army Reserve Center.

The City of Asheville owns approximately 8.857 acres of real property at 224 Louisiana Avenue. The property has been leased to the USA for public purposes since 1950's. The existing improvements, including a single-story gym, office building and vehicle garage, were constructed by the USA. Currently, the 81st Regional Support Command (RSC) of the US Army Reserve operates out of the facility, serving as a base of operations for 3 units including an Engineering, Medical and Training Unit. There are 12 full-time staff on premises and approximately 200 soldiers reporting in to this site.

The City initially leased the property to the USA in 1950 for 50 years at a rental rate of $1 per year. When the lease expired in 2000, both parties agreed to establish a new lease at fair market value, for a term of 6 years. In 2006 and thereafter in 2011, Council authorized lease arrangements for this use, at rental rates consistent with fair market value and at reasonable terms.

The current lease with the USA expired December 31, 2015 and the lease has continued on a month to month basis. At this time, the USA has requested a lease of the property for a period of 5 years. City staff procured an appraisal to determine the fair market value of the lease, and the new rental rate is recommended at the appraisal amount of $110,000 per year. This rate is comparable to the current rate of $99,700 per year. Over the five year term of the lease, staff recommends increasing this rate at 3% per year to maintain consistency with fair market value. The proceeds of the lease benefit the City's General Fund and are allocated as part of the Council budget process each year.

There are land use considerations that provide context to the recommendation concerning the lease proposal. The City of Asheville also owns the adjoining parcel to the west of 224 Louisiana Avenue, a 7+ acre tract known as the Falconhurst property. This parcel was donated to the City of Asheville by the Conservation Trust for North Carolina for the purpose of forest preservation. The deed into the City was accompanied by a conservation easement with several land use restrictions. The restrictions limit built improvements to a great degree, and specify that the property can be used for unpaved, mulched walking trails and passive recreational uses. The Southern Appalachian Highland Conservancy performs an annual audit of the property to monitor the City's compliance to the deed restrictions and the health of the forest. Currently the Falconhurst property is not accessible to the general public and the City has not allocated staff, maintenance or capital budget dollars to improve the property to allow for public access. The City property at the US Army Reserve Center is the only city-owned point of access into the Falconhurst property, however certain homeland security, safety, and control measures needed for the operation of the US Army Reserve Center discourages and prevents any public access to the Falconhurst property through the leased area.

The city-property at 224 Louisiana is in close proximity to the commercial corridor of Patton Avenue. Staff expects that the Comprehensive Planning efforts will inform the future vision and land use for the Patton Avenue corridor and in turn, provide land use considerations for the future use of the city property as well. The recent Council visioning process established that the creation of affordable housing and the maintenance of high-performing city-service facilities are critical to the City's future. This parcel of city-owned land, together with the Falconhurst Natural Area, presents an opportunity for the City to consider in terms of future use.

It is evident in discussions with the tenant that the relocation of an Army Reserve Center requires generous lead-time and an action by the U.S. Congress. The revenue from the property benefits the General Fund and is fair market value. The City planning efforts will inform the vision for the corridor and the site and the timeline for the Comprehensive Planning process is aligned with the term requested for the lease renewal.

On March 22, 2016, the Finance Committee recommended approval of the lease proposal from the USA of 5 years, $110,000 per year, with 3% annual increases, for the continued use of the property as an Army Reserve Center. This action aligns with the City Council 2036 Vision by complying with the goal of being a 'Smart City' in that lease revenue allows the City to diversify its revenue base. This action also supports the City's intent to be a 'Connected and Engaged Community', through a continued relationship with the Federal Government and local/regional reservists via this lease arrangement.

Pros:

- Lease rate at fair market value that benefits the City's General Fund
- Lease term aligns with City Comprehensive Planning efforts

Con:

- None noted.

Consistent lease revenue benefits the general fund at $110,000 per year plus 3% annual increases in that rate each year thereafter.

Staff recommends adopting the following resolution to authorize the City Manager to execute a lease of city-owned property at 224 Louisiana Avenue to the United States of America for continued operations of an Army Reserve Center – 81st RSC.

Councilman Smith hoped that at the conclusion of this lease that the City tries to repurpose the site for housing or other City uses, including the greenway linkage.

RESOLUTION BOOK NO. 38 - PAGE 1

C. RESOLUTION NO. 16-89 - RESOLUTION WHITE ASH DRIVE EAST AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept White Ash Drive East as a city-maintained street.

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. Biltmore Park agreed to a voluntary annexation contingent to the acceptance of the streets in Biltmore Park provided they are constructed to City standards. White Ash Drive East was constructed to City standards but inadvertently never accepted by the City for public maintenance (Previously, Yellowood Lane, a section of Red Cedar Lane, a section of White Ash Drive, and Shortia Lane were inadvertently not accepted but City Council approved these streets as city-maintained streets on May 24, 2011).

White Ash Drive East from White Ash Drive to Viburnum Lane / Dearborn Street is a developer-constructed street that has an average width of 23 feet with valley curb, a length of 0.22 mile, and a right-of-way width of 45 to 50 feet.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- Complies with the voluntary annexation agreement with Biltmore Farms that the City would accept streets built to City standards.
- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.

- The street provides access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept White Ash Drive East as a city-maintained street.

RESOLUTION BOOK NO. 38 - PAGE 2

D. RESOLUTION NO. 16-90 - RESOLUTION ACCEPTING OCASO DRIVE, PACIFICO DRIVE AND VERANO COURT AS CITY-MAINTAINED STREETS

Summary: The consideration of a resolution to accept Ocaso Drive, Pacifico Drive, and Verano Court as city-maintained streets.

Code of Ordinances Sec. 7-15-1(f)(4)a requires that streets dedicated for public use be accepted by resolution of the City Council. When originally constructed, the Bonito Ocaso Subdivision was a gated, private community and the streets were privately-maintained. The Bonito Ocaso Homeowners Association has removed the gates and asked the city to accept the streets as city-maintained streets.

Ocaso Drive from Crowell Farms Drive to Pacifico Drive is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.29 mile, and a right-of-way width of 45 feet.

Pacifico Drive from Crowell Farms Drive to Ocaso Drive is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.25 mile, and a right-of-way width of 45 feet.

Verano Court from Pacifico Drive to its dead-end is a developer-constructed street that has an average width of 22 feet with valley curb, a length of 0.04 mile, and a right-of-way width of 45 feet.

City staff has inspected the subject streets and determined that they were constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject streets will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The streets provide access in a residential community.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Ocaso Drive, Pacifico Drive, and Verano Court as city-maintained streets.

RESOLUTION BOOK NO. 38 - PAGE 4

E. RESOLUTION NO. 16-91 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH CAROLINA CORNERSTONE CONSTRUCTION INC. TO RENOVATE THE CARRIER PARK MULTI-PURPOSE BUILDING

ORDINANCE NO. 4493 - BUDGET AMENDMENT FOR CARRIER PARK MULTI-PURPOSE BUILDING RENOVATIONS

Summary: The consideration of 1) a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction, Inc. to renovate the Carrier Park multi-purpose building in the amount of $274,108.00 plus a contingency of $15,892.00 for a total of $290,000.00; 2) a budget amendment in the amount of $290,000.00 from Parks and Recreation Department General Fund deferred maintenance operating budget to establish a capital project in the General Capital Projects Fund.

The existing structure, including registration areas, storage, systems and restrooms at Carrier Park have exceeded their life expectancy, are in poor condition and have conditions that constitute code violations. As a result, funding has been identified within the City's capital improvement plan and the Parks and Recreation Department deferred maintenance cost center for the renovation.
In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received three bids plus alternates.

1. Carolina Cornerstone Construction, Inc., Asheville, NC ($274,108.00)
2. B. Allen Construction, Candler, NC ($275,783.84)
3. Patton Construction Group, Inc., Arden, NC ($288,600.00)

After thorough review and evaluation, staff selected Carolina Cornerstone Construction, Inc., PO Box 6779, Asheville, N.C., as the lowest, responsible bidder. The base bid plus alternates accepted was $274,108.00.

The Parks and Recreation Department deferred maintenance cost center in the General Fund is designated for minor repairs and improvements for parks and recreation facilities. There are projects budgeted on the cost center in the current fiscal year that relate to capital projects. This includes $290,000 for the cost of renovation of the Carrier Park Multi-Purpose Building ($274,108.00) plus contingency ($15,892.00).

Staff requests City Council to approve the budget amendment in the amount of $290.000.00 to increase the capital project for the Carrier Park multi-purpose building renovation in the General Capital Project Fund from the Parks and Recreation Department deferred maintenance budget.

Pros:

-
- Corrects accessibility and code compliance issues.
- Improves security of storage of equipment used for roller-hockey, cycling and other park uses.
- Improves security and function of the registration area.
- Improves safety and service of restrooms, including replacement of outdated/broken fixtures and finishes.

- Creates a gender neutral, family changing and restroom area

Con:

- During renovation, alternative arrangements will be required for on-site storage and event registration.
- Portable restrooms will be required during renovation.

The $274,108.00 plus contingency of $15,892.00 to support the Carolina Cornerstone Construction, Inc. contract to renovate the Carrier Park multi-purpose building is budgeted in the Parks and Recreation Department General Fund operating budget as part of the deferred maintenance budget. Due to the nature and size of the project, Finance staff recommends the contract be budgeted in the General Capital Projects Fund rather than the General Fund. A budget amendment is required to move the funding between the two funds.

Staff recommends that the City Council adopt 1) a resolution authorizing the City Manager to enter into a contract with Carolina Cornerstone Construction, Inc., to renovate the Carrier Park multi-purpose building for an amount of 274,108.00 plus a contingency of 15,892.00 for a total of $290,000.00; and 2) a budget amendment in the amount of $290,000.00 from Parks and Recreation Department General Fund deferred maintenance operating budget to establish a capital project in the General Capita Projects Fund.

RESOLUTION BOOK NO. 38 - PAGE 6
ORDINANCE BOOK NO. 30 - PAGE 274

F. RESOLUTION NO. 16-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE APPRENTICE/INTERN PROGRAM FOR FISCAL YEAR 2016-17

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the N.C. Dept. of Transportation (NCDOT) to fund the Apprentice/Intern Program for Fiscal Year (FY) 2016-17.

The NCDOT Public Transportation Apprenticeship Program gives current college seniors the opportunity to work in the field of public transportation management upon receiving their undergraduate degree. The 12-month program, which starts July 1st, provides exposure to all aspects of a transit system and allows apprentices to gain experience in managing public transportation operations.

The City applied for this program and was granted funding. A selection program will be conducted by the NCDOT before the beginning of the fiscal year. The apprentice will work in the Transportation Planning Division, Transportation Department, performing transit specific tasks, as required by the grant. The apprentice will assist with route planning, analysis of transit related surveys and procurement processes and special projects.

FY 2016-17 funding totals $32,432. The NCDOT will provide 90% of the anticipated funding ($29,188), and the City will provide the remaining 10% ($3,244). The grant funding and the City's local match in the amount of $3,244 are currently budgeted in the Transportation Department's proposed budget for Fiscal Year 2017.

Pros:

- The subject grant supplements funding for an apprentice position for FY 2016-17.
- The subject grant enables the City of Asheville to use $29,188 in State funds for transit planning activities.

Con:

- A 10% local match in the amount of $3,244 is required.

The total grant funding for Fiscal Year 2016-17 is $32,432. The City is required to provide a 10% local match in the amount of $3,244. The anticipated grant funding and the City's local match in the amount of $3,244 are currently budgeted in the proposed Transit Services fund.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the NCDOT to fund the Apprentice/Intern program for FY 2016-17.

RESOLUTION BOOK NO. 38 - PAGE 7

G. RESOLUTION NO. 16-93 - RESOLUTION AUTHORIZING THE CITY MANAGER ENTER INTO A CONTRACT WITH ROGERS GROUP INC. FOR THE ASPHALT PAVING IMPROVEMENTS 2016 PROJECT

ORDINANCE NO. 4494 - BUDGET AMENDMENT FOR THE ASPHALT PAVING IMPROVEMENTS 2016 PROJECT

Summary: The consideration of (1) a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $1,798,261.65 plus a contingency of 11.47% ($206,255.95) with Rogers Group, Inc. for the project known as Asphalt Paving Improvements – Fiscal Year 2016, City of Asheville Project #ST-15-16-002, and further authorizing the execution any change orders to said contract which may arise during construction of said project up to the budgeted amount of $2,004,517.60; and (2) a budget amendment in the amount of $110,517.60 to appropriate previously unbudgeted revenue from the Metropolitan Sewerage District (MSD) and Buncombe County Schools associated with the paving program, and to move savings from FY2014-15 projects in the General Fund over to the FY 2015-16 paving project in the General Capital Projects Fund.

The following list of streets was put together to be addressed by this contract:

Asphalt Paving FY16			
Street	From	To	Length (LF)
Braddock Way	All		4,000
Lakeshore Drive	Merrimon Avenue	Mt. Vernon Place	1,125
N. Bear Creek Road	Patton Avenue	Old County Home Road	6,534
N. Oak Forest Drive	All		2,211
Westridge Drive	N. Oak Forest Drive	Springside Road	1,200
Old Haw Creek Road	Middlebrook Road	Bethesda Road	5,026
Middlebrook Road	Old Haw Creek Road	New Haw Creek Road	1,216
Patton Avenue	N. French Broad	College Street	1,257
Washington Road	All		1,900
Broad Street	Washington Road	N. Liberty Street	425
Victoria Road	Meadow Road	McDowell Street	5,685
W. Chapel Road	Hendersonville Road	Marietta Street	1,188
Woodland Road	Sunset Parkway	Ridgewood Place	2,200
		Total	33,967

			6.43 miles

The project was advertised on February 26, 2016, and due to an insufficient number of bids, advertised again on March 23, 2016. Bids were opened on March 31, 2016, with the following results:

Rogers Group, Inc. of Nashville, TN,	$1,798,261.65
Harrison Construction Company of Asheville, NC	$2,099,495.36

A 11.47% contingency ($206,255.95) has been added to allow payment for any unforeseen costs that typically arise during construction and to do additional street resurfacing. The work produced from this contract would fix a number of roads that are in need of repair.

Pros:

- Will repair approximately 6.43 miles of roadways within the Asheville City limits.
- Will improve mobility and safety on city streets.

Con:

- Construction will be disruptive to adjacent residences and businesses.

The total budget for this project, including contingency, is $2,004,517.60. The budget amendment allows for the use of previously unbudgeted revenue along with savings from FY 2014-15 projects.

City staff recommends City Council adopt (1) the resolution awarding the contract to Rogers Group, Inc. for the Asphalt Paving Improvements – Fiscal Year 2016 Project and execute any change orders; and (2) adopt the associated budget amendment.

At the request of Councilman Smith, Public Works Director Greg Shuler spoke about how the City rates streets for repaving, the condition of Michigan Avenue (cost to repave the entire section is $650,000), and their attempt to communicate with citizens on when their streets may be expected to be paved.

Mr. Alan Ditmore felt that if roads are repaved, they only encourage speeding.

RESOLUTION BOOK NO. 38 - PAGE 8
ORDINANCE BOOK NO. 30 - PAGE 276

H. RESOLUTION NO. 16-94 - RESOLUTION SETTING A PUBLIC HEARING ON MAY 10, 2016, TO CONSIDER THE ISSUANCE OF 2016 LIMITED OBLIGATION BOND ANTICIPATION NOTES

Summary: The consideration of a resolution authorizing and directing the City Manager or the Chief Financial Officer, with advice from the City Attorney and Bond Counsel, to proceed and negotiate on behalf of the City for the financing of the 2016 Projects for a principal amount not to exceed $46,000,000 under the Contract Amendment to be entered into in accordance with the provisions of Section 160A-20 of the General Statutes of North Carolina.

The issuance of Limited Obligation Bonds (LOBs) represents a construction debt issue in the City's draw-program financing for the City's Capital Improvement Program (CIP). Proceeds will replenish City funds for reimbursement resolutions in place that have allowed interim funding of the City's CIP adopted in FY 2013-14 through Treasurer's cash. The LOBs will also allow projects to continue as scheduled in the CIP.

Representatives from the City and the City's Financial Advisors, DEC Associates, met with the LGC on April 8, 2016, and received preliminary approval to proceed with an RFP for the bonds. A formal LGC application will be filed for approval at the June LGC meeting.

Pro:

- Allows the City to move forward with the draw program funding of the CIP.

Con:

- None noted.

Fiscal Impact: This is the first debt issued as part of the long-term capital program. This short-term draw LOBs issue is expected to be refinanced with long-term obligations next year. This issue will reimburse Treasurer's cash and provide funding for ongoing projects. Debt service is conservatively estimated at $540,000 in interest beginning in FY 2016-17. The first principal payment is due in FY 2018-19 and will be approximately $1.8 million. Principal payments will remain at $1.8 million from FY 2019-2026 while shorter-lived assets are amortized. Principal payments will drop below $1 million after FY 2025-26.

Staff recommends that City Council approve the resolution as it is proposed.

RESOLUTION BOOK NO. 38 - PAGE 9

I. ORDINANCE NO. 4495 - BUDGET AMENDMENT TO INCREASE THE BUDGET TO PURCHASE A VAN ON BEHALF OF HENDERSON COUNTY'S APPLE COUNTRY TRANSIT SYSTEM

Summary: The consideration of a budget amendment in the amount of $5,233, from the N.C. Dept. of Transportation and Henderson County, to increase the budget to purchase a van on behalf of Henderson County's Apple Country Transit System.

As a result of the 2000 Census, the City of Asheville was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the Federal funding administration. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the Federal Transit Administration regarding the use of all Federal funds and owns all the capital items that Henderson County purchases with their share of the Federal funds.

The estimated total cost of the subject project is $59,161. Federal funds will provide $38,046 covered with grant NC-90-X395; this grant requires a match of $18,315 provided by the North Carolina Department of Transportation ($5,112) and Henderson County ($13,203), plus $2,800 for the title and tag. The City of Asheville performs all of the administrative tasks including the bidding process, requests for funding, review of documentation, and reporting. A State contract is in place and City staff will order the van as soon as the budget is amended.

Pros:

- The van will produce savings in maintenance and fuel costs.
- The Federal Transit Administration (FTA) provides 67% of the total estimated project cost.
- Henderson County provides 23% of the total estimated project cost plus tag and title's costs and the NCDOT provides close to 10%.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project.

The total estimated project cost is $59,161, with 67% or $38,046 coming from Federal funds, 23% or $13,203 and tag and title in the amount of $2,800 coming from Henderson County and 10% coming from NCDOT in the amount of $5,112. There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council to adopt the budget amendment to increase the budget to purchase a van for Henderson County's transit system.

ORDINANCE BOOK NO. 30 - PAGE 278

J. RESOLUTION NO. 16-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND A CONTRACT WITH SITEWORK STUDIOS, PLLC, FOR GEOTECHNICAL ASSESSMENTS FOR THE TOWN BRANCH GREENWAY

Summary: The consideration of a resolution authorizing the City Manager to amend an existing architectural and engineering services contract with Sitework Studios, PLLC in the amount of $37,000 for geotechnical design services along the Town Branch Greenway portion of the "Clingman Forrest and Town Branch Greenways" Project.

City Council had previously adopted a resolution authorizing the City Manager to enter into a contract with Siteworks Studios in January 2013, for $370,000. That original contract was amended to $495,000 in September 2013 to include preparation of engineering construction documents for the Five Points Roundabout. The contract was amended in March 2016 to $540,000 to update the plans, specifications, and engineering estimates in order to comply with Federal (versus State) procurement requirements.

A retaining wall is planned along Old Asheland Ave for the Town Branch Greenway as part of the project. The geotechnical engineering assessment (soil samples, analysis, and design adjustments) related to the retaining wall were intended to be a responsibility of the contractor in the construction phase. Staff recommends performing this analysis now, prior to the start of construction. Both options are acceptable contracting practices, in line with previous City and DOT projects. Performing this assessment now mitigates the potential for interruptions during construction, and provides an opportunity for more favorable bid pricing.

Pros:

- Provides additional information to potential bidders, resulting in more favorable total construction cost.
- Mitigates the potential for interruptions during construction, which affects both construction costs and disruptions to the community.

Con:

- Consuming staff time during design phase rather than during construction phase.

Sufficient budget is included the adopted CIP to fund the change order request for this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to amend the current contract with Sitework Studios to provide geotechnical design services for the Town Branch Greenway for an amount not to exceed $37,000.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. UPDATE ON DOWNTOWN PLANNING AND DEVELOPMENT POLICIES

Director of Planning and Urban Design Todd Okolichany said that this is a staff briefing that summarizes public input and results from a community forum held on March 23, 2016, concerning Central Business District (CBD) related topics, including development review thresholds, preferred review process for the largest projects (Level III projects) and considerations for lodging facilities.

At the December 8, 2015, City Council meeting, staff gave a presentation to Council regarding the aforementioned topics. Staff provided an additional presentation to the Planning & Economic Development Committee on January 26, 2016, concerning these issues. With support from the Downtown Commission, staff held a CBD Development Forum on March 23, 2016. The agenda covered an overview of the CBD, history of the 2009 Downtown Master Plan, current development review thresholds and recent development trends. At the forum, public input was also sought on the following items:

- Levels of review for projects in the CBD:
  - Level II (projects between 20,000 square feet and 175,000 square feet and below 145 feet tall) v. Level III projects (projects greater than 175,000 square feet and taller than 145 feet)
  - Rationale for the current development review process
  - Are the current development review thresholds appropriate?
  - What would the impacts be if the thresholds were changed?
- The process for Level III projects in the CBD:
  - Conditional zoning v. conditional use permits. Pros/cons of both tools
  - Should the city consider expanding conditional zoning within the CBD?
- Hotels in/around the CBD:
  - The current review process for hotel proposals
  - What are the public's concerns?
  - Should hotels be evaluated differently than other development proposals?

There was a large turnout for the forum with attendance estimated at about 125 people. Attendees were invited to fill out comment cards regarding the three subject areas and to participate in table discussions specific to each topic. The results from the forum have been transcribed and a summary provided below:

1. **Review thresholds**
   In general there was not clear consensus that the review thresholds need to be adjusted at all. In fact most of the responses from the comment cards did not favor moving the threshold. The staff notes indicate a wide range of opinion on this topic from: leaving the thresholds in place because things are working smoothly; expanding requirements for quality design; and adjusting the maximum height and Level II thresholds. One particular item of note was broad interest from attendees to have additional communication about large scale projects. Some ideas focused on wider public notice for the required developer-sponsored neighborhood meeting or for meeting information to be posted to

the City web site for example. One participant summarized that concern about development seems to relate to the need for additional communication.

2. **Process for reviewing large projects**
When projects do qualify for the Level III threshold, Council reviews projects in the Traditional Downtown Core as conditional zoning (CZ) applications. For project outside of the core, they are reviewed as conditional use permits (CUPs). Although there were not many comment cards received regarding this topic (six cards received in total), four of the responses indicated a preference for expanding the conditional zoning option. The staff notes on this issue provide a recommendation that City Council have a meeting with the developer early on in the review process.

3. **Consideration for hotels**
Attendees were asked if there was any concern about hotels and what if any changes should be made to the review process. Of the meeting attendees who filled out a comment card specific to hotels, the majority did not feel that hotels should be singled out or treated differently from other development proposals. Some people did not agree with this and felt that Council should review all hotels, with one person suggesting a trial period of three years.

After the forum, staff was invited to attend a local chapter meeting of the North Carolina Lodging Association on April 7, 2016. Staff provided the same presentation that was shared at the CBD Development Forum. There were some comments from attendees about the way Council reviews projects using the CZ process. Hoteliers seem to be concerned that they may not know what to provide within the project scope during a CZ process and that City Council may exact requirements that they may not be able to meet. The CUP process, which requires seven standards to be met for project approval, was preferred, as well as the predictability of design standards.

At the North Carolina Lodging Association meeting, there was also broad comment about the need for hotels to provide sufficient parking for their projects. Hoteliers realize that since most guests arrive at their destination by private automobile, then parking should be sufficiently provided for.

Staff presented the results of the CBD Development Forum to the Downtown Commission meeting on April 8, 2016. The Commission's discussion focused on the various meeting notification options for the developer-sponsored meeting throughout the development review process and the notification process currently in use.

The current notification process for Level II and III projects in the CBD includes:

- Developer meeting with the neighborhood prior to project submittal
- Development plans are posted to the city website and are available to the public throughout the review process
- Notice of public meetings (Planning and Zoning Commission and City Council published in newspaper no later than 10 days before the meeting)
- Mailed notices to adjacent property owners within 200 feet of the subject property (for developer/neighborhood meeting, Downtown Commission, Planning and Zoning Commission and City Council) no later than 10 days before the meeting
- City "Z" signs posted at the property (Planning and Zoning Commission and City Council)
- Meeting agendas posted to city website Downtown Commission, Planning and Zoning Commission and City Council)

At the Downtown Commission meeting, it was discussed that even though the city notification process exceeds state requirements that some nearby property owners are not aware

of some projects in the CBD. For example, an interested citizen residing outside the 200 foot radius for notifications would need to find the information on the city website among the other postings and announcements. As a limitation to the mailed notice, tenants of a property do not receive notice, only the property owner. Also, the developer meetings with the neighborhood often do not occur until just before the Technical Review Committee submittal.

On April 19th, staff presented the results of the CBD Development Forum and prior Commission meetings to the Planning & Economic Development Committee. The Committee instructed staff to provide options to City Council for strengthening the public notification process for developments in the CBD.

Based on the input received at the CBD Development Forum, as well as input received from the Planning and Economic Development Committee and Downtown Commission, staff is providing the following options for improving the public notification process in the CBD:

1. City "Z" sign (or similar style sign) posted for developer/neighborhood and Downtown Commission meetings
2. Developer/neighborhood meetings required to take place no later than a certain date before the Technical Review Committee submittal (e.g. one month prior)
3. Developer preparation of a summary report of the developer/neighborhood meeting
4. Recommend the use of a professional facilitator for developer/neighborhood meetings
5. Use of city website for improved communication with the public
6. Archive documents, reports and plans from past public meetings on the city's website

This report is being provided for informational purposes. Staff seeks guidance from City Council based on the information in this report, including consideration of options for improving public notification of Level II and Level III development projects in the CBD.

In response to Councilman Bothwell, Mr. Okolichany said that over the past couple of years, approximately 20 projects were proposed in the downtown area. Out of that 20, only 4 were over the 175,000 sq. ft. threshold and three of those four were Buncombe County projects. If the threshold was 100,000 sq. ft., he guessed that possibly 8 would have required City Council review.

Councilman Haynes felt that Council should be reviewing hotels differently.

Councilman Smith felt that back in 2010 when Council changed the review thresholds it was to start the economic engine downtown. Since that has now shifted, he felt it was an appropriate time to revisit the threshold limits. He also supported conditional zonings as it give Council/developer/public opportunities to craft solutions to community concerns. He advocated for a study with a third party around tourism with participation with the City, County and Tourism Development Authority.

City Attorney Currin responded to Councilman Bothwell about making minimum wage requirements a condition on a conditional use permit or a conditional zoning.

After discussion about the conditional zoning vs. conditional use permit process in the traditional core of downtown, it was the consensus to wait until more public comment is received before making any decision on that topic.

Former Mayor Terry Bellamy explained to Council several reasons why the thresholds were raised.

There was considerable discussion regarding the need to expand public input into this process. In summary, it was the consensus of Council to (1) have staff work with the Communication and Public Engagement Division about using the tool of Open City Hall to expand

public input on these topics (including a menu of options for additional notice requirements, the conditional use permit vs. conditional zoning in the traditional downtown core area, and the downtown design review guidelines); and (2) have staff look at other cities that have different review processes to see if the level of review changes the kind of development they see.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

At the applicant's request, Councilman Bothwell moved to continue this public hearing until June 14, 2016. This motion was seconded by Councilman Young and carried unanimously.

B. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2016-17 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR THE COMING YEAR

RESOLUTION NO. 16-96 - RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2016-17 TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Community Development Manager Heather Dillashaw said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2016-17, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development. This public hearing was advertised on April 15 and 21, 2016.

The City will have $1,074,541 in CDBG funds and $1,332,304 in HOME funds available for the fiscal year beginning July 1, 2016. The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties).

Below is the summary of annual action plan for 2016-17:

CDBG PROGRAM

Proposed Use of Funds:

2016-2017 PROGRAM	Funding Recommend.
Asheville Area Habitat for Humanity - Home Repair	$ 40,000
Asheville Area Habitat for Humanity - Homeowner Education	$ 50,000
Asheville City Schools Foundation - Improving Success for Asheville's Youth	$ 18,000
Bountiful Cities - Urban Agriculture Partnership	$ 28,000

Eagle Market Street Development Corporation - Empowering Residents	$ 30,000
Green Opportunities - Job Training and Placement	$ 125,000
Helpmate - Domestic Violence Services	$ 19,000
Homeward Bound - AHOPE Coordinated Assessment	$ 48,904
Homeward Bound - Pathways to Permanent Housing	$ 80,000
Housing Authority of the City of Asheville - Lee Walker Heights	$ 135,720
Mountain BizWorks - Business Training	$ 60,000
Mountain Housing Opportunities - Tier 1 & 2 Emergency Home Repair	$ 110,000
OnTrack - Financial Capabilities	$ 20,000
Pisgah Legal Services - Homelessness Prevention Project	$ 41,000
The Support Center - Reaching Innovative Solutions for Entrepreneurs	$ 40,000
YWCA - Drop in Childcare	$ 13,000
City of Asheville - Section 108 Repayment	$ 15,567
City of Asheville - Program Administration	$ 200,350
RECOMMENDED FUNDING	**$ 1,074,541**

HOME INVESTMENT PARTNERSHIP PROGRAM

Proposed Use of Funds:

2016-2017 PROGRAM	Funding Recommend.
Asheville Area Habitat for Humanity - Direct Homeowner Assistance	$ 50,000
FGM Development – Perry Lane	$ 355,431
Henderson County Habitat for Humanity – Dodd Meadows Phase 4	$ 130,800
Homeward Bound – Asheville Tenant Based Rental Assistance	$ 55,000
Housing Assistance Corporation - Oklawaha Village Apartments	$ 100,000
Housing Authority of the City of Asheville – Lee Walker Heights	$ 400,000
Mountain Housing Opportunities – East Haven Apartments	$ 143,472
City of Asheville - Program Administration	$ 97,601
RECOMMENDED FUNDING	**$ 1,332,304**

Allocations are consistent with the Consolidated Strategic Housing & Community Plan for 2015-2019, adopted by City Council April 28, 2015.

Pros:

- Approval of the Action Plan paves the way for the receipts of over $2,400,000 of HUD funding to the City and region, which will be used to create affordable housing and create jobs.
- HUD funding will leverage approximately $34,900,000 of additional funding for these projects.

- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2016-17 to the U. S. Dept. of Housing and Urban Development.

Councilman Smith, Chair of the Housing & Community Development Committee, noted that we have many more requests than funding, which funding dwindles down year after year.

Mayor Manheimer opened the public hearing at 6:18 p.m.

Mr. Alan Ditmore stressed that we need to focus on affordable housing.

Mr. Christopher Chiaronmonte spoke about the need of smaller affordable houses.

Mr. Timothy Sadler hoped Council would think about the "My Dad Taught Me That" Program.

Mayor Manheimer closed the public hearing at 6:25 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-96. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 14

C. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 11 WAYSIDE DRIVE FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING FOR THE OPERATION OF A SHORT-TERM RENTAL WITHIN AN EXISTING STRUCTURE

Mayor Manheimer said that on Friday, April 22, 2016, Mr. George Tsiros, the applicant, withdrew his conditional zoning application.

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 50 WILBAR AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/ CONDITIONAL ZONING FOR THE REDEVELOPMENT OF AN EXISTING HOUSING COMMUNITY, EXTENSION OF PUBLIC INFRASTRUCTURE, AND THE CREATION OF PASSIVE AND ACTIVE RECREATION AND OPEN SPACE

ORDINANCE NO. 4496 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 50 WILBAR AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/ CONDITIONAL ZONING FOR THE REDEVELOPMENT OF AN EXISTING HOUSING COMMUNITY, EXTENSION OF PUBLIC INFRASTRUCTURE, AND THE CREATION OF PASSIVE AND ACTIVE RECREATION AND OPEN SPACE

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to conditionally zone property located at 50 Wilbar Avenue from RM-16 Residential Multi-Family High Density District to Urban Place District/Conditional Zoning for the redevelopment of an existing housing community, extension of public infrastructure, and the creation of passive and active recreation and open space. This public hearing was advertised on April 15 and 22, 2016.

Ms. Tuch said that the applicant is requesting conditional zoning for one parcel located at 50 Wilbar Ave. from Residential Multi-Family High Density (RM-16) to Urban Place Conditional Zone (UP - CZ) in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO) to allow for the redevelopment of an existing residential community that will provide: 199 new residential units; 10,975 square feet of non-residential/commercial space; new road, sidewalk, open space and outdoor amenity areas; and the extension of new transportation and public utility infrastructure.

The site is located south of the city's Central Business District (CBD) in the southeast corner of the intersection of Short Coxe Ave. and McDowell St./Southside Ave. The subject property is 11.59 acres that sits above the surrounding area but is shielded from view by a thick vegetated buffer that surrounds the community on three sides while relatively open to the east where it abuts the commercial properties fronting Biltmore Ave. The property is also relatively flat with mild topography across most of the site until it reaches the edges where it drops in elevation down to the surrounding streets. The PIN is 9648-36-5793 and the property owner is listed as the Asheville Housing Authority.

The applicant is proposing to rezone the property from RM-16 to UP-CZ to allow for a complete redevelopment and expansion of the existing Lee Walker Heights community through the construction of seven new, multi-story buildings that will house 199 residential units constructed in two phases. There are four building types proposed with the building details and phases represented in the table below:

Building Type	Number of Units	Square Footage	Number of Stories	Buildings in Phase I	Buildings in Phase II
Building 1	51	54,759	3	0	1
Building 2	100	116,118	4	1	0
Building 3	8/each	9,646	2	1	2
Building 4	12/each	13,476	3	1	1

In addition to the residential units, this project will provide: 10,975 square feet of nonresidential community or commercial space; the extension of public infrastructure (road, water lines, sewer lines, stormwater, and sidewalk); off-street parking; walking paths; active recreation space and passive open space.

Access to the property remains unchanged and is from Short Coxe Ave. via Wilbar Ave.

where Wilbar Ave. will be renamed and re-built as part of the project, and a new 50-foot public right-of-way will be extended throughout. Sidewalks are required for the re-construction of the new roads and along all existing road frontages. The Urban Place zoning district requires sidewalks that are a minimum of 10-feet in width, although the applicant is requesting a reduction in the required width at various locations throughout the site. Additional internal sidewalks, courtyards and walking paths also help to provide access throughout the whole development.

179 parking spaces are scattered throughout the development and are found in a combination of traditional parking lot spaces with on-street parking spaces. The Urban Place zoning district allows for a 50% reduction in required parking which is utilized with this project, although not to its fullest, and the UDO requirement for off-street parking is satisfied.

Landscaping is required as part of the redevelopment and includes street trees along all road frontages; building impact, street buffer and parking lot landscaping on the site; and dumpster screening around all dumpster locations. Full landscape compliance is shown with the exception of some street trees where topographic and site constraints prevent full compliance. The project also includes the preservation of the existing natural, wooded buffer that surrounds the property on north, west and south sides.

Open space is also required in this zoning district with a requirement equal to 5% (0.57 acres) of the lot area to be designated as open space. Open space is provided and is well in excess of the minimum required.

The Urban Place zoning includes specific *Design and Operational Standards* that address building orientation, well-defined operable entrances at regular intervals, and fenestration requirements for the ground and upper levels and treatments to break up long façades. All design and operational standards will be met with the following exceptions:

1) Ground level window/opening fenestration totaling less than 40% at the ground floor for the residential portions of the facades,
2) Upper story window/opening fenestration totaling less than 25% of the total façade, and
3) Failing to evenly distribute the glazing across the ground levels of Buildings 1 and 2.

As an alternative, the project proposes to meet a minimum fenestration requirement of 20% for all residential street-facing facades (ground level and upper story) and 40% for the non-residential or commercial ground floor portions of the façade. The project will also be requesting to exceed the maximum 0 to 15-foot setback in certain locations for Building 2, or where additional space is desired due to front porch stoops for building types 3 & 4.

This proposal was approved with conditions by the Technical Review Committee (TRC) on March 21, 2016, and requires review by the Planning and Zoning Commission, City Council and Final TRC prior to zoning approval. No communication has been received from the public as of the writing of this report.

The Planning and Zoning Commission reviewed this project at their April 6, 2016 meeting and voted 5:0 (two members absent) to approve the conditional zoning request. Members of the development team added detail and context regarding the project and answered several questions from the Commissioners.

The applicant wishes to rezone the residential RM-16 property in order to allow for a denser, mixed-use urban development.

Conditions - This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. The minimum 10-foot wide sidewalk is proposed on either side of Walker Plaza Ave. and

on one side for a portion of Lee Garden Ave.; 6-foot wide back-of-curb sidewalks are proposed in all other locations.
2. A reduction in the street tree requirement along a portion of Lee Garden Ave. (10 trees total).
3. Building 2 and building types 3 & 4 exceed the maximum setback in designated areas. Building 2 is setback 16-32 feet; Building types 3 & 4 are setback 15-25 feet in designated areas.
4. Sidewalk adjacent to some of the on-street parking spaces is not provided (note: these spaces are in excess of the minimum required).
5. All buildings will provide openings totaling a minimum of 20% on all street facing residential facades, and a minimum of 40% on all non-residential or commercial street facing facades.
6. At least 96 units will be affordable to households earning at or below 60% of the Area Median Income (AMI) for a minimum period of 30 years.

There is a separate but simultaneous Level II application for an 18-unit townhome development directly north of the subject property (zoned CBD) known as *88 Southside*. There have also been a number of individual rezonings along Asheland Ave. that have occurred over the last several years which has, in turn, influenced the initiation of the *CBD Expansion and Zoning Study for Asheland Ave. and Southside Ave.* that is currently on the Planning & Urban Design's departmental work plan.

The property is zoned RM-16 and surrounded on all sides by non-residential zoning including: Central Business District (CBD) to the north; Regional Business (RB) to the east; Institutional (INST) and Office Business (OB) to the south; and OB to the west. The surrounding uses are a mix of office and institutional uses, mostly healthcare related, with a few undeveloped or vacant properties to the north and east of the project area. The undeveloped property directly north of the subject property is currently in review for an 18-unit, multi-story townhome development.

The Asheville City Development Plan 2025 highlights the importance of smart growth and very specifically identifies 1) the need for, and value of, affordable housing in Asheville and, 2) the benefits of new urbanism. This project supports the goal of providing safe and affordable housing through a redevelopment that increases the number of affordable and workforce units available in the city. The project also includes elements of new urbanism through the use of higher density, multi-story building designs leaving room for public open and community spaces and by including the improvement and extension of pedestrian and transportation infrastructure making the community more walkable, livable and interconnected.

The redevelopment of the Lee Walker Heights community aligns with the 2036 Council vision in the following areas:

- **A diverse community** – the new units will increase the supply of housing to those who earn below the area median income making living in the heart of the city attainable to a greater number of people.
- **A well-planned and livable community** – the redesign of this community applies principles of new urbanism through well designed higher density residential construction, the creation and preservation of open recreation and community space, and significant pedestrian and transportation infrastructure that provides connections within the community with the opportunity for additional connections to the larger community in the future.
- **Quality affordable housing** – the older public housing units will be replaced with new, well designed units that achieve a higher construction standard through innovative financing and other subsidies. Almost half of all units are committed to be affordable for a period of 30 years to households earning at or below 60% of the AMI.

- **Transportation and accessibility** – new road and sidewalk infrastructure will be rebuilt and extended as part of the project in addition to other pedestrian connections within the community.
- **Connected and engaged community** – the final design for the project is the result of a long and engaged visioning process with the residents and other community members to understand the needs and wants of current and future residents. The redevelopment also involves various partners from the private, non-profit and government sectors.

Considerations:

- Will temporarily displace existing residents.
- Does not fully meet the design and operational standards for window fenestration.
- Does not fully meet the technical standards for sidewalk widths, maximum setbacks and street trees.
- Doubles the existing density while preserving the number of affordable units.
- While density is increased, the project is well below the allowable density of 64 units/acre (742 units).
- New construction successfully employs some principles of smart growth (denser, more urban form).
- Adds almost 11,000 square feet of non-residential community or commercial space.
- Creates significant outdoor recreation, open and gathering spaces.
- Preserves existing wooded buffer areas.
- Provides improved transportation connections and internal pedestrian connections.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request to be reasonable, and within the best public interest, and recommends support of the proposed conditional zoning amendment as proposed.

Mayor Manheimer opened the public hearing at 6:39 p.m.

Mr. Alan Ditmore said that there will not be enough affordable housing to justify the demolition of the existing structures. He also felt that the units should be much smaller.

Mr. Gene Bell, Executive Director of the Housing Authority of the City of Asheville, said that this redevelopment will change people's lives. Their first objective was to give their residents an opportunity to live in updated, modern housing. Secondly, this has been a very inclusive process and they have made every effort to engage the community.

A resident at Lee Walker Heights said that the Housing Authority listened and worked with the residents to address any of their concerns.

Sir Charles Gardner, President of the Resident Council of the Housing Authority, felt that this is not a mixed community since all 96 deeply affordable are located in one area. Mr. David Nash, Chief Executive Officer of the Housing Authority, explained that due to HUD requirements all 96 units must be replaced in the first phase of the construction. After all buildings are built, they intend to go back to HUD to request that the units be evenly spread through the buildings.

A resident at Lee Walker Heights spoke in support of this project and that the children need space to play.

Mayor Manheimer closed the public hearing at 6:54 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the Urban Place Conditional Zoning (UP-CZ) request to allow for the redevelopment and expansion of an existing housing development for 199 new residential units and 10,975 square feet of nonresidential/commercial space, to be constructed in two phases for a total of seven buildings along with the submitted conditions, site plan and elevations, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: 1) expands affordable and workforce housing choices in the city; 2) supports smart growth by increasing density and improving transportation and pedestrian infrastructure; and 3) promotes community involvement and strategic partnerships. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 280

V. UNFINISHED BUSINESS:

A. LEE WALKER HEIGHTS

RESOLUTION NO. 16-97 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING WITH DUKE ENERGY PROGRESS FOR THE PURCHASE OF PROPERTY AT 319 BILTMORE AVENUE FOR THE PURPOSE OF PROVIDING MIXED USE DEVELOPMENT WITH SIGNIFICANT MIXED INCOME HOUSING

Assistant City Attorney Jannice Ashley said that this is the consideration of a resolution authorizing the City Manager to enter into a Memorandum of Understanding ("MOU") with Duke Energy Progress (Duke Energy) for the purchase of property at 319 Biltmore Avenue, known as the Matthews Ford property, ("the Biltmore Ave. Property") for the purpose of providing mixed use development with significant mixed income housing.

Our community is facing an affordable housing crisis as identified in the 2015 Housing Assessment and Market Study identified a significant need for affordable housing in our community. The needs have continued to grow.

The City of Asheville has been working with the Housing Authority of the City of Asheville (HACA) to redevelop Lee Walker Heights, adjacent to the Biltmore Ave. Property, into a mixed income transformational community. The vision is to create an opportunity for citizens at all income levels to be a part of a thriving community where all members are valued equally.

It is important to have the built environment constructed in a manner that facilitates this vision. Some examples of this include having multiple access locations to the community, providing opportunity for various income housing dispersed among the community, etc. The Biltmore Ave. property when connected both physically and visually to Lee Walker Heights provides that opportunity. The Matthews Ford site is approximately 5.5 acres and could be developed to include an additional 200 to 300 units of residential housing.

The MOU includes the following proposed terms:

- Purchase Price: $5.3 Million
- Additional Consideration: The City will provide all necessary easements and right-of-ways on and across City-owned property to Duke Energy, for Duke's electrical infrastructure (lines and facilities) planned to be completed in the next 8 years located in the City of Asheville corporate limits.
- Option Period for the City of Asheville to purchase the referenced property: 8 years. The City's ability to exercise the Option will be contingent on Duke being reasonably satisfied with the City of Asheville's regulations governing substation location in effect at the time the City or assignee desires to exercise the Option.

- Right to Assign: The Option would be assignable.
- Access Easement: Upon execution of the Option Agreement, Duke Energy also agrees to grant to the City a non-exclusive, permanent access easement through the Biltmore Avenue property for purposes of allowing ingress and egress from adjacent Lee Walker Heights property to Biltmore Avenue. The exact location of the easement will be mutually determined by the parties but will be of sufficient width to accommodate the building of a public street to include bike, pedestrian and transit facilities. Additionally, Duke Energy will allow an easement for temporary grading on the site that is mutually determined by the parties.
- Zoning Approval: Upon execution of the Option Agreement, Duke Energy working in coordination with the City agrees to submit a rezoning application for the Property to be rezoned from its current zoning of Highway Business (HB) to Urban Place Conditional Zoning (UP-CZ).

Pros:

- The MOU will provide an opportunity to improve the redevelopment potential of Lee Walker Heights, a public housing project that has limited connectivity into a transformational mixed use/mixed income development.
- The MOU will provide an additional multimodal transportation connection to Lee Walker Heights.
- The MOU will provide a mechanism to allow the Biltmore Ave. property site to be graded in a way that future development will be integrated into the Lee Walker redevelopment.
- The acquisition and rezoning of the property will allow for the future development of a significant number of affordable housing units.
- The Option is transferable.
- The price of the property is the price that Duke Energy paid for it when they purchased it in 2014.

Con:

- HACA is in the process of applying for state tax credits. HACA will not be able to move forward on the redevelopment of Lee Walker Heights without the financial assistance these tax credits provide. However, since the City is entering into an Option to Purchase only, it is not obligated to purchase the Biltmore Ave. Property if it is no longer needed as part of larger redevelopment plan.

The cost of the property is $5.3 million. The City may choose to assign the option to HACA or another developer. If that occurs, that party would be responsible for paying for the property. If the City of Asheville purchases the property funding would need to be identified in the budget year the property is purchased.

Staff recommends City Council adopt the resolution authorizing the City Manager to enter into a MOU with Duke Energy for the purchase of property at 319 Biltmore Avenue, known as the Matthews Ford property, for the purpose of providing mixed use development with significant mixed income housing and to execute any other documents necessary for this transaction.

In response to Vice-Mayor Wisler, Ms. Ashley explained that the easement will be attached to the property immediately and permanently.

A lady spoke about her concern of the welfare of the vulnerable population at Lee Walker Heights. She suggested that the residents be afforded provisions under the Uniform Relocation Act rather than the Housing Choice Voucher Program. She provided suggestions to Council to help landlords contribute to the affordable housing crisis. Mr. Nash explained that the residents are covered under the Uniform Relocation Act and the Housing Authority's relocation plan, noting that anyone living in the development when the project begins will have the right to return.

Mr. Timothy Sadler suggested Council look at solar options for this development. Mr. Nash responded that the buildings will be solar ready and they would be happy to receive estimates from solar companies.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-97. This motion was seconded by Councilman Haynes and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 15

RESOLUTION NO. 16-98 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A LETTER OF COMMITMENT TO THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FOR THE PURPOSES OF REDEVELOPING LEE WALKER HEIGHTS INTO A MIXED INCOME DEVELOPMENT

Assistant Community & Economic Development Director Jeff Staudinger said that this is the consideration of a funding request from the Asheville Housing Authority for the redevelopment of Lee Walker Heights.

The Asheville Housing Authority and their co-developer Mountain Housing Opportunities is seeking Council approval of a funding commitment of $4.2 million to support the redevelopment of Lee Walker Heights. The proposed project will demolish existing buildings on the 11 acre site, install new public infrastructure, and construct 212 units of housing affordable to households earning 60% or less of the area median income. The project would be accomplished in two phases. Phase 1 would include the demolition, infrastructure and the construction of 120 units of housing (of which 96 units would be replacement units for those now there). Phase 2 would construct an additional 92 units of affordable housing.

The project also envisions the eventual construction of a mixed use commercial-residential property on the 4.1 acre former Matthews Ford site, with frontage on Biltmore Avenue. This property is currently owned by Duke Energy, which has agreed to grant the City an option to purchase the property. This option also provides a conditional approval for an easement to the Lee Walker Heights property, which could be exercised during the Phase 1 construction period, and which would therefore provide direct pedestrian and vehicular access to the Lee Walker Heights site from Biltmore Avenue.

Lee Walker Heights is the oldest public housing community in the City of Asheville with 96 units constructed in 1949-1950 and is severely physically distressed. The buildings are antiquated barracks style row houses, and are cramped and inaccessible to people with disabilities. Although proximate to Mission Hospital and other employment opportunities, the development is isolated by large roads and commercial development from the both the commercial Biltmore Avenue corridor and the nearest residential neighborhood. It has one way in and out, and a narrow one-way street through the development.

Efforts to develop a plan for revitalization of this community have been underway for some years. HUD Choice Neighborhood grant applications were submitted in 2011 and 2013, but federal budget cuts severely curtailed this successor to the HOPE VI program, and Asheville's efforts were not successful. A successful application by the Housing Authority to the pilot HUD Rental Assistance Demonstration program opened a new pathway for the Housing Authority to pursue revitalization. In 2014, after a well-subscribed Request for Proposals process, the Housing Authority chose Mountain Housing Opportunities as their co-developer, and began a resident engagement and master planning process for the redevelopment.

The result of the master planning process is the proposed 212-unit redevelopment plan. The Housing Authority determined that the federal Low Income Housing Tax Credit (LIHTC) program, administered by the NC Housing Finance Agency, provides the most feasible financing vehicle to achieve that plan. If successful, the LIHTC program will provide approximately 50% of the project cost in the form of equity. Successful applicants must raise the remainder of the funds needed for development from other sources. The challenge is that rents must be able to be affordable to households earning 60% or less of median income. This requirement constrains the amount of debt the project can support. The application process is underway, with a complete application deadline of May 13, 2016. Tax credits for 120 units- the maximum that can be requested- will be applied for then.

Therefore, the Housing Authority is seeking the direct support of the City of Asheville in helping to bridge the gap between funding available through tax credits and debt, and the project cost. In summary, the project proposed sources and uses is as follows:

			(per unit)
Funding Sources			
Private Equity (LIHTC)	16,828,400	52%	79,400
Mortgage	8,660,000	27%	40,800
Other and Local	6,080,000	19%	28,700
Owner	986,700	3%	4,700
	32,555,100		153,600
Development Costs			
Construction/Related	26,805,900	82%	126,400
Financing	1,333,800	4%	6,300
Legal/Compliance	591,300	2%	2,800
Other Soft Costs	2,814,000	9%	13,300
Reserves	1,010,100	3%	4,800
	32,555,100		153,600

The Asheville Housing Authority is seeking $4.2 million in gap financing from the City of Asheville, or $20,000 per unit for the proposed build-out of 212 units. The funds, if granted, would be devoted to the construction of on-site infrastructure, including earth moving, and the construction of water, sewer, storm water, roadway and sidewalks. The Housing Authority has indicated that it will seek the remainder of the other local/other funds from non-City sources.

Staff has analyzed the request, and determined that the allocation of local government funds of $20,000 per unit is within the range of funds committed by other governments to similar projects, and also in line with prior City support for affordable housing developments in the City of Asheville.

The requested funding can be generated through using multiple funding resources. These resources could include City Fund Balance, CIP and Housing Trust Funds, HUD HOME and CDBG Funds, and HUD Section 108 funds.

The HOME and CDBG funds have been recommended for the project as part of the 2016-2017 Annual Action Plan. Staff discussed the HUD Section 108 loan with HUD officials, who confirmed the eligibility of the project and availability of the amount. Assuming the award of tax credits, staff will work at that time to develop a specific funding package that will provide the best mix of funding to most effectively use the resources available to the City and project goals.

Pros:

- The proposed project will transform the City's most economically and physically distressed public housing community;
- The project will allow all households in residence at the time of relocation to return to the newly developed community;
- The redevelopment will provide significantly improved access to public transportation, and medical and downtown job and service centers;
- The project will provide affordable rental housing over 200 households earning 60% or less of area median income;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.
- The proposed project will create a locational-efficient residential development that will be affordable for at least 30 years.
- The Housing Authority has indicated its commitment to request no additional funds from the City of Asheville for the completion of the proposed 212 units.

Cons:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development;
- While the project will create mixed income housing relative to its current public housing demographic, it does not currently include housing for households with incomes above 60% of median income;
- If annual CDBG allocations are used for the repayment of the HUD Section 108, funding available for other CDBG-eligible activities in Asheville will be reduced.
- The viability of the project depends on the competitive award of LIHTC funds.

As noted above, City staff has identified the funding resources currently available to meet the requested amount of $4.2 million. The city's commitment would be conditional on the award of tax credits. HOME and Section 108 funds must be loaned to the Housing Authority, which will in turn loan the funds to the project on a 0% deferred payment basis for a term of 40 years. Other funds may be granted or loaned to the Housing Authority. The Housing Authority requests that the other funds be granted to them. The City funding would be used for infrastructure construction, and payouts would be based upon a negotiated schedule of performance.

Staff recommends that Council authorize the City Manager to provide a letter of commitment of $4.2 million to the Asheville Housing Authority for the purpose of supporting the construction of 212 units of affordable housing on the current Lee Walker Heights public housing site. This commitment is conditional on the award of 9% Low Income Housing Tax Credits to the project by the North Carolina Housing Finance Agency in the 2016 LIHTC competition, with award announcements expected in August 2016.

In response to Vice-Mayor Wisler, Mr. Staudinger explained the timing of the expenditures.

Mr. Staudinger responded to Councilman Bothwell regarding the elevation difference between the Matthews Ford property and the Lee Walker Heights property, explaining that fill from the Lee Walker Heights grading will be used to equalize the difference for accessible access to the Biltmore Avenue property.

Councilman Young moved to adopt the resolution, but was concerned about using funds earmarked for affordable housing projects. Councilman Smith seconded the motion.

Mayor Manheimer clarified that the City has excess funds from this year to direct towards the $4.2 Million, which will allow us to avoid using the Capital Improvement Plan funds earmarked for affordable housing. This is about affordable housing and it addresses the need of a

community that is under-served. The people who are living in Lee Walker Heights are participating in what their future will look like and the City is here to help in that community vision.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Young moved for the adoption of Resolution No. 16-98. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 16

Closed Session

At 7:28 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:04 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

VI. NEW BUSINESS:

A. HORSE DRAWN CARRIAGES

ORDINANCE NO. 4497 - ORDINANCE TO REPEAL THE ORDINANCE PERMITTING AND REGULATING THE GENERAL OPERATION OF HORSE-DRAWN CARRIAGES ON THE CITY STREETS

Assistant City Attorney Jannice Ashley said that this is the consideration of the repeal of the Horse Drawn Carriage Ordinance (City Code, Ch. 18, Article IV).

In 1990, the City of Asheville adopted standards permitting and regulating Horse Drawn Carriage operations (Ordinance No. 1840) and in 1993, readopted this ordinance in full via Ordinance No. 2032. These standards are a subsection of Chapter 18, Taxicabs and Vehicles for Hire and comprise the entirety of Article IV of this Chapter. There were several minor amendments to this article in 1994, 1995, and 1996 although the body of the ordinance appears to have remained unchanged from when it was first adopted.

Shortly after adoption in 1993, at least two separate businesses began operating. Not much is known about these pioneering businesses but it is believed that one closed not long after it started, while the other persisted for some time but also eventually closed up a season or two later (there may have been one other short-lived operation within the last 10 years but any specific record is lacking). Staff has been told that the standards were drafted with the benefit of input from a stakeholder group that represented a number of different perspectives but with a specific focus on animal safety & health, as well as public safety.

While the elements of a horse-drawn carriage operation have changed little in the last 20 years, the Asheville downtown has changed dramatically. The level of activity, both on and off the street is significantly higher and Asheville is now in the position of having to reconcile a number of competing concerns and interests as it relates to the downtown area. At present, there

is one horse-drawn carriage business operating in downtown Asheville (Asheville Horse & Carriage Tours, LLC) which has been operating since August 2013. Just prior to the start of this business, in May 2013, a concerned citizen sent an email to City Council asking that horse-drawn carriages be banned from the downtown area because of concerns for the safety of the horses and the public. Since horse-drawn carriages were permitted by ordinance, and the City did not have any documented negative history in regard to such operations, Asheville Horse & Carriage was permitted to operate after working closely with City Staff to ensure that all of the requirements of the ordinance were followed.

Updates on the horse-drawn carriage operation were provided to the Public Safety Committee on June 24, 2013, by Shannon Tuch, the interim Development Services Director and then again on October 28, 2013, by Ken Putnam, the Transportation Director. The latter report concluded that neither the Transportation Department nor the Asheville Police Department (the department responsible for administering the taxi, vehicle for-hire, and horse-drawn carriage ordinance) were aware of any public safety issues, from a traffic perspective, that were being caused by the horse-drawn carriage operation. Since that time, according APD records, there have been no reported accidents in the last three years that have involved a horse-drawn carriage, no serious complaints and it appears that Asheville Horse & Carriage Tours, LLC has been operating successfully and in compliance with all requirements throughout its tenure.

Nonetheless, several citizens have continued to raise concerns about the operation of horse-drawn carriages related to animal health and safety as well as public safety, particularly given the increased activity in the City's CBD. In response to these concerns, the Governance Committee met twice, on December 8, 2015, and March 8, 2016, to consider the matter. During the December meeting, the Committee heard concerns from Asheville Voice for Animals and requested that Staff provide information on reported accidents/complaints concerning the operation of the horse-drawn carriage. At the March meeting, the Committee received the requested information from the Staff who reported that there had been no accidents or complaints regarding the operation. The Committee also heard from representatives of Voices for Animals regarding general concerns about the operation of horse-drawn carriages in Asheville and also heard from Catherine Hunter, the owner of Asheville Horse & Carriage Tours, LLC, who spoke in support of her business. The Committee then directed Staff to eliminate the current ordinance permitting the general operation of horse-drawn carriages and to draft a franchise agreement ordinance which would allow Ms. Hunter to continue with her horse-drawn carriage business.

Staff recommends that City Council repeal the City's Horse Drawn Carriage Ordinance (City Code, Ch. 18, Article IV), effective May 30, 2016.

Councilman Bothwell was uncomfortable with horses on streets with vehicles. He didn't see motorized vehicles and horses together in an urban setting.

Mr. Christopher Chiaronmonte did not support eliminating the ordinance as the owner is making a living with his business.

Ms. Catherine Hunter, owner of Asheville Horse and Carriage Tours, explained how passionate she is about the health and welfare of her horses, noting she has rescued and rehabilitated a lot of horses. She felt those against her business are well intentioned, but misinformed. She also felt the majority of the people downtown like having a horse drawn carriage. She provided Council with her credentials, along with a brochure of the 12 most common myths about carriage horses debunked.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved for the adoption of Ordinance No. 4497. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 287

ORDINANCE NO. 4498 - FIRST READING OF AN ORDINANCE GRANTING A FRANCHISE AGREEMENT WITH ASHEVILLE HORSE AND CARRIAGE TOURS, LLC, FOR THE OPERATION OF A HORSE DRAWN CARRIAGE BUSINESS WITHIN THE CITY OF ASHEVILLE

Assistant City Attorney Jannice Ashley said that this is the consideration of an ordinance granting a franchise agreement for the operation of a horse-drawn carriage business within the City of Asheville.

Asheville Horse and Carriage Tours, LLC has been operating a horse-drawn carriage business in the City since August of 2013. At that time, the City Code allowed the operation of horse-drawn carriages pursuant to Ordinance 1840 adopted in 1990 and Ordinance No. 2032 which was adopted in 1993. On April 26, 2016, City Council voted to repeal both of these ordinances, but directed City staff to work with Asheville Horse and Carriage owner, Catherine Hunter, on a Franchise Agreement that would enable her to continue her business which has been operated successfully and in compliance with city regulations throughout its tenure. The terms of the franchise agreement in terms of hours of operation, carriage equipment and conditions, and care of the horses are substantially the same as they were under the City Code. The horse-drawn carriages will operate in the downtown Central Business District (CBD) on city-maintained and state-maintained streets that have a posted speed limit less than 35 mph. Hours of operation will be between the hours of 9:00 AM and Midnight, Monday through Friday, with some exceptions for the busiest hours of the weekday, and between the hours of 9:00 AM and Midnight, Saturday, Sunday and Holidays. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. Other significant conditions of the Franchise Agreement include provisions for the health and safety of the horses such as quarterly certifications by a licensed veterinarian certifying each animal has been examined and is in good health and able to draw the horse-drawn carriage, limitations on the number of hours and days a horse may work and in what weather conditions, and annual inspections of stable facilities by both a veterinarian and the Transportation Director; provisions regarding the qualifications of drivers/operators, such a requirement for specific training in the operation of horse-drawn carriages; provisions regarding the condition and safety of the carriages, such as requirements to have signals and lights or lanterns and for the carriages to be inspected every six months; and the ability of the City to terminate the franchise agreement for non-compliance or, upon notice, for other reasons it deems necessary.

She has written the franchise agreement term to be indefinite because it was the sense of the Governance Committee to allow Ms. Hunter to allow her business. However, the City always has the option to terminate the franchise agreement if there is any violations of the agreement, or for any reason upon 180 days notice to Ms. Hunter.

The operation of Asheville Horse and Carriage Tours, LLC's business has been reviewed in the past by the Council's Public Safety Committee on June 24, 2013, and October 28, 2013. Those reports concluded that the business had demonstrated compliance with all City requirements and stated that neither the Asheville Police Department nor the Transportation Department were aware of any public safety issues related to the business. The Governance Committee considered the repeal of the horse-drawn carriage ordinance but the issuance of a franchise agreement to Asheville Horse and Carriage, the one existing horse-drawn carriage business, at both its December 8, 2015, and March 8, 2016, meetings and recommended repeal of the ordinance but the granting of the franchise agreement to Asheville Horse and Carriage at the March 8th meeting.

Pros:

- Allows an existing, successful and compliant horse-drawn carriage business to continue despite the repeal of the City's general horse-drawn carriage ordinance.

- Enhances the visitor experience to downtown Asheville.
- No direct fiscal impact to the City.

Con:

- Animal advocacy groups have expressed concern about allowing the operation of any horse-drawn carriages in the City.

There is no known fiscal impact for the subject franchise agreement.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Asheville Horse and Carriage Tours, LLC for the operation of a horse-drawn carriage business within the City of Asheville. This ordinance will require a second reading, which will take place on May 10, 2016.

In response to Councilman Bothwell, Ms. Ashley said that the franchise agreement is not assignable, except to another entity owned by Asheville Horse and Carriage Tours with written agreement from the City.

Councilman Haynes moved to grant the franchise agreement but limit the term of the franchise agreement to one year. This motion was seconded by Councilman Bothwell.

Councilman Young said that since there has been no documentation about the mistreatment of the horses and because this is Ms. Hunter's only income, he recommended a e-year term on the franchise agreement. He stressed that he too has compassion for animals, but he has compassion for people too to earn a living.

In response to Councilman Young, Ms. Hunter said she hoped to transition out of this business in three years. She will be publishing a book this year about horses and with the sale of her book and teaching seminars, she feels that will be her next income. However, in the meantime, she needs to pay the rent, buy feed, etc. Taking care of the horses is not cheap.

Councilman Young offered a friendly amendment that the franchise agreement not be transferrable and that the franchise agreement be extended for a total of three years. Councilman Haynes did not accept the friendly amendment.

Councilman Young then moved to amend the main motion to grant the franchise agreement but that the agreement not be transferrable and that the agreement be extended for a total of two years. This amendment was seconded by Councilman Smith and carried on a 4-2 vote, with Councilman Haynes and Councilman Bothwell voting "no."

Mr. Christopher Chiaronmonte supported granting the franchise agreement.

Representatives from Asheville Voice for Animals, along with other animal rights activists spoke in opposition of the franchise agreement for several reasons, but mainly due to the health and safety of the horses and public safety. They urged Council to eliminate horse drawn carriages from our streets.

Ms. Catherine Hunter, owner of Asheville Horse and Carriage Tours, asked for Council to consider granting her a franchise with an indefinite term and that it be transferrable.

Council then voted on the amended main motion to grant the franchise agreement with the agreement not being transferrable and with a term of two years. Said motion carried unanimously.

Ms. Ashley reminded Council that the ordinance will require a second reading, which will take place on May 10, 2016.

ORDINANCE BOOK NO. 30 – PAGE 288

C. RESOLUTION NO. 16-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH SKIDMORE OWNINGS AND MERRILL, PLLC, FOR THE PURPOSE OF DEVELOPING THE CITY OF ASHEVILLE COMPREHENSIVE 2025 PLAN UPDATE

Planning & Urban Design Director Todd Okolichany said that this is the consideration of a resolution authorizing the City Manager to enter into an contract with Skidmore Owings and Merrill, PLLC, for the purpose of developing the City of Asheville Comprehensive Plan Update.

The purpose of the comprehensive plan is to set forth goals and policies for sustainable growth and development over the next 10-20 years and beyond. The plan will establish a vision for Asheville and include policy guidance, reflecting the community's vision for the location and form of future development, while ensuring sufficient infrastructure, parks and other community services.

The City's current comprehensive plan, titled "Asheville City Development Plan 2025" was adopted in 2003. The plan focused on:

- Continued investment and redevelopment in areas with sufficient infrastructure
- Strategies to encourage mixed-use development
- Introduction of multi-modal transportation planning and implementation
- Strategies to confront a lack of affordable housing
- Fostering economic growth in key sectors of the community: high-tech, manufacturing, medical and entrepreneurship
- Continued revitalization efforts to support downtown Asheville and other special districts

Overall the comprehensive plan has been a success. It has focused our conversations as a community and has helped the city maintain a high quality of life and a robust local economy. Since 2003:

- The population has increased by 16,000 to an estimated 89,000 people
- The city has attracted investment by a number of dynamic modern employers
- Revitalization efforts have expanded to include the downtown area, Biltmore Village, the River Arts District and Haywood Road, resulting in new investment and sustainable growth
- The city is advancing plans for multi-modal transportation improvements, including greenways, sidewalks and transit

Challenges remain and need additional focus and solutions provided through the comprehensive planning process. Some of these challenges include the following:

- Service sector expansion is raising concerns about growth in lower wage paying job sectors
- Affordable housing continues to be a major challenge for residents of Asheville
- There is an ongoing dialogue focused on developing a more resilient economy
- There is a growing need to identify strategies for climate change adaptation
- Continued need to align land use decision with multimodal transportation planning to meet common goals

Staff released a Request for Proposals (RFP) to solicit planning consultant services to assist the City in updating its comprehensive plan, with a focus on the following six principles, considered as industry standards for creating sustainable places.

1. Ensure a livable built environment by integrating multimodal transportation with housing goals to ensure connectivity and mobility while enhancing community character and place making.
2. Live in harmony with nature and mitigate the effects of climate change by reducing the city's reliance on traditional energy sources while living in balance with the natural systems around us.
3. Maintain a resilient and diversified economy so that our economy with be better protected from fluctuations in the market, and residents will have access to employment and other entrepreneurial opportunities.
4. Promote community equity and housing that meets the needs of current and future residents of the community by ensuring access to safe and affordable housing, community wellness and economic mobility.
5. Encourage healthy communities by maintaining a healthy lifestyle and access to recreational and outdoor activities community-wide.
6. Enhance partnerships and further responsible regionalism by participating in dialogues with other communities on regional issues and participating in partnerships with local and regional agencies and communities for the good of the region.

The City received nine proposals in response to the RFP. A committee consisting of the following participants was formed to review the proposals and select a consultant team: Todd Okolichany, Director of Planning and Urban Design; Alan Glines Assistant Director of Planning and Urban Design; Stacy Merten, Project Manager; Amber Weaver, Chief Sustainability Officer; Mariate Echeverry, Transportation Manager; Al Kopf, Parks and Recreation Manager; Jeremy Goldstein, Chair, Planning and Zoning Commission; and Kristy Carter, Vice Chair, Planning and Zoning Commission. Skidmore Owings and Merrill, PLLC, was selected by the committee, following an interview process with the four top ranking firms.

Skidmore, Owings and Merrill (SOM) has organized a diverse group of highly creative individuals who bring together a deep understanding of comprehensive planning with national expertise in strategic thinking, urban design, engineering and placemaking. The project will be managed by SOM staff. The consultant team also includes Design Workshop, a locally-based firm specializing in landscape architecture, design and placemaking; Chipley Consulting, a certified Disadvantaged Business Enterprise and Small Professional Services Firm that specializes in community engagement and is based in Asheville; Development Strategies, an economic development consultant; and Vanasse Hangen Brustlin (VHB), transportation professionals.

SOM proposes a 15 month planning process, including extensive public engagement that is designed to establish a new vision for Asheville through the Comprehensive Plan Update. Specifically, the plan will include strategies related to land use, transportation, economic development, infrastructure, housing, livability, place-making, open space, streetscapes, climate change, sustainability and resiliency.

The Comprehensive Plan Update will ensure that Asheville continues to be forward thinking and plan ahead in order to remain a diverse, livable, clean and healthy community that provides economic opportunities, transportation alternatives and affordable housing for everyone as specified in the Asheville City Council 2036 Vision.

The contract with SOM would have a financial impact of $264,345 to the city. The base fee for the contract is $204,845. Enhancements to the base fee include $7,500 each for 1) additional public engagement; 2) high performance design strategies; and, 3) environmental

guidelines, for a total of $22,500 in additional services. The contract also includes a fee not to exceed $37,000, for reimbursable expenses related to the project.

The Fiscal Year 2016 budget included $200,000 for this project. Staff has identified an additional $64,345 to cover the cost of the contract utilizing savings elsewhere in the General Fund budget, primarily from fuel.

City staff resources would also be required to manage the project, coordinate with the consultant team, participate in the public engagement and visioning process, provide relevant information and data on existing plans, maps, utility and roadway information, etc., coordinate press releases and updates on the city's website, and coordinate/provide potential meeting locations for the public. Additionally, the City will form a Technical Advisory Team. Staff resources are anticipated from the following departments: Planning and Urban Design, Development Services, Parks and Recreation, Office of Sustainability, Community and Public Engagement, Transportation, Community and Economic Development, Public Works and Legal Services.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Skidmore Owings and Merrill, PLLC, for the purposes of developing the City of Asheville Comprehensive Plan Update.

Councilman Bothwell felt that Asheville has local expertise for some services in the plan.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-99. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 17

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Christopher Chiaronmonte spoke to Council about his ethnic heritage.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:15 p.m.

Magdalen Bamberson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – May 10, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer asked for a moment of silence for Mr. Isaac Coleman who died today of cancer.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY, 2016, AS "MOTORCYCLE AWARENESS MONTH"

Councilman Young read the proclamation proclaiming May, 2016, as "Motorcycle Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Crystal Buckner, representing the Concerned Bikers Association of North Carolina, who outlined some activities taking place during the month.

B. PROCLAMATION PROCLAIMING MAY 15-21, 2016, AS "NATIONAL PUBLIC WORKS WEEK"

Vice-Mayor Wisler read the proclamation proclaiming May 15-21, 2016, as "National Public Works Week" in the City of Asheville. She presented the proclamation to Public Works Director Greg Shuler who introduced employees from the various Public Works Divisions.

C. PROCLAMATION PROCLAIMING JUNE 6-12, 2016, AS "HEMP HISTORY WEEK"

Councilman Bothwell read the proclamation proclaiming June 6-12, 2016, as "Hemp History Week" in the City of Asheville. He presented the proclamation to Mr. Timothy Sadler, and others, who outlined some activities taking place during the week.

D. PROCLAMATION PROCLAIMING MAY, 2016, AS "LYME DISEASE AWARENESS MONTH"

Councilman Smith read the proclamation proclaiming May, 2016, as "Lyme Disease Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Jan Dooley, Mr. Rick Cormier, and others, who outlined some activities taking place during the month.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 26, 2016

B. SECOND AND FINAL READING OF ORDINANCE NO. 4498 GRANTING A

FRANCHISE AGREEMENT WITH ASHEVILLE HORSE AND CARRIAGE TOURS, LLC, FOR THE OPERATION OF A HORSE DRAWN CARRIAGE BUSINESS WITHIN THE CITY OF ASHEVILLE

Summary: The first reading of this ordinance was heard by City Council on April 26, 2016. At Council's April 26, 2016, meeting, they voted unanimously to approve the granting of the Franchise Agreement to Asheville Horse and Carriage, LLC with the following amendments to the originally proposed franchise ordinance: 1) that the term of the franchise agreement be limited to a period of two (2) years; and 2) the franchise agreement be non-transferable.

Additionally, after the April 26th meeting, the Transportation Director met with members of the APD staff, including animal services officers, who have been monitoring the horse drawn carriage operation to date. They had several suggestions for clarifying the proposed franchise ordinance requirements including better means of identification of the horse(s) (i.e. microchip), clarification regarding in-harness rest period, and additional documentation to be kept in a daily log by the carriage operator. These suggested revisions have been incorporated into the franchise ordinance.

ORDINANCE BOOK NO. 30 - PAGE 288

C. **RESOLUTION NO. 16-100 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT FOR THE ASHEVILLE REGIONAL AIRPORT TO REHABILITATE RUNWAY AND ACQUIRE AIRCRAFT RESCUE AND FIREFIGHTING VEHICLE**

Summary: The consideration of a resolution authorizing the Mayor to approve a Grant Offer from the Federal Aviation Administration (FAA) in the amount of $12,260,258.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in the amount of $12,260,258 for the following: rehabilitate runway (Phase 4 Site Preparation and NAVAIDs Installation, Permanent Runway 16/34), and acquire aircraft rescue and firefighting vehicle.

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-046-2016.

RESOLUTION BOOK NO. 38 - PAGE 18

D. **RESOLUTION NO. 16-101 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE THE ASHEVILLE VEGFEST ON MAY 15, 2016**

RESOLUTION NO. 16-102 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE DOWNTOWN AFTER FIVE EVENTS ON MAY 20, JUNE 17, JULY 15 AND AUGUST 19, 2016

RESOLUTION NO. 16-103 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE HALF MARATHON ON JUNE 4, 2016

RESOLUTION NO. 16-104 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ARTS TO PEOPLE FESTIVAL ON SEPTEMBER 4, 2016

RESOLUTION NO. 16-105 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE AIA ASHEVILLE DESIGN AWARDS GALA ON SEPTEMBER 8, 2016

Summary: The consideration of resolutions authorizing the City Manager to approve a resolution making provisions for the possession Asheville Vegfest, Downtown After 5, the Asheville Half Marathon, the Arts to People Festival, and the AIA Asheville Design Awards Gala.

and consumption of malt beverages and/or unfortified wine at Asheville Vegan Society has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Asheville Vegfest and allow for consumption at this event.

Asheville Vegfest will be held on Sunday, May 15, 2016 from 10:00 a.m. to 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Downtown After 5 and allow for consumption at this event.

  Downtown After 5 will be held on Fridays, May 20, June 17, July 15, August 19, and September 16, 2016 from 5:00 p.m. to 10:00 p.m. within the boundaries of Lexington Avenue as per the area limits referenced on the accompanying site map.

- Iron Girls has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Half Marathon and allow for consumption at this event.

  Asheville Half Marathon will be held on Saturday, June 4, 2016 from 7:00 a.m. to 12:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Arts 2 People has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Arts to People Festival and allow for consumption at this event.

  Arts 2 People Festival will be held on Sunday, September 4, 2016 from 11:00 a.m. to 10:00 p.m. within the boundaries of Lexington Avenue, Hiawassee Street, and Walnut Street as per the area limits referenced on the accompanying site map.

- AIA Asheville has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the AIA Asheville Design Awards Gala and allow for consumption at this event.

  AIA Asheville Design Awards Gala will be held on Thursday, September 8, 2016 from 7:00 p.m. to 9:30 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for the Asheville Vegan Society, Asheville Downtown Association, Iron Girls, Arts 2 People, and AIA Asheville

Con:

- Potential for public safety issues

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at Asheville Vegfest, Downtown After 5, Asheville Half Marathon, Arts 2 People Festival, and the AIA Asheville Design Awards Gala.

RESOLUTION NO. 16-101 - RESOLUTION BOOK NO. 38 - PAGE 19
RESOLUTION NO. 16-102 - RESOLUTION BOOK NO. 38 - PAGE 22
RESOLUTION NO. 16-103 - RESOLUTION BOOK NO. 38 - PAGE 25
RESOLUTION NO. 16-104 - RESOLUTION BOOK NO. 38 - PAGE 28
RESOLUTION NO. 16-105 - RESOLUTION BOOK NO. 38 - PAGE 31

E. RESOLUTION NO. 16-106 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH W.K. DICKSON & CO. INC. FOR THE HORIZON HILLS WATERLINE IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a change order with W. K. Dickson & Co., Inc., to increase the engineering design services contract in the amount of $9,170 from a total contract amount of $309,830 to $319,000 for the Horizon Hill Waterline Improvement Project.

On July 23, 2013, City Council awarded the engineering design services contract to W. K. Dickson & Co., Inc., for the Horizon Hill Waterline Improvement Project. The contract consisted of a survey, a hydraulic analysis, engineering design, construction administration, and other related professional services for new 6-inch and 8-inch waterlines within the Horizon Hill area neighborhoods. During the course of the project, issues arose that required additional work and time from the engineering consultant. This additional work and effort was needed in order to meet the project objective of replacing existing substandard and failing waterlines in favor of new waterlines to create improved water service and fire protection.

The additional engineering services create the need for a change order to increase the contract amount by an additional $9,170 for a total contract amount of $319,000.

This project is identified as a need in the City of Asheville Water Resources Department's Capital Improvement Plan, and this action allows us to comply with that plan.

Pro:

- Approval of the change order will allow the City to complete the engineering services for the entire project.

Con:

- If the change order is not approved, then the project cannot be completed.

The funding needed for the change order is currently allocated within the Horizon Hill Waterline Replacement Project in the Water Resources Capital Improvement Projects fund. No budget amendment is necessary.

Current Amount of W. K. Dickson & Co., Inc. Contract	$309,830
Amount Needed for Change Order	$ 9,170
Total Amount for Engineering Contract	$319,000

The amount remaining in the Horizon Hill Waterline Replacement Project will be saved for the construction portion of the project. Staff will seek Council approval of contracts associated with this project if the amount of the contract requires Council approval per the City of Asheville Procurement, Purchasing and Contracting Policy.

City staff recommends City Council approval of the resolution authorizing the City Manager to execute a change order with W. K. Dickson & Co., Inc., to increase the engineering design services contract in the amount of $9,170 from a total contract amount of $309,830 to $319,000 for the Horizon Hill Waterline Improvement Project.

RESOLUTION BOOK NO. 38 - PAGE 34

F. ORDINANCE NO. 4500 - ORDINANCE GRANTING A FRANCHISE AGREEMENT FOR THE OPERATION OF A LOW SPEED VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise agreement for the operation of a low speed vehicle shuttle service within the City of Asheville.

City staff has been working with a representative of the Hilton Garden Inn who is interested in providing a low speed vehicle shuttle service as an amenity for their guests within the City of Asheville under the business name of Hilton Garden Inn Asheville Downtown. The service would operate in the downtown Central Business District (CBD) on city-maintained and state-maintained streets that have a posted speed limit less than 35 mph.

By definition (NCGS # 20-4.01(27)h), a low speed vehicle is a four-wheeled electric vehicle whose top speed is greater than 20 mph but less than 25 mph. It is **not** a golf cart! The vehicle(s) must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. In addition, the vehicle(s) must be insured, registered and licensed in North Carolina.

The shuttle service will operate between the hours of 9:00 am and 12:00 am seven days per week with as many as two vehicles. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. The shuttle service will provide an alternative transportation service to the hotel guests to various points of interest in the downtown central business district in an effort to minimize traffic congestion and the need for them to use their vehicles once they are parked at the hotel site.

This request has been reviewed by the Transportation Department, the Legal Department, and the Asheville Police Department and at this time, all concerns have been addressed. A previous franchise agreement has been approved for a different company but it has not started operating yet.

This item has been reviewed by the Council's Public Safety Committee and it received the Committee's endorsement on April 25, 2016.

Pros:

- Supports diversified job growth and business development.
- Minimizes vehicular traffic congestion and the need for parking.
- Enhances the visitor experience to downtown Asheville.
- No direct fiscal impact to the City.

Con:

- Could impact vehicular traffic flow.

There is no known fiscal impact for the subject franchise agreement.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Hilton Garden Inn Asheville Downtown for the operation of a low speed vehicle shuttle service within the City of Asheville.

ORDINANCE BOOK NO. 30 - PAGE 299

G. RESOLUTION NO. 16-107 - RESOLUTION NAMING FIRE STATION 6 IN MEMORY OF FIREFIGHTER RAYMOND J. FLOWERS

Summary: The consideration of naming Fire Station 6 after City of Asheville (City) Firefighter Raymond J. Flowers.

City Firefighter Raymond Flowers tragically lost his life on May 26th, 1982, while fighting a fire at 926 Haywood Road, in the West Asheville Baptist Church. The Fire Department requests that Firefighter Flowers be remembered by naming Fire Station 6 after Raymond J. Flowers. This request was reviewed and recommended by the Public Safety Committee at its April 25th meeting.

Pros:

- Having a City owned facility that has been named in memory of a public servant who has died in the line of duty is an ultimate recognition of their public service and sacrifice.
- This naming of a city facility is in accordance with the City's policy for naming buildings for distinguished service in firefighting.

Con:

- None have been identified or known at this time.

The purchase of a plaque commemorating the naming would be the associated expense to this consideration.

Staff recommends that the City Council name Fire Station 6 after Raymond J. Flowers.

RESOLUTION BOOK NO. 38- PAGE 35

H. RESOLUTION NO. 16-108 - RESOLUTION AUTHORIZING THE CITY MANAGER TO DONATE POLICE SHOTGUNS TO THE TOWN OF LAUREL PARK POLICE DEPARTMENT

Summary: The consideration of a resolution authorizing the City Manager to donate police shotguns to another local North Carolina police department.

The City of Asheville Police Department (APD) currently retains eight (8) surplus Remington model 870 12 gauge police shotguns, which were purchased in the early 1990's. It has been determined there is no future need for these items due to the department's transition to police rifles to adhere to current best practices. The current market value of these shotguns is approximately $200 each for a total of $1,600.

The Town of Laurel Park, North Carolina (Laurel Park) has identified a legitimate need for these shotguns. Laurel Park, which does not currently have a budget line that enables the purchase of these shotguns, maintains a need exclusively for the purpose of law enforcement functions. Chief of Police, Bobbie Trotter, would be assigning these shotguns to her patrol officers since these officers are not currently equipped with police shotguns.

Pros:

- Provide needed assistance to local law enforcement agency to further meet their safety goals for their community and law enforcement officers.
- Ensure that the shotguns remain in the law enforcement capacity.

Con:

- Not receiving approximately $1,600 in trade-in value for the shotguns to purchase future firearms for APD.

As noted above, the donation of these eight shotguns would eliminate approximately $1,600 of trade-in value that the police department could apply to a future purchase.

City staff recommends City Council approve a resolution authorizing the City Manager to donate the eight identified police shotguns to the Town of Laurel Park.

RESOLUTION BOOK NO. 38 - PAGE 36

I. RESOLUTION NO. 16-109 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH B. ALLEN CONSTRUCTION INC. TO RENOVATE THE SPORTS COURT AND PARK PLAZA AT CARRIER PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to renovate the Sport Courts and Park Plaza at Carrier Park in the amount of $298,840 plus a contingency of $25,160 for a total of $324,000.

During the capital maintenance review process within the Parks and Recreation Department, it has been determined that the existing sport courts and picnic plaza at Carrier Park have met or exceeded their useful lives resulting in continual maintenance needs and conditions that constitute safety concerns for park users. The existing inline hockey rink and basketball court were constructed in the 1990's as part of the original park construction. Over the years issues with drainage and ever increasing attendance in the park has contributed to the deterioration of these park features.

The scope of the project includes the following:

- New inline hockey rink system will provide a safer play experience and durability. The City reached out to the Asheville Hockey League to determine the best mutually agreed upon course of action, products, etc. that meets the leagues long-term needs at the rink.
- Larger paved picnic table area, spectator seating area, grading and drainage modifications, additional bench seating, and trash and recycling containers. As a part of a larger project, these improvements will be completed in a cost beneficial manner.

The project was budgeted at $350,000. This cost estimate was based upon value engineering with the project architect and engineer regarding design, building materials and infrastructure to achieve the lowest cost possible.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received two bids.

1. B. Allen Construction, Candler, NC ($298,840)
2. Patton Construction Group, Inc., Arden, NC ($365,000)

After thorough review and evaluation, staff selected B. Allen Construction, Inc., PO Box 797, Candler, North Carolina, as the lowest, responsible bidder. The base bid accepted was $298,840.

Pros:

- Improves level of service of the facility through the implementation of code compliant upgrades and correcting accessibility issues.
- Improves safety of the facility by replacing uneven and cracked surfaces from years of patching and repairing; replacement of outdated and broken fixtures and finishes.

- Improves performance of sport courts area through ongoing care and maintenance.

Con:

- The courts and rink will be closed during renovations. The majority of work is scheduled to take place between the spring and fall seasons for the Asheville Hockey League.

The $298,840 plus contingency of $25,160 to support the B. Allen Construction, Inc. contract to renovate the Carrier Park Sport Courts and Park Plaza is budgeted in the general capital improvement fund for Parks and Recreation Department.

Staff recommends that the City Council adopt a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc., to renovate Carrier Park Sport Courts and Park Plaza for an amount of $298,840 plus contingency of $25,160 for a total of $324,000.

RESOLUTION BOOK NO. 38 - PAGE 37

J. ORDINANCE NO. 4499 - BUDGET AMENDMENT FROM DONATIONS FOR PROGRAMS AND SERVICES WITHIN THE PARKS AND RECREATION DEPARTMENT

Summary: The consideration of a budget amendment in the amount of $11,000 from donations for programs and services within the Parks and Recreation Department.

The City of Asheville (City) has received miscellaneous donations totaling $11,000 support programs and services within the Parks and Recreation Department. Funds will be used to support the projects listed below.

The $11,000 will be used to purchase supplies, materials and equipment for Fiscal Year 2016 activities at recreation centers and senior programs.

Pro:

- Provide funds to support programs and services

Con:

- None

These donations enhance parks and recreation programs and services at no impact to the General Fund operating budget.

Staff recommends City Council to approve a budget amendment in the amount of $11,000 from donations for programs and services within the Parks and Recreation Department.

ORDINANCE BOOK NO. 30 - PAGE 297

K. RESOLUTION NO. 16-110 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO CONTRACTS WITH WIRELESS COMMUNICATIONS INC. FOR REPLACEMENT OF THE CITY OF ASHEVILLE'S MICROWAVE COMMUNICATIONS SYSTEM

Summary: The consideration of the City of Asheville entering into contracts, not to exceed $343,479, with the most responsive bidder for replacement of the City of Asheville's microwave communications system.

As part of the City's public safety radio project budget, a structured Request for Proposals (RFP) process sought a third-party vendor to replace the current system's end of life

microwave system. The microwave system provides wireless connectivity between the City's radio towers.

Based on operational requirements, expert guidance from Trott Communications Group, and scoring from public safety and IT staff representatives on the evaluation committee, the team's recommendation is to move forward with the most responsive vendor proposal as shown by the scoring matrix developed during the RFP process. Four vendor proposals were received during this process. The top scoring vendor proposal, from Wireless Communications, Inc. based in Charlotte, NC, scored 87/100. It includes specifics as to the experience of the supplier with the proposed solution, support capabilities and quality of service. A "best and final offer" was obtained from this vendor, with an additional option (to be determined at project end) to provide additional redundancy.

Pros:

- Allows City of Asheville to replace a system that has reached the end of its supported lifecycle
- Addresses needs identified in the scope of the public safety radio system upgrade project
- Improves the availability of support for critical communications paths

Con:

- None noted

This procurement is funded via the City of Asheville's Capital Improvement Budget

City staff recommends City Council adopt a resolution authorizing the City Manager to enter into contracts with Wireless Communications, Inc. for replacement of the City of Asheville's microwave communications systems.

RESOLUTION BOOK NO. 38 - PAGE 38

L. MOTION TO MOVE FORWARD WITH APPOINTMENT OF A COMPREHENSIVE PLAN ADVISORY COMMITTEE

Summary: The consideration of a motion to move forward with appointment of an Advisory Committee to oversee the Comprehensive Plan update process and approval of supplemental questions for Advisory Committee at-large members.

At its meeting on April 26, 2016, the Asheville City Council approved the contract with Skidmore Owings and Merrill, PLLC (SOM) for the purpose of developing the City of Asheville Comprehensive 2025 Plan Update. The purpose of the Comprehensive Plan is to set forth goals and policies for sustainable growth and development over the next 10-20 years and beyond. The plan will establish a vision for Asheville and include policy guidance, reflecting the community's vision for the location and form of future development, while ensuring sufficient infrastructure, parks and other community services.

The project's scope will include a 15 to 17 month planning process, including extensive public engagement that is designed to establish a new vision for Asheville. The plan will include strategies related to land use, multimodal transportation, economic development, social equity, infrastructure, housing, livability, placemaking, open space, climate change adaptation, and sustainability.

The contract with SOM anticipates that the City Council will appoint an Advisory Committee that will meet periodically with SOM and City staff as the project progresses to help guide the planning process.

Staff proposes that the Advisory Committee will have representation, at minimum, from the following organizations (in no particular order), plus three at-large members:

- Planning and Zoning Commission;
- African American Heritage Committee;
- Recreation Board;
- Downtown Commission;
- Historic Resources Commission of Asheville & Buncombe County (HRC);
- Public Art and Cultural Commission (PACC);
- Buncombe County liaison;
- Sustainability Advisory Committee on Energy and the Environment (SACEE);
- Multimodal Transportation Commission;
- Affordable Housing Advisory Committee;
- Neighborhood Advisory Committee; and,
- Asheville Area Chamber of Commerce/Economic Development Coalition.

The at-large members would apply and be appointed by City Council in the same process as board and commission appointees. In addition to the standard application questions, staff suggests the following supplemental questions for the at-large members:

1. What do you see as the major challenges facing Asheville in the next 10 years?
2. What do you see as the major opportunities available to Asheville in the next 10 years?

City staff recommends that City Council make a motion to approve an Advisory Committee to guide the Comprehensive Plan update process and approval of supplemental questions for Advisory Committee at-large members.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Haynes and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. STATE OF THE AIRPORT ADDRESS

Mr. Lew Bleiweis, Executive Director of the Greater Asheville Regional Airport Authority, updated City Council on the 2015 Highlights of the Greater Asheville Regional Airport Authority. From a record year of passengers and the addition of a new airline base of operations, to the commissioning of temporary runway 17-25 (a major milestone in Project SOAR, our 4-phase airfield redevelopment project), "growth" was the theme of their year. He gave an overview of their air service; facility and infrastructure growth; Project SOAR; Airport industry leadership and awards; Department of Public Safety; community connections; and finances. They are our region's local airport, and will continue to work diligently to ensure this important asset serves our region well for years to come.

When Councilwoman Mayfield asked if the Airport was doing anything with renewable energy with their new parking garage, Mr. Bleiweis said that they are talking with Duke Energy on some options and they are also putting in electrical charges in the garage.

B. BUDGET PRESENTATION & FINANCIAL UPDATE

Budget Presentation

Finance and Management Services Director Barbara Whitehorn provided Council the economic context of the budget including the (1) challenges (a) staffing and compensation; (b) healthcare; and (c) construction and labor costs; and (2) relief (a) sales tax collections; (b) property tax growth; and (c) management initiatives.

She provided key proposed budget facts of the total operating budget of $170.4 Million. She said (1) no property tax rate increase (47.5 cent per $100 valuation); (2) fees and charges increase (a) user-based fees; and (b) reduced subsidy by taxpayers; and (c) incorporates Council's strategic themes.

She then outlined some uses of the General Fund Balance being Lee Walker Heights, infrastructure reserve, deferred maintenance reserve, one-time investments; and unrestricted, unassigned increase.

Ms. Whitehorn responded to various questions from Council, noting that those she could not immediately respond to would be sent to Council in a memorandum format at the end of the week.

It was the consensus of Council that if there is more Fund Balance than anticipated, that it be designated to the Lee Walker Heights project with a reduction of the Community Development Block Grant funds for that project.

At the request of Councilman Smith, it was the consensus of Council to have $2,000 designated for the annual Festival of Neighborhoods event sponsored by the Neighborhood Advisory Committee.

Councilman Smith asked for more information on the roll-out of the Pay as You Throw Program prior to the June 14 meeting.

At the request of Vice-Mayor Wisler, it was the consensus of Council that the budget include the estimate for where we plan to end out the year, in addition to the current year budget.

In response to Councilwoman Mayfield, City Manager Jackson said that staff did not cut any strategic investments to fund operating budget investments Council requested at the April 12 worksession, e.g., additional transit improvements.

Financial Update

The Financial information in the following report reflects the City's overall financial position for the fiscal year through March 2016. Actual revenues and expenses for Fiscal Year 2015-16 reflect preliminary results due to the timing of report presentation:

Amendments. The General Fund budget presented in this third quarter report reflects the adopted budget of $103,148,627 along with the following budget amendments approved by City Council through March 31, 2016:

Adopted Budget	103,148,627
Budget Amendments:	
Insurance Recovery – Signal Pole	10,526
Grant – Senior Center & Harvest House	7,600
AB Tech Partnership – Traffic Signal	50,000
Donation – E. Asheville Greenway Study	37,000
Fund Balance – Storm Control Material/Equip.	431,000

Fund Balance – Haywood St. Visioning	15,000
Fund Balance – Page Ave. Demolition	115,000
3/31/2016 Budget	$103,814,753

Revenues. Through March 31, 2016, the City has collected $86.8 million in General Fund revenue, which represents approximately 84% of the total General Fund revenue budget. Revenue collections through the first three quarters of this fiscal year are very similar to where they were one year ago in terms of budget versus actual. The City has received eight months of sales tax revenue, and collections are up 5.6% compared to the prior year. In the intergovernmental category, utility tax revenue is projected to exceed budget by $600,000 due to the continuing impact of changes the state made to the distribution formula in the prior year. Development Services Department (DSD) revenue is up approximately $100,000 compared to the same time last fiscal year but continues to run slightly under budget estimates. With the bulk of property tax revenue received in December and January, that revenue source is now at 95% of budget. Overall, based on collection trends through the first three quarters, staff is currently projecting that ***FY 2015-16 General Fund revenue will exceed budget by $1.0 million or 1.0%.***

Expenditures. General Fund expenditures through March 31, 2016 totaled $68.3 million or 66% of budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are slightly under budget through the first three quarters. With fuel prices continuing to be low, expenditures for fleet (fuel and maintenance) were at 58% of budget at the end of March. Overall, staff is projecting that ***FY 2015-16 expenditures (including contract and purchase order commitments) will finish the year under budget by $1.9 million (98.1% of adopted budget plus amendments).***

Fund Balance. The City began FY 2015-16 with unassigned fund balance of $16.6 million. Based on ***current revenue and expenditure projections for FY 2015-16, staff estimates that unassigned fund balance at June 30, 2016 will be $19.0 million or 18.7% of estimated expenditures.***

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF 2016 LIMITED OBLIGATION BOND ANTICIPATION NOTES

Finance and Management Services Director Barbara Whitehorn said that this public hearing is to receive public comments on the proposed execution and delivery of an installment financing contract for various capital projects and acquisitions included in the City's Capital Improvement Program to be delivered in FY 2016-17.

This public hearing is related to the City issuing debt in the form of an interim credit facility, a type of bond anticipation note. This note will be a Limited Obligation Bond (LOB).

The overall debt program is a draw program model, meaning that rather than borrowing the full amount of funding today for several years of projects, we will use short term debt while projects are in process, then issue long-term debt upon completion (about every two years). This model enables the City to finance projects only as they become useful assets, paying debt service over the life of the asset itself, rather than during construction. The City will pay interest on debt as we utilize the funds instead of paying interest on full, permanent financing ahead of the need for funds. This method saves thousands of dollars in interest over the life of the debt.

The projects funded with this interim credit facility are the first phase of the Capital Improvement Program begun in FY 2013-14. The associated long-term debt, which will be comprised of both LOBs and Special Obligation Bonds (SOBs) is anticipated to be issued toward the end of FY 2016-17. This will be 20-year fixed rate debt.

Under the provisions of Section 160A-20 of the General Statutes of North Carolina, installment financing contracts involving real property require a public hearing in which the public may comment on the proposed financing. On April 26, 2016, City Council approved a Resolution authorizing the negotiation of an amendment to an installment financing contract and setting the public hearing for up to $46 million for the issuance of the interim limited obligation bonds on the Capital Improvement Program.

The debt will be issued as short-term Limited Obligation Bonds. This form of obligation has been used previously by the City to construct the 51 Biltmore parking garage. Limited Obligation Bonds (LOBs), also sometimes called Certificates of Participation (COPs), have been used by the City several times, including the 2012 LOBs to repair and renovate City Hall, construction and renovation of the Municipal and Water Maintenance Buildings and Grove Arcade in 1997. As limited obligations of the City, debt repayment is payable solely from currently budgeted appropriations of the City. When construction of the projects are completed or near completed, the City will use long-term LOBs to take-out the short-term LOBs in order to permanently finance the projects.

Pros:

- Allows the City to move forward with the FY 2016 debt financing while complying with all applicable statutes and regulations.
- Reimburses City Treasurer's Cash for construction expenditures to date.

Con:

- None noted.

The total amount projected for identified capital projects and reimbursement of Treasurer's Cash of approximately $44 million. The public hearing states that the amendment to the installment financing contract may be in a principal amount not to exceed $46 million in the event that project estimates change between the time the resolution is approved and the amendment to the installment financing contract is executed.

Staff recommends that City Council receive public comment regarding the financing and the project during the public hearing.

Mayor Manheimer opened the public hearing at 6:00 p.m., and when no one spoke, she closed the public hearing at 6:00 p.m.

Mayor Manheimer said that Council will consider the final approval of the amendment to the installment financing contract on May 17, 2016, and closing on the transaction in June of 2016.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS AND COMMISSIONS

Regarding the Chair of the Civil Service Board seat, it was the consensus of Council to delay action on this until the June 28, 2016, meeting.

Regarding the Haywood Street Advisory Team, the following individuals applied for this vacancy: Grant Millin, Byron Greiner, Rob Carroll, Leslie LeBlanc, Gary Anderson, Susan Jones, Richard Fort, John Tyler Barnes, David Nutter, Bruce Hazzard, Kevin Teater, Susan Andrew, Janet Whitworth, Geronimo Owen and Beth Stickle. It was the consensus of Council to interview Richard Fort, Geronimo Owen, David Nutter, Gary Anderson, Susan Andrew and Leslie LeBlanc.

RESOLUTION NO. 16-111 - RESOLUTION APPOINTING A MEMBER TO THE CIVIC CENTER COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Civic Center Commission.

Mr. Bill Russell has resigned from the Civic Center Commission, thus leaving an unexpired term until June 30, 2017. In addition, there will be a vacancy, left by Mr. Bill Jones on June 30, 2016.

The following individuals applied for this vacancy: Corey Atkins, Jaime Taylor and Joe Greene.

On April 12, 2016, the Boards & Commissions Committee recommended appointing Corey Atkins and Joe Greene.

Vice-Mayor Wisler moved to (1) appoint Corey Atkins to serve the unexpired term of Mr. Russell, term to expire June 30, 2017, or until his successor has been appointed; and (2) appoint Joe Greene to serve a three-year term, term to begin July 1, 2016, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 39

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Cindy Oak, representing the Family to Family Program in the Reynolds School District, and others, urged Council to work closely with the Buncombe County Commissioners and Buncombe County School Board to provide a public bus route at least 5 days a week, 8 hours a day from River Ridge Shopping Center to the Reynolds campus, a distance of 1.9 miles, in order to remove the transportation barrier for impoverished students and their families in the Reynolds district. After a brief discussion, City Manager Jackson was directed to include this item on the next Joint City Manager/County Manager agenda.

Ms. Maureen Quinn spoke to Council about the need for a new aquatics center. City Manager Jackson said that it's his understanding that the Buncombe County Schools will be proposing this, under the County umbrella, for the Tourism Development Authority's Product Development funding.

Mr. John Brigham felt that City Council should dissolve the Asheville City Schools and merge them into the Buncombe County School System.

Councilman Smith assured the public that City Council is aware of the housing crisis. He is looking forward to reviewing our current strategies in regards to housing affordability and also looking to move as far as we are legally able to address this crisis substantially and as quickly as we can.

Councilwoman Mayfield updated Council on her recent trip to the Rocky Mountain Institute E-Lab Accelerator Workshop. She said that they accomplished what they hoped to which is to come up with a foundational framework for how we are going to move this region to clean energy and avoid construction of additional fossil fuel capacity in the early 2020's. She encouraged the public to attend the Energy Innovation Task Force meetings.

Closed Session

At 6:31 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(4). This motion was seconded by Councilman Bothwell and carried unanimously.

At 7:30 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Councilman Haynes and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:30 p.m.

Magdalen Bowlson
CITY CLERK

Edwin C. Manheimer
MAYOR

Tuesday – May 17, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer noted that today the N.C. Supreme Court heard Asheville's water case. The City will hopefully know their opinion in August, 2016.

I. PROCLAMATIONS:

A. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY STUDENTS

Mayor Manheimer nine years ago, former Mayor Terry Bellamy and the Asheville City Council envisioned a new program that would place students with meaningful summer internships with City departments and partnering organizations throughout Asheville. This program would empower its students to get involved in their communities, support them in their quest for college, and reward them with a generous scholarship. After a rigorous application process, 25 CAYLA students are placed in prestigious summer internships that allow them to explore careers and learn from caring adult professionals. Members of the CAYLA Class of 2016 interned with valuable community partners, including the Asheville Area Chamber of Commerce, Moog Music, CarePartners, and the Red Cross of WNC. Each Friday during the summer, the students attended day-long leadership workshops that focused on career exploration. Students not only learned about their own skills and interests, they also met community professionals from the six primary career clusters and took a variety of field trips to see careers in action. Of the graduating seniors, all have been accepted to four-year colleges – and many have earned significant merit scholarships, including the Dell Scholarship, Community Foundation of WNC awards, and the local Civitan and Rotary scholarships. This year, the total merit scholarship money earned by CAYLA students since 2008 will surpass $1.1 million. Beginning last June, the CAYLA students began planning in-depth social justice projects. They organized the MLK Youth Summit, which brought together more than 50 teenagers from all of Buncombe County's high schools to discuss issues of importance to youth. This semester, the students taught a class each week for Asheville City Schools Foundation's IRL afterschool program at AMS. Over the years, CAYLA students have given more than 3,400 volunteer hours to our community. In recognition of their accomplishments and the critical role they will play in Asheville's future, the City of Asheville awards each CAYLA student a scholarship in the amount of $2,000. We are proud of the leadership that the CAYLA students exhibit each day, and look forward to hearing of their achievements in the years to come.

With that, she provided a certificate to the following 2016 CAYLA students: CeeCret Allen, Dana Campbell Jr., D'Angelo Elliott, Fatima Gonzalez, Nadia May, Candida Alas-Ortega, Mercy Beveridge, Korina Dariy, Itzel Garcia, Shamone Jones, Josue Lomeli-Garcia, Jamie Rhodes, Kanaje Allen, Jayla Bunn, Raekwon Griffin, Taekwon Griffin, Ella Heldreth-Schmitt, Jaylen Hooker, Phoenix Keyser, Cindy Marquez, Caroline Penland, Rudy Perez, Cedetria Tranchant, Satorrius Uddyback, and Kimberly Vargas.

Mayor Manheimer praised Erika Germer for her hard work on this program.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 10, 2016

B. ORDINANCE NO. 4500 - SECOND AND FINAL READING OF ORDINANCE NO. 4500 GRANTING A FRANCHISE AGREEMENT FOR THE OPERATION OF A LOW SPEED VEHICLE SHUTTLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: The first reading of this ordinance was heard by City Council on May 10, 2016.

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C. RESOLUTION NO. 16-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN UTILITY RELOCATION AGREEMENTS WITH DUKE ENERGY AND OTHER UTILITY PROVIDERS FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to sign Utility Relocation Agreements for the River Arts District Transportation Improvement Project (RADTIP) Project with Duke Energy and other secondary utility providers for the project.

The RADTIP project is moving toward the construction phase in early 2017. In advance of that time, private utility companies will begin relocation of the utilities as necessary to construct the project. The main provider, Duke Energy will begin relocation activities in the summer of 2016.

The City will enter into a Utility Relocation Agreement (URA), which includes a commitment from the City to reimburse Duke Energy and other utility providers for the costs of the improvements. The costs associated with Duke Energy, along with smaller costs associated with secondary utility providers are already part of the FY17 capital budget for RADTIP construction. The estimated breakdown of costs to Duke Energy is as follows:

Duke Transmission – Riverside Drive	$1,034,000
Duke Transmission – Amboy	$ 300,000
Duke Distribution	$2,750,000
SUBTOTAL	$4,084,000
Contingency 20%	$ 816,800
TOTAL	$4,900,800

The RADTIP project has been in the planning phase since 2010 and is now beginning to move into the construction phase. Utility relocation is scheduled to begin in the fall. This fits into the City Council's visioning plan by helping to create a well-planned and livable city, transportation and accessibility, and a clean and healthy environment. This project implements a portion of the Wilma Dykeman Riverway Plan and is part of the Tiger VI Program.

Pros:

- Able to move into the construction phase of the RADTIP Project.
- Consolidate and upgrade utilities in the corridor.

Con:

- Relocation work will potentially be disruptive to business owners and tenants in the area.

The funds for utility relocation are part of the Fiscal Year 2017 capital budget for RADTIP construction.

Staff recommends that City Council adopt a resolution authorizing the City Manager to sign Utility Relocation Agreements with Duke Energy and other secondary utility providers for the RADTIP project.

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D. RESOLUTION NO. 16-113 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A GRANT AGREEMENT WITH THE FEDERAL HIGHWAY ADMINISTRATION TO RECEIVE $14,600,000 IN TIGER VI TRANSPORTATION FUNDS

Summary: The consideration of a resolution authorizing the City Manager to sign a grant agreement with the Federal Highway Administration to receive $14,600,000 in TIGER VI Transportation Funds.

In April of 2014, City Council authorized staff to submit a grant application to the Federal Highway Administration for TIGER VI Transportation funds to construct a network of multi-modal transportation improvements in the riverfront and in the East of the Riverway area.

In September 2014, the Federal Highway Administration announced that the City of Asheville is a recipient of TIGER VI funds in the amount of $14,600,000. Following that award announcement staff has been working to complete all of the necessary pre-construction requirements in order to be able to sign the grant agreement to receive the funds.

The TIGER VI Projects include the River Arts District Transportation Improvement Project, Clingman Forest Greenway, Town Branch Greenway, French Broad Greenway, Livingston St. and Five Points. TIGER VI grant funds are a critical part of completing these projects. This project meets the goals of City Council's vision by helping to build a well-planned and livable community and building transportation and accessibility. This action complies with the City's plans to complete the riverfront projects.

Pro:

- Provides critical funding to complete City projects

Con:

- There are no cons for this approval

All of the projects in the TIGER VI program are in the City's Capital Improvement Program. The projects are funded through a combination of City funds, TIGER VI funds and other minor grants. Project cost estimates will be refined prior to bid.

Staff recommends City Council adopt a resolution authorizing the City Manager to sign a grant agreement with the Federal Highway Administration to receive $14,600,000 in TIGER VI Transportation Funds.

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E. RESOLUTION NO. 16-114 - RESOLUTION APPROVING AN AMENDMENT TO AN INSTALLMENT FINANCING CONTRACT TO PROVIDE FOR THE FINANCING OF ADDITIONAL PROJECTS

Mayor Manheimer said that City Council held a public hearing on the issuance of the 2016 Limited Obligation Bond Anticipation Notes on May 10, 2016.

This is the consideration of a resolution directing the City Manager and Chief Financial Officer to pursue debt financing for capital projects with a draw program including issuing an interim Limited Obligation Bond (LOB) as construction financing for projects to be permanently financed upon completion with LOBs and Special Obligation Bonds (SOBs), and to approve the documentation related to the LOB financing.

The City has reimbursement resolutions for Council approved capital projects authorized as part of the FY 2014, 2015 and 2016 Budgets This LOB draw program will reimburse the City for costs incurred to date for those projects and allow the City to complete many of the projects.

As a next step in the process, staff is seeking City Council's approval to complete the LOB financing with Bank of America, N.A., as the purchaser of the LOB, which provided the lowest cost financing for the draw program interim financing. The resolution also authorizes the City Manager and Chief Financial Officer to proceed with the LOB financing and execute and deliver the necessary documents to complete the financing.

Pro:

- Allows the City to move forward with the Capital Improvement Program and Draw Program financing.

Con:

- None noted.

Staff recommends that City Council approve the resolution as it is proposed.

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F. ORDINANCE NO. 4503 - BUDGET AMENDMENT FROM INSURANCE RECOVERY FUNDS FOR A DAMAGED BUS SHELTER

Summary: The consideration of a budget amendment in the Transit Capital Fund in the amount of $7,981.82 from insurance recovery funds for a damaged bus shelter to utilize towards the repair of the bus shelter.

On February 20, 2016, a bus shelter located at 85 Tunnel Road was damaged by a third-party and the City settled the property damage claim for $7,981.82. The Transportation Department seeks to utilize the settlement funds to repair said bus shelter.

Pro:

- Provides funding for Transportation Department bus shelter repair.

Con:

- None.

The insurance recovery funds are held in the City Property & Liability Fund. Upon City Council approval, the funds will be transferred to the City Transit Capital Fund to be utilized to repair the bus shelter.

City staff recommends City Council adopt the budget amendment in the Transit Capital Fund in the amount of $7,981.82 so the funds may be applied towards bus shelter repairs located at 85 Tunnel Road.

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G. INFRASTRUCTURE GRANTS

RESOLUTION NO. 16-116 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A LETTER OF INTENT FOR THE "MAJOR WORKS PATHWAY" MULTI-YEAR FUNDING FROM THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR PRODUCT DEVELOPMENT FUNDS

Summary: The consideration of a resolution authorizing the City Manager to submit a letter of intent to the Tourism Development Authority (TDA) and to request $20 M in funding for South Slope infrastructure improvements over the next 7 years to include complete street improvements, pedestrian and bike improvements at the intersection of Biltmore Avenue and Charlotte Street, gateway to the South Slope and a parking deck constructed with innovative renewable energy sources.

The Buncombe County Tourism Development Authority's Strategic Destination Development Plan published in 2006 recognized the need to continue to develop "cultural districts," distinct areas defined by unique attributes that compliment Asheville's culture and extend the Asheville experience. The plan specifically called for defining a framework of cultural districts and investing in one already forming area, the River Arts District, while creating welcoming gateways, beautification and interconnectivity between these areas.

Similarly, in 2014, the City of Asheville approved the designation of three "Innovation Districts," areas surrounding the Central Business District (an existing Innovation District approved in 2012) that are targeted for capital investment and infrastructure improvements. These improvements, in turn, will provide the foundation for additional private investment and growth, similar to the efforts that promoted downtown's resurgence over the last 30 years. The three innovation districts include the River Arts District, the South Slope Extension District and the Charlotte Street Corridor District.

During the last two funding cycles of the Tourism Product Development Fund, the BCTDA recognized the value of investing in connecting downtown to the River Arts District by awarding funding to the River to Ridge: Riverfront Destination Development Project – a project that includes a Riverfront Arts and Culture Dispensary, pedestrian walkway connections, boat ramps and an outdoor recreation experience that connects from scenic Beaucatcher Overlook Park to Downtown and South Slope to the River Arts District and New Belgium Brewery.

In 2015, the TDA revised the process to receive TPDF funding. They developed a "Major Works Pathway" process that could potentially commit multi-year funding to large projects. City staff have been working with the TDA to identify projects that would meet the City's needs by improving the pedestrian and bicycle experience in downtown while also improving the downtown/south slope experience for citizens and tourist. The concept is to successfully expand the footprint of downtown Asheville into a thriving, sustainable and prosperous network of Innovation Districts that offer more of the experiences. By investing in gateways, connectivity, beautification, parking and recreational assets like McCormick Field, we are laying the groundwork for entrepreneurs, artists, restaurateurs, brewers and other private investors to expand the magical spirit of downtown to its surrounding areas and neighborhoods.

Capital investments envisioned for the district include:

- A defined South Slope gateway where Biltmore Avenue, McCormick Place and Southside Avenue intersect;
- Street, sidewalk and pedestrian improvements with wayfinding to improve access to Asheville's walkable "Ale Trail" throughout the South Slope District. The Asheville In Motion (AIM) plan calls for Lexington Avenue, Coxe Avenue and Biltmore Avenue to improved to complete streets.
- Infrastructure improvements surrounding McCormick Field to better connect the venue to the Brewery District – including a potential signature pedestrian bridge across Biltmore Avenue - and encourage private, mixed-use development surrounding the facility, and;
- Construction of a mixed-use building with a public parking deck near the intersection of Southside, Biltmore Avenue and Charlotte Streets. This parking garage could include renewable energy sources and battery storage.

This direction aligns with the City Council's Vision in the following ways: (1) *A WELL-PLANNED AND LIVABLE COMMUNITY* - Asheville promotes community through thoughtful, resident-led planning that result in pedestrian oriented development for all ages and abilities, harmonized with an integrated transportation system; (2) *A CLEAN AND HEALTHY ENVIRONMENT* - Asheville continues to be a leader in innovative technologies and conservation efforts in response to global climate change; and (3) *TRANSPORTATION AND ACCESSIBILITY* - Whether you drive a car, take the bus, ride a bike or walk, getting around Asheville is easy. Public transportation is widespread, frequent, and reliable. Sidewalks, greenways, and bike facilities get us where we want to go safely and keep us active and healthy. It is easy to live in Asheville without a car and still enjoy economic, academic, and social success.

Pros:

- Provides funding to construct complete streets for three of the top nine recommended streets in the Asheville In Motion (AIM) Plan.
- Improves street and sidewalk conditions in the South Slope Innovation District.
- Makes safety improvements to the intersection of Biltmore and Charlotte Street.
- Provides a parking garage in the South Slope that would include renewable energy sources including solar and battery storage. This asset would serve as an innovative solution to reducing reliance on fossil fuels.
- Provides infrastructure that encourages infill development with walkability.
- Provides placemaking to the south entrance to downtown.
- Expands the footprint of downtown into the South Slope by improving multimodal transportation options.
- The City would leverage $28 M with an investment of $3 M from the parking enterprise fund and $1 M from the general fund.
- The City will seek funding for curtaining and associated improvements to the Thomas Wolfe Auditorium in the regular cycle of TPDF.

Cons:

- Matching funds would be provided from NCDOT STP-DA funding on your agenda tonight.
- Funding for major renovations to the Thomas Wolfe Auditorium will be requested from TPDF in future years.

Staff plans to match the funding for these projects with grants from STP-DA funding also on your agenda for May 10, 2016 as well as potential innovative energy efficiency grants and funding from the parking fund for acquisition, design and permitting of the parking garage.

The total request from the TPDF is $20 million over 7 years with the following tentative schedule.

Schedule of Projects and Funding

Project	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
Gateway		$500 K (design & ROW acquisition)		$2 M (construction)			
Ped, Transit and Bike Intersection Improvements at Biltmore and Charlotte		$500 K (design & ROW acquisition)		$2 M (construction)			
Complete Street Improvements		$3.5 M (design & ROW acquisition)			$6 M (construction)		
Innovative Energy Parking Deck	$2.5 M (acquisition and design)			$13 M (construction)			

Sources of Funding

Source	FY 2017	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	Total
TPDF	0	0	$4 M	$4 M	$4 M	$4 M	$4 M	$ 20 M
STP-DA	0	$1 M	$2 M	$1 M	0	0	0	$4 M
Parking Enterprise	$1 M	$1 M	$1 M	0	0	0		$3 M
General Fund	0	$ 0.5 M	$ 0.5 M	0	0	0	0	$1 M
Energy Efficiency Grants	0	$ 0.5 M	$ 0.5 M	$1 M	0	0	0	$2 M
Total	$1 M	$3 M	$8 M	$6 M	$4 M	$4 M	$4 M	$30 M

Staff recommends approval of a resolution authorizing the City Manager to submit a letter of intent to the Tourism Development Authority (TDA) and to request $20 M in funding for South Slope improvements over the next 7 years to include complete street improvements, pedestrian and bike improvements at the intersection of Biltmore Avenue and Charlotte Street, gateway to the South Slope and a parking deck constructed with innovative renewable energy sources.

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RESOLUTION NO. 16-117 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO or appropriate state or federal agencies to receive the funds.

The MPO has opened a call for projects to use federal Surface Transportation Program – Directly Attributable (STP-DA) funds and Transportation Alternative Program (TAP) funding sources. The MPO expects to have approximately $14 million in STP-DA and TAP funding

available for federal fiscal years 2018 and 2019, $13.2 million in STP-DA and $1.06 million in TAP. This is a competitive call open to all local governments and to the two NCDOT divisions in the four-county MPO area.

Staff is pursuing funding for the following projects:

- Planning, environmental documents, and construction documents for three complete street projects in the South Slope district which are identified as transformative in the Asheville in Motion (AIM) plan: Coxe Avenue, Lexington Avenue and Biltmore Avenue, at an estimated cost of $5 million, with 80% funded by the grant. This project is planned as preparatory for future construction grant requests.

- Update of the city's 2004 Pedestrian Plan and older public right-of-way ADA Transition Plan at an estimated cost of $175,000, with 80% funded by the grant.

- Construction of River to Ridge Greenway Network connector routes, including pedestrian and bicycle facilities, street crossings, wayfinding between Clingman Forest, Town Branch and Beaucatcher Greenways, and making the connection to the French Broad River East greenway via RADTIP improvements, at an estimated cost of $1.75 million, with 60% funded by the grant. This project builds upon a prior MPO grant for design of the connectors.

Each of these projects supports the initial implementation of the AIM plan and vision of the South Slope as a district that is a place in itself and yet connected to the rest of downtown, McCormick Field, Memorial Stadium and future mountainside parks, the River Arts District, and the larger city.

The MPO application requires expression of City Council's willingness to program the local match if selected to receive the grant. In all cases, while the local match cannot be other federal funds, it could be from other grant funding.

If received, these projects will be added to the city's capital and operating budgets.

Pros:

- Allows the City of Asheville to leverage to up to an estimated $5.1 million in federal transportation investment
- Allows the City of Asheville to begin implementation of three complete street projects identified as transformative in the AIM plan
- Allows the City of Asheville to update the city's 12 year old pedestrian master plan
- Allows the City of Asheville to update an element of city compliance with the Americans with Disabilities Act
- Allows the City of Asheville to construct clear and comfortable connections between three upcoming greenways, making them part of a growing network of transportation pathways

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will allow the city to leverage up to an estimated $5.1 million in federal funding for these projects, with a city match of up to an estimated $1.7 million.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO or state or federal agencies to receive the funds, and to express the intention to provide the required local match.

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RESOLUTION NO. 16-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SUBMIT A PRELIMINARY AND FINAL GRANT APPLICATION TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY FOR 2016 TOURISM PRODUCT DEVELOPMENT FUND CYCLE

Summary: The consideration of a resolution authorizing the City Manager to submit a preliminary application and final application, and accept if awarded, a grant from the Buncombe County Tourism Development Authority (TDA) through the Tourism Product Development Fund (TDPF) for funding to support improvements at the U.S. Cellular Center.

The Buncombe County TDA's 2016 grant cycle for the TDPF opens in June of this year. TDPF grants support construction of brick and mortar projects that will add new or increase existing room nights in Buncombe County. The City of Asheville (City) contemplates submitting a preliminary application on June 1, 2016. The TDA will review preliminary applications to determine eligibility, short list and invite potential grantees to submit a more extensive final application. Preliminary applicants will receive notification of eligibility on June 29, 2016. If the City receives an invitation to continue with the grant process, a more extensive final application is due on August 31, 2016. The Buncombe County TDA will announce grant awardees and amounts on or before October 26, 2016.

Staff recommends applying for $1,975,000 in TPDF grant funds that will support TPDF guidelines and City Capital Improvement Project construction costs of $3.3 Million. The City's project will, if funded, construct a comprehensive set of improvements and enhancements to the facility which will increase the venue's ability to host larger conferences and additional concert/performance events. The project will create a new venue within the facility by developing a theater system inside the ExploreAsheville.com arena with a flexible attendee capacity between 2,500 and 4,500 as needed. The project elements are:

- Arena Theater System and Sound & Light Package: Purchase & installation of equipment and materials to create a flexible capacity theater within the ExploreAsheville.com Arena. This theater system will come equipped with the necessary curtaining, trussing, sound and light equipment necessary for a basic concert or performance event. Sound and light components are mobile equipment which will have the ability for use in both the Thomas Wolfe Auditorium and the ExploreAsheville.com Arena, allowing for more frequent use and ability to generate additional event dates.
- Meeting room renovation: Conversion of a current storage area to a permanent meeting room equal in capacity to the facility's second largest room, complete with all necessary audio/visual and internet needs. As the USCC has added additional meeting/conference events, meeting planners have identified additional meeting room space as essential for larger meetings.
- Required Related Infrastructure: Converting storage space into meeting space & creating the theater curtain wall system will require additional infrastructure updates to the facility in order for all components to function. This includes expanding current storage areas in the facility exhibit level, Internet infrastructure enhancements and significant improvements to the facility's HVAC system to successfully accommodate the curtaining system and additional conditioned meeting space, as well as conditioned storage space.

This proposed preliminary application was presented to and unanimously supported by the Civic Center Commission at the May 3rd monthly meeting. The City Council Planning & Economic Development Committee will review the proposal prior to the full City Council meeting on May 17, 2016, and the PED recommendation will be provided at the Council meeting.

This application aligns with City Council's 2036 Vision as follows: (1) Smart City: Leveraging funding for necessary improvements to city property and infrastructure through external TDA sources allows for the City to maintain and improve the City's infrastructure in a fiscally responsible manner. These improvements also allow the facility to more flexibility to clients and therefore enhances the facility's revenue base; (2) A Clean & Healthy Environment: Related Infrastructure associated with the project will include improvements to the facility's HVAC systems. These improvements were highlighted items of priority in the 'Building Energy Analysis Report' conducted in 2015 by Griffith Engineering, commissioned by the city's sustainability department; and (3) Transportation & Accessibility: Improvements to this facility extends the usable life of the facility and increases the amount of public leisure and entertainment activities within downtown which is the most accessible area of the City through all means of transportation.

Pros:

- Maintain and improve the City's infrastructure.
- The TDPF is a significant funding opportunity that would be the keystone to allowing these improvements to take place.
- The potential improvements will allow the facility to operate one step closer to revenue neutral.

Con:

- None

The Buncombe County TDA may choose to not award, partially award or fully award the grant request of $1,975,000. If any award is offered the City would experience a positive impact to the budget. Any award is contingent upon the availability of matching funds. These funds have been identified by staff as the U.S. Cellular Center capital fund, General Fund, In Kind contributions & potentially the Green CIP.

An announcement of an award would begin the process of the city developing a grant agreement with Buncombe County TDA that further defines the specific funding amounts and project elements included in the partnership effort. Through proposed partnerships like these, staff continues to develop diverse funding sources for future opportunities and improvements that will increase the City's fiscal sustainability.

Staff recommends City Council adopt a resolution authorizing the City Manager to submit and accept if awarded, a preliminary and final grant application to the Buncombe County Tourism Development Authority (TDA) for the Tourism Product Development Funding (TDPF) to support renovations and improvements at the U.S. Cellular Center.

Councilwoman Mayfield was pleased to highlight the two TDA applications, one of which will allow a multi-year funding application for $20 Million of funding for Asheville's infrastructure needs.

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H. RESOLUTION NO. 16-119 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT COMMUNITY WASTE REDUCTION AND RECYCLING GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL QUALITY

ORDINANCE NO. 4501 - BUDGET AMENDMENT TO ACCEPT COMMUNITY WASTE REDUCTION AND RECYCLING GRANT FUNDS FROM THE N.C. DEPT. OF ENVIRONMENTAL QUALITY

Summary: The consideration of a resolution authorizing the City Manager to accept Community Waste Reduction and Recycling (CWRAR) grant funds from the North Carolina Department of Environmental Quality (NCDEQ) (formerly NCDENR); and a budget amendment in the amount of $29,813 in the Special Revenue Fund to budget the grant and the City's match.

In October 2015, the City of Asheville partnered with the Housing Authority of the City of Asheville (HACA) to launch a recycling pilot project for the 280 public housing units of the Erskine, Walton and Livingston Street communities. With CWRAR funding from NCDEQ, "Big Blue" 96-gallon recycling roll carts were distributed to each residence and significant outreach was conducted. These residents are now collectively recycling over 1,500 pounds of materials every week. The City has been awarded a second grant to expand this recycling project to 388 more units in the communities of Deaverview and Hillcrest in Fiscal Year 2017.

The total cost for the project is $29,813. The CWRAR grant would require a 20% cash match from the City of Asheville. Thus $4,969 would be contributed by the City, from the sustainability street light savings in the general fund, while the grant would cover the remaining $24,844.

Pros:

- Provides more equitable access to recycling services for residents of public housing
- Helps to meet City's waste reduction goal while leveraging state funding

Con:

- None can be identified

As noted above the total cost of the project is $29,813, with the grant covering $24,844 or 80% of the cost. The 20% City match of $4,969 will come from sustainability street light savings that have been designated for green projects.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept $24,844 in grant monies from NCDENR; and a budget amendment in the amount of $29,813 in the Special Revenue Fund to budget the grant and the City's match.

Councilwoman Mayfield was pleased to highlight that this will expand recycling into the communities of Deaverview and Hillcrest.

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I. RESOLUTION NO. 16-120 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE APPALACHIAN REGIONAL COMMISSION TO CONDUCT THE ENTREPRENEURIAL IMPACT OF OUTDOOR SPECIAL EVENTS

ORDINANCE NO. 4502 - BUDGET AMENDMENT TO ACCEPT GRANT FUNDS FOR ENTREPRENEURIAL IMPACT OF OUTDOOR SPECIAL EVENTS RESEARCH STUDY

Summary: The consideration of a resolution authorizing the City Manager to accept and execute a grant agreement with the Appalachian Regional Commission, and a budget amendment in the amount of $25,000 to appropriate the grant funding in the FY 2015-16 budget.

The Appalachian Regional Commission (ARC) offers grants to create opportunities for self-sustaining economic development and improved quality of life for the people of Appalachia. City Council adopted a resolution on August 25, 2015 authorizing an application for grant assistance to ARC for a research study that would identify the impact of special events as

strategic assets for Asheville and surrounding local economies. Funding in the amount of $25,000 was authorized from the current Community & Economic Development budget to meet the required 1:1 match. The total project budget included $50,000 for contracted consultant services with 20% allocated to the development of survey instruments, 50% for data collection, 20% for technical analysis and 10% for report preparation.

On April 22, 2016, ARC notified the City of Asheville that the application for grant assistance was approved. The project titled, The Entrepreneurial Impact of Outdoor Special Events, will study the impact of special events on entrepreneurship, generate data to support the development of policy recommendations designed to motivate entrepreneurship and job creation through special events, and create a practical, research-based survey tool that can be shared with surrounding communities in the region.

Pros:

- Strengthens the City's relationship with the North Carolina Department of Commerce and the Appalachian Regional Commission
- Provides critical data with which to base sound policy recommendations
- Creates opportunities to engage, support and partner with the private sector
- Establishes a platform to share City efforts and provide assistance throughout the region

Con:

- None noted at this time.

The fiscal impact of the City's support to this grant is matching funds in an amount not to exceed $25,000 from the existing Community and Economic Development budget.

City staff recommends that City Council authorize the City Manager to execute a grant agreement between the Appalachian Regional Commission and the City of Asheville, and adopt the associated budget amendment in the amount of $25,000 to appropriate the grant funding in the FY 2015-16 budget.

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J. RESOLUTION NO. 16-121 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL

RESOLUTION NO. 16-122 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE COMMUNITY CONCERT

RESOLUTION NO. 16-123 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE INGLES INDEPENDENCE DAY CELEBRATION

Summary: The consideration of authorizing the City Manager to approve resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival, the Community Concert, and the Ingles Independence Day Celebration.

- Mountain Sports Festival has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

The Mountain Sports Festival will be held on Friday, May 27, 2016 from 4:00 p.m. to 10:00 p.m., Saturday, May 28, 2016 from 10:00 a.m. to 10:00 p.m., and Sunday, May 29, 2016 from 10:00 a.m. to 6:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Community Concert and allow for consumption at this event.

  The Community Concert will be held on Saturday, June 11, 2016 from 6:00 p.m. to 9:30 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Ingles Independence Day Celebration and allow for consumption at this event.

  The Ingles Independence Day Celebration will be held on Monday, July 4, 2016 from 12:00 p.m. to 10:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for the Mountain Sports Festival and the Asheville Downtown Association

Con:

- Potential for public safety issues

Staff recommends City Council authorize the City Manager to approve resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival, the Community Concert, and the Ingles Independence Day Celebration.

RESOLUTION NO. 16-121 - RESOLUTION BOOK NO. 38- PAGE 51
RESOLUTION NO. 16-122 - RESOLUTION BOOK NO. 38- PAGE 54
RESOLUTION NO. 16-123 - RESOLUTION BOOK NO. 38- PAGE 57

K. RESOLUTION NO. 16-124 - RESOLUTION AMENDING THE COMPOSITION OF THE CITIZENS-POLICE ADVISORY COMMITTEE

Summary: The consideration of a resolution amending the membership of the Citizen Police Advisory Committee (CPAC).

As outlined in the background summary regarding the creation of CPAC, the current composition of the voting members of the body include the following:

- Five representatives of the north, east, south, west and central areas of the City;
- Chair of the Asheville-Buncombe Community Relations Council (ABCRC);
- Asheville Housing Authority Chair or designee; and
- Two ad-hoc members appointed by the Committee.

Terms of all CPAC voting members (with the exception of ad-hoc members) are limited to two consecutive periods of three-years. Ad hoc members are currently appointed by CPAC without any terms. It appears as though CPAC is the only board, commission or committee within the City that appoints some of its own membership and without term limitation. The current ad-

hoc positions have been in place since 2013 (purpose related to driving under the influence) and 2015 (public housing resident representation), respectively.

Non-voting members of CPAC include a City Council liaison, Chief of Police, and Police Officer (Sergeant in Community Relations or designee).

On February 29, 2016, the ABCRC was officially dissolved. As a result, the CPAC seat formerly dedicated to the ABCRC Chair no longer exists. In an effort to identify what to do with the former seat – if anything – input from the CPAC body was sought for which it had discussion during its regular meetings of March 2, April 6 and May 4. As a part of those discussions, staff identified concerns relative to the manner in which CPAC was appointing ad-hoc members to its body including service for periods without limitation.

During its May 4 Regular Meeting, CPAC voted unanimously to support the following motions in reference to its membership:

- Vice Chair Holt motioned to recommend to the Boards and Commissions Committee of City Council that the Citizens Police Advisory Committee set a term limit of 12 months on Ad Hoc seats. Allen Brailsford seconded. The motion carried on an 8-0 vote.

- Carol Rogoff Hallstrom motioned to recommend to the Boards and Commissions Committee of City Council that the Asheville Buncombe Community Relations Council seat be converted to a seat for a resident of a property owned by the Asheville Housing Authority. Larry Holt seconded. The motion carried on a 7-0 vote. Cooke, Joslin, Hallstrom, Holt, Gurney, Brailsford, and Gardner voted in support of the motion; Applewhite abstained.

It is important to note that while CPAC understands that the new Asheville Housing Authority resident seat would be appointed through an open City Council process, it recommends that the current resident ad-hoc member (Sir Charles Gardner) be appointed for the initial term.

On May 10, 2016, the City Council Boards & Commissions Committee unanimously recommended: (1) the seat formerly held by the Chair of the Asheville-Buncombe Community Relations Council (dissolved March 1, 2016) be converted into a seat for a resident of property owned by the Asheville Housing Authority; and (2) the two current ad hoc seats become at-large seats with three-year terms.

Staff recommends that City Council amend the CPAC membership to (1) convert the seat formerly held by the Chair of the Asheville-Buncombe Community Relations Council be converted into a seat for a resident of property owned by the Asheville Housing Authority; and (2) the two current ad hoc seats become at-large seats appointed by City Council with three-year terms.

RESOLUTION BOOK NO. 38 - PAGE 60

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. RESOLUTION NO. 16-125 - RESOLUTION ADOPTING THE ASHEVILLE IN MOTION PLAN

Transportation Planning Manager Mariate Echeverry said that this is the consideration of a resolution accepting the Asheville in Motion (AIM) plan, the City of Asheville Mobility Plan.

In order to address the City's growing transportation needs, and to create a coordinated strategy to prioritize multimodal improvements the City of Asheville engaged in the development of a Multimodal Transportation Plan, the Asheville in Motion Plan. The City hired Kimley-Horn and Associates, Inc. to develop the plan. The plan was funded by the Metropolitan Planning Organization as part of the Unified Planning Work Program in the amount of $200,000, and $86,000 from the General Operating fund for a total project budget of $336,000.

The AIM plan creates a vision for Asheville providing a cohesive strategy and a method to prioritize projects. The vision begins by embracing the Complete Streets philosophy with an aim toward improving multimodal connections.

Projects are selected based on five criteria:

- Economic Vitality for projects that support and catalyze the community's economy.
- Social Equity, for projects that provide transportation options to underserved communities.
- Community Vibrancy, which reflects how the project will contribute to the urban fabric and the sense of place of a specific community.
- Travel Mode Shift, for projects that encourage travelers to diversify how they move around, either walking, biking or riding transit, instead of driving.
- Public Sentiment, which reflects public support.

Once the projects are selected, the AIM plan incorporates different tools unique to Asheville that determine the type of multimodal improvements that can take place on a specific road, taking into consideration the neighborhood that the road is serving and the right of way constraints:

- Framework plans, that consider individual system level plans for pedestrian, bicycles, and transit. These framework plans define how the different modes of transportation are developed and where the priorities are. The framework plans include policies and projects as needed.
- Street Type, which reflects the way how our community uses the road network using a new set of street categories.
- Community Types, which is a method to incorporate community context (land use and urban form).
- Blended Typology, which is a method to consider right of way constraints, based on street types and community types.

In addition, the plan recommends Transformative Projects, which are projects that combined create an interconnected network, providing access to jobs, education, recreation, and encouraging a healthy life style. These projects represent a coordinated strategy for the immediate future (next 15 years).

The AIM plan was supported by a very robust public outreach process. There were more than 15 outreach events, including a symposium that featured a mobility fair and an expert panel; a week-long design charette; and a public rollout.

The stakeholder engagement process brought citizens, business, non-profits, and elected officials giving them the opportunity to speak directly to the consultants. All those events combined drew more than 300 citizens.

There was intensive public input at the symposium that was complemented by the results of an online survey: the Metroquest received more than 1,200 responses and almost 20,000 data points. The input from all these public sessions informed the development of the plan and the policy and project recommendations.

The final report was posted on Open City Hall for three weeks.

The process was overseen by the Project Oversight Committee which was composed by representatives of different agencies, such as: Housing Authority, UNC-Asheville, A-B Tech, Airport Authority, Asheville on Bikes, Warren Wilson College, Asheville Area Chamber of Commerce, Just Economics, Mission Hospital, North Carolina Department of Transportation, the French Broad Metropolitan Planning Organization and members of the Multimodal Transportation Commission.

The AIM plan was endorsed by the Multimodal Transportation Commission at their April meeting.

Pros:

- Establishes a vision for multimodal transportation improvements that provides enhanced mobility options to the citizens of Asheville.
- Develops a cohesive strategy to prioritize transportation projects and multimodal improvements.
- Positions the City of Asheville in an advantageous position to access transportation funding.

Con:

- None at this time.

There is no direct fiscal impact as part of this action.

City staff recommends City Council consider a resolution adopting the Asheville in Motion plan, the City of Asheville Mobility Plan.

Mr. Stephen Stansbery, consultant Kimley-Horn & Associates, explained that AIM is an important process intended to consolidate a variety of mode specific plans into a cohesive strategy that expresses a method for prioritizing space and transportation investments in a constrained setting. AIM accomplishments include (1) developed a unique way to consider community context; (2) developed a street typology unique to Asheville; (3) updated/modernized the bike master plan; (4) created a new method of identifying priority projects; and (5) identified ways to better align transportation investments with a variety of community priorities. He then explained the community engagement process. The AIM toolbox will have (1) a method for considering individual systems-level plans for pedestrian, bicycle, greenway and transit; (2) a new set of street type categories; (3) a consistent method for considering community context; and (4) a method for dealing with constrained physical setting (insufficient right-of-way, widening).

Councilwoman Mayfield was glad to see land use and transportation come together in a Plan. She was hopeful that this will take us down the road to prioritizing our projects and making investments to help with the mode shift. She also hoped that we can move quickly into a discussion about resources and how we pay for all of this infrastructure change and implementation.

When Mr. Ken Michalove asked the cost of the study and the cost to implement it, Ms. Echeverry said that the cost of the study was $336,000 with $200,000 coming from Federal Highway Administration funds. She did not know the cost of implementation yet.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilwoman Mayfield moved for the adoption of Resolution No. 16-125. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 61

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE FISCAL YEAR 2016-17 ANNUAL OPERATING BUDGET

Director of Finance and Management Services Barbara Whitehorn said that City Council conducts a public hearing each year to receive public input on the Proposed Annual Operating Budget prior to adoption of the Annual Budget Ordinance. This public hearing was advertised on May 6, 2016.

The Fiscal 2016/2017 Proposed Annual Operating Budget was presented to City Council on May 10, 2016. The Fiscal Year 2016/2017 Proposed Budget is balanced with an Ad Valorem tax rate of $0.475 per $100 of assessed value, which represents no change to the current year tax rate. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. The Proposed Budget is also available for viewing on the City's website.

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 6, 2016. Adoption of the Fiscal 2016/2017 Budget Ordinance is scheduled for June 14, 2016 at the regularly scheduled City Council meeting. The Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which cannot be changed once the Budget is adopted.

She then explained some changes as follows:

Infrastructure reserve	$1.1 Mil
Deferred maintenance reserve	$200,000
One-time investments	$760,000
Unrestricted, unassigned increase	$1.46 Mil
Lee Walker Heights	$2.18 Mil
	Total $5.7 Mil

Also, per Council, she added $2,000 for the Festival of Neighborhoods and $106,000 for a Development Services Department short-term rental position and equipment.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2016/2017 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

Mayor Manheimer opened the public hearing at 5:38 p.m.

Ms. Maureen Quinn spoke about the need for development of a new indoor aquatic center.

Ms. Jackson felt we should be investing in infrastructure and transit and not the crime analyst position, which she hoped would not perpetuate a racist and classist analysis.

A gentleman thanked City Council for making transit a priority in this year's budget.

Mr. Ken Michalove urged Council to remove the funding for Pack Place Capital Improvements as he felt the action is political favoritism.

Rev. Amy Cantrell thanked Council for their investment in transit and hoped that the new crime analyst position will not perpetuate a racist and classist analysis.

Mr. Chris Peterson spoke in opposition of several items in the budget, including, but not limited to increase in fees and charges, funding in the River District, transit, Fund Balance, etc.

Mr. Bruce Emory, Chair of the Multimodal Transportation Commission, thanked City Council for the additional funding for transit and looked for to implementation over the next year.

Mr. Anthony Mitchell, Vice-Chair of the Transit Committee, hoped that Council will continue to make transit a priority.

Ms. Desiree Smith said that the City needs more affordable housing, transit, etc, and not a new crime analyst position.

Mayor Manheimer closed the public hearing at 6:05 p.m.

At Councilman Smith's suggestion, City Manager Jackson said that staff will include the purpose and outcomes anticipated from the new crime analyst position on the City's website, along with the highlights of budget on-line.

Mayor Manheimer said that adoption of the Fiscal Year 2016-17 Annual Operating Budget will occur on June 14, 2016.

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR THE CONSTRUCTION OF A TWO-STORY 75,000 SQUARE FOOT RETAIL BUILDING AND A ONE-STORY 8,000 SQUARE FOOT RETAIL BUILDING ON PROPERTY LOCATED AT 800 BREVARD ROAD, ASHEVILLE N.C.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

Principal Planner Shannon Tuch submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

She said that this is the consideration of a conditional use permit for the construction of a two-story 75,000 square foot retail building and a one-story 8,000 square foot retail building on property located at 800 Brevard Road. This public hearing was advertised on May 6 and 13, 2016.

Ms. Tuch said that the applicant Asheville Retail Associates, LLC, is requesting review of site plans for the construction of two new retail structures totaling 83,000 square feet along with related parking and other site improvements (Aerial - Attachment to City Exhibit 3). This project is considered a Level III review pursuant to Section 7-5-9(a) and 7-5-9(a)(1)(c) of the city's Unified Development Ordinance (UDO), which designates a Level III review for projects with more than 100,000 square feet of gross floor area. Level III projects are reviewed as Conditional Use

Permits.

The project address is 800 Brevard Rd. and includes two parcels (Site Plans - Attachment to City Exhibit 3). Building 3A (75,000 s.f.) is located on PIN 9626.76-8165 which is approximately 8.9 acres in size and also includes the recently constructed Field & Stream building. Building 3B (8,000 s.f.) is located on PIN 9626.86-3724 which is approximately 44.8 acres in size and supports the majority of the recently renovated outlet mall. A third parcel supporting the retail anchor Dillard's is owned separately and not included in this application. The site has been previously developed and is relatively flat with good visibility and access.

This project constitutes the third phase of the Asheville Outlets mall development and includes the construction of a new two-story, 75,000 square foot retail building along with a smaller 8,000 square foot single-story retail building on a separate parcel. Both buildings are proposed where surface parking currently exists and will result in the reconfiguration and reconstruction of those parking areas.

The 83,000 square feet of new construction is in proximity to a recently constructed 52,000 square foot retail building (Field & Stream) and the UDO combines these projects for purposes of review (Sec. 7-5-9(a)(1)c) (Elevations - Attachment to City Exhibit 3). Specifically, this requirement states:

> (c) Properties located within 500 feet of each other, under the same ownership and/or developed by the same developer over a period of three years or less shall be considered to be one development and reviewed as such.

When combined all three buildings result in 135,000 square feet of new construction, meeting the review threshold for a Level III, Conditional Use Permit application.

Access to the mall can be achieved from one of four access points. The main entrance and a secondary entrance are located off of Brevard Rd. while the other two entrances are located off of Ridgefield Blvd. Internal sidewalks are provided as part of the project, however, the developer chose to pay a fee-in-lieu for sidewalks required along street frontages (Brevard Rd. and Ridgefield Blvd.) so no sidewalk is proposed in these areas.

The new construction will remove a number of existing parking spaces resulting in a net loss of off-street spaces. Despite the removal of spaces, the total parking count will remain well above the minimum number of spaces required. When evaluated as one large retail center, the overall parking numbers will continue to fall within the min/max range for off-street parking requirements based on the entire mall area. The project also complies with off-street parking when evaluated per individual parcel. Bicycle parking requirements are reduced given the net reduction in vehicular parking spaces so the project remains in compliance from the previous phases of development.

The developer had previously worked with Transportation staff on identifying an appropriate location for a new transit shelter and recently constructed the one that is currently in use; however, the location of the new shelter has not proven to be as efficient as desired resulting in route delays. Transportation staff and the developer will continue to explore a more suitable site and will relocate the shelter if a mutually agreed upon alternative is identified, however, this is not a condition of this project.

Landscaping for the new construction will be required and includes building impact, street trees and parking lot landscaping. The proposed plans demonstrate full compliance with these requirements.

The previous two phases of the mall development were exempted from open space

requirements, however, because Phase 3 is new construction it will require open space which is assessed based on the existing parcel area. Given the Regional Business zoning and the suburban style of development, the open space requirement is 15% of the total lot area which results in 1.33 acres of open space required. This requirement is satisfied through a mix of perimeter landscape areas as well as the open-air courtyard areas that meander through the mall.

This project is classified as a multi-tenant retail structure and per UDO section 7-16-2(d)(10)(c) this project must be reviewed for compliance with the city's Supplemental Development Standards for Large Retail Structures (Appendix 7-F). This information has been supplied by the applicant and verified by staff and demonstrates the ability to meet a number of building design requirements selected from a menu of design options including elements such as: landscape buffering; window fenestration; roof features; façade articulation & relief; building materials; entrance features; and pedestrian and transportation amenities.

The site is currently zoned Regional Business (RB) and the use proposed is permitted by-right and the applicant will meet the standards of the District with this development proposal. The majority of the surrounding properties are similarly zoned RB along with some Commercial Industrial (CI) zoned property to the southwest and county zoning to the east across the interstate.

This proposal was approved with conditions by the Technical Review Committee (TRC) on April 4, 2016, and requires a quasi-judicial review by City Council and a Final TRC review prior to final zoning approval or the issuance of any permits.

This project was also reviewed by the Planning and Zoning Commission at their May 4, 2016, meeting where the project was approved unanimously.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings (Attachment to City Exhibit 3).

Staff finds that the relevant standards of the City have been met or can be met with this application.

Mr. W. Louis Bissette Jr., attorney representing the applicant, was pleased to work with this developer who took a deteriorating mall and renovated it to this successful and aesthetically pleasing mall that employs over 1,000 employees. He asked that the application be included as an exhibit (Applicant Exhibit 1). He spoke in support of the additions and asked for favorable consideration.

Mr. Chris Day, engineer on the project with Civil Design Concepts, said that they utilized existing infrastructure and a Traffic Impact Analysis was performed with no issues for mitigation.

Mayor Manheimer opened the public hearing at 6:19 p.m., and when no one spoke, she closed the public hearing at 6:19 p.m.

Councilman Bothwell moved to recommend approval of the conditional use permit for Asheville Outlets, Phase 3 located at 800 Brevard Rd. because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Young and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the June 14, 2016, agenda.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO ASHEVILLE OUTLETS PREVIOUSLY APPROVED SIGN PACKAGE

ORDINANCE NO. 4504 - ORDINANCE AMENDING THE ASHEVILLE OUTLETS PREVIOUSLY APPROVED SIGN PACKAGE

Principal Planner Shannon Tuch said that this is the consideration of an amendment to the Asheville Outlets previously approved sign package. This public hearing was advertised on May 6 and 13, 2016.

Ms. Tuch said that the applicant is requesting the review of an amendment to a previously approved signage plan for the Asheville Outlets to expand the number of tenant panels on the free-standing multi-tenant sign for the project area.

The project address is 800 Brevard Rd. and includes two parcels: PIN 9626.76-8165 which is approximately 8.9 acres in size and includes the recently constructed Field & Stream outdoor store, and PIN 9626.86-3724 is approximately 44.8 acres in size and supports the majority of the recently renovated outlet mall. A third parcel supporting the retail anchor Dillard's is owned separately and not owned by Asheville Retail Associates LLC, however, a shared sign easement/agreement is held between the parties.

The applicant would like to amend the signage plan approved on April 22, 2014. The scope of this amendment is limited to a single free-standing, multi-tenant sign located at the main entrance on Brevard Rd. The applicant would like to redesign the sign to maintain the same total square footage limited to 200 square feet, but would like to have the sign accommodate up to 10 tenant panels rather than the six panels previously approved. The proposed change would reduce the height of the sign by two feet from 24 feet high down to 22 feet high, but widen the sign from 12 feet to 22 feet.

Per Sec. 7-13-10 of the Unified Development Ordinance (UDO), a Level III development project or commercial project that is over 5 acres in size, may apply for a "signage plan" as an alternative to following the city's standard sign ordinances. In reviewing a signage plan, Council is asked to consider:

a. The extent to which the proposed signage plan deviates from the sign allowances otherwise applicable in this article.
b. The rationale provided by the applicant for the deviations.
c. The extent to which the signage plan promotes city goals for way-finding, pedestrian-orientation, and business identification.
d. The degree to which the signage plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.

This proposal is reviewed by City Council only and does not require any other reviews. If approved by Council, the applicant will submit a sign permit application to verify compliance with Council's decision.

The original signage plan was approved in April 2014 and was subsequently amended in April 2015. The approval and amendment allowed for:

- Freestanding Development Identification Signage (total of 5 signs, including the sign in question)
- Attached Identification Signage
- Banners on building facades and parking lot light poles
- Vehicular Directional Signs (total of 6 signs)
- Parking Area Location Signs

- Service Door Identity Signs

Retail/restaurant/entertainment are identified as one of the "Key Economic Development Trends" and flexibility with development standards to meet a large retail center's identification needs serves as an effective development incentive.

The Asheville Outlets Sign Plan Amendment is not directly reflected in the 2036 Council vision but is most closely aligned with the goals for a "Well Planned and Livable Community" and a "Thriving Local Economy" by encouraging creativity in business identification and wayfinding.

Considerations:

- Provides clear and recognizable signage for a major regional shopping center.
- The current and proposed signs both comply with the city's standards for a multi-tenant development sign.
- Is consistent with a coordinated and unifying theme for the development.
- Reduces the height, but increases the width, of the sign.
- Reduces the area dedicated to some or all of the tenants, making the text less legible to vehicular traffic.

Based on policies stated in the Comprehensive Plan and other plans staff does find this request to be reasonable and within the best public interest and recommends support of the proposed signage plan amendment as proposed.

Mr. W. Louis Bissette, Jr., attorney representing the applicant, was available for questions.

In response to Councilwoman Mayfield, Ms. Tuch explained how the sign is measured.

Mayor Manheimer opened the public hearing at 6:25 p.m., and when no one spoke, she closed the public hearing at 6:25 p.m.

When Councilman Smith suggested exploring policy options to further housing atop big box retail, Vice-Mayor Wisler suggested that this be added to the list of the comprehensive plan of items to be considered.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the signage plan amendment to increase the number of tenant panels from six to 10 on the primary multi-tenant development sign, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that it provides clear and recognizable signage for a major regional shopping center. This motion was seconded by Councilman Haynes and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 310

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE REGARDING HOMESTAYS AND ACCESSORY DWELLING UNITS

ORDINANCE NO. 4505 - ORDINANCE AMENDING THE UNIFIED DEVELOPMENT ORDINANCE REGARDING HOMESTAYS AND ACCESSORY DWELLING UNITS

Mayor Manheimer said that since the last time this was addressed, we have three new Council members and there has been a lot of e-mails and research into this issue. She said that City Council cannot dictate what happens with the room tax and they can't do anything with the sales tax. Council has gotten a lot of communications from the public in support or in opposition, along with ideas to shape the issue of whether or not Accessory Dwelling Units (ADUs) should be allowed to be used as a homestay. Some suggestions include (1) capping the number of ADUs that would be allowed for a homestay in the City; (2) whether to allow newly constructed ADUs to be used as homestays or just grandfather in the existing ones; (3) make all ADUs homestays a conditional use permit (CUP) application process (all come to City Council for consideration); (4) make the CUP non-transferrable (no one could sell their ADU to someone else without going through the CUP process); (5) create a Task Force to make recommendations to Council around these issues; and (6) instead of banning all newly constructed ADU's from this process, to have a cooling off period of perhaps 5 years where you could not use the new ADU as a homestay. She encouraged the public to also comment on some of these suggestions, or others.

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend the Unified Development Ordinance to expand the options for a homestay operation by allowing the use of an Accessory Dwelling Unit for guest accommodations when the property owner or resident manager resides on the same property and clarification of the current residency requirements. This public hearing was advertised on May 6 and 13, 2016.

Over the last two years, the City of Asheville has been engaged in a long and public conversation over the proliferation of short term rentals in the city's jurisdiction, and how best to regulate these rentals. Following a great deal of public input, the City Council has decided to retain its longtime prohibition on unoccupied, whole house (or dwelling unit) rentals in residential districts. However, on November 17, 2015, Council approved an ordinance amending standards for Homestays. This amendment removed several barriers and made it easier to establish a Homestay as a form of short-term rental that requires a full-time resident (resident-manager) of the property, who lives in the home on a permanent, full-time basis, and who is present when lodgers are present. This is reinforced in the *Unified Development Ordinance* (UDO) definition for Homestay which is as follows:

> *Homestay* means a private, resident occupied dwelling, with up to two guest rooms where overnight lodging accommodations are provided to transients for compensation and where the use is subordinate and incidental to the main residential use of the building. A homestay is considered a "Lodging" use under this UDO.

While the amendment successfully expanded the opportunity to obtain a Homestay permit, it did not allow the use of an ADU on the property to be used as part of the Homestay operation since these units were, by definition and by design, separate units and could not be occupied by both the resident(s) and guests. On December 8, 2015, the Asheville City Council requested that staff reexamine the use of ADUs as part of a Homestay and share its findings with the Planning & Economic Development Committee (PED).

A report was shared with the PED Committee on January 26, 2016, and Committee members reviewed draft text that could be considered to allow ADUs to be used as part of a Homestay. In addition to this review, committee members requested that staff provide more research and information and specifically asked for:

1) Data on the impacts this change could have on (affordable) housing and neighborhoods,
2) Feedback from neighborhood groups regarding their concerns, and
3) Benchmarking practices from other cities.

Additionally, related to Homestay regulation but not included in the original request from Council, staff has identified the need to clarify the resident-manager requirement in the Homestay standards and has included this clarified language in the same draft ordinance. This amendment

does not change the existing resident-manager requirement. It is intended to more clearly explain what is required to meet this requirement, by clarifying what is considered i) a full time resident; and ii) being present when lodgers are present.

Data & Metrics - In reviewing the request from the PED, staff looked into the ability to collect specific metrics related to housing and ADUs. Unfortunately, much of this data proved unavailable including the total number of historic ADUs in Asheville. It is known, however, that ADUs have been a development option in Asheville's single family neighborhoods since 1997 when the UDO was adopted and that there are numerous ADUs that pre-date any restrictions. While it is difficult to identify the total number of ADUs in Asheville, 37 permits were issued in the last two years.

Asheville also has access to various statistics and metrics from the recently completed *Asheville, North Carolina Region, Housing Needs Assessment* report which was updated in 2015. Basic metrics on affordable housing and related issues were gleaned from this document and are listed below:

- Between 2015-2020 the Asheville population is projected to grow 7.1% with household growth projected at 7.6% (p. Asheville-49)
- Asheville's rental housing is operating at an overall 0.9% vacancy rate with no vacancy among the tax credit and subsidized housing *(p. Asheville-49)*
- 43% of Asheville households will have incomes below $35,000 *(p. Asheville-5)*
- A household that is considered cost burdened spends over 30% of its income on housing (30% equals $875/month for a household earning $35,000/year) *(p. Regional-7)*
- Multi-family rents range from $832-3,300/month for the region *(p. Asheville-8)*
- The rental rates for vacation rentals are at least four times higher than conventional units *(p. Asheville-28)*
- A subleased room in a home rents for $300-710/month *(p. Asheville-29)*
- Over half of the Asheville population rents and does not own property *(p. Asheville-9)*

In addition, the following statistic was recently pulled from a news story on housing in the City of Asheville:

- The median rent for a two-bedroom unit in Asheville is $1,180/month, the highest in the state amongst the 10 large NC cities studied *(Asheville Citizen Times, April 12, 2016, Mike Cronin)*

Feedback from Committees and Neighborhood Groups - In addressing these items, staff met with a number of different stakeholder groups, city appointed committees and other community groups. The following is a summary of those meetings.

Affordable Housing Advisory Committee – Staff summarized the Council's request at the Committee's February 5, 2016, meeting. Committee members explained that the group had previously voted to not endorse the expansion of the Homestay ordinance to allow the use of ADUs citing that the support to allow accessory dwelling units by-right came from recognizing the need for housing, especially smaller more affordable units. The proposal to allow ADUs to be used for Homestays was felt to be contrary to that previous policy support and would have the effect of diminishing the availability of housing. Additionally, several members noted that loans will not be issued for the purpose of constructing an ADU and that individuals who are able to construct one are doing so through other resources such as savings, refinancing a mortgage or obtaining a home equity loan. In all instances, it was noted that these are households with resources not available to many community members.

Neighborhood Advisory Committee – This committee received a summary report on February 22, 2016, from staff and expressed support for the idea of soliciting feedback from residents and offered to help spread the request through their contacts. At least one member of the group questioned how the information would be used by Council in their decision.

Housing & Community Development Committee – Staff provided an update at two separate meetings of the HCD Committee. In the first meeting held on February 16, 2016, a summary of the Council's direction was presented along with ideas for input gathering. The HCD supported the outreach but recommended that staff consider developing a survey tool to make it easier for individuals to respond. This recommendation was followed and resulted in the *Open City Hall* survey discussed later in this report (see **Survey #1** below). During the second meeting held on April 12, 2016, the committee members heard an update from staff regarding the community input and other survey results. A motion to not support the expansion of the Homestay ordinance to allow the use of ADUs was made and passed unanimously (3:0).

Other stakeholder groups - In addition to the city appointed committees, staff also met with the Coalition of Asheville Neighborhoods, Grace Neighborhood Association and the Asheville Board of Realtors. In all instances, staff provided a brief summary of the Council's request and answered questions about the process and current ordinance.

Prior to the creation of the *Open City Hall* survey, individual members of the community emailed their thoughts on the subject. These individual responses are included as an attachment to this report and overlap, to some degree, with the responses received through the on-line survey. It should also be noted that one neighborhood association, Grove Park – Sunset Mountain, voted as an association to not support the opportunity to allow the use of ADUs as part of a Homestay operation.

Surveys - Recognizing the interest and value in data and community input, staff performed three separate surveys in an effort to understand: 1) community sentiment; 2) how other communities regulate ADUs as a short-term rental option; and, 3) how ADUs are currently being used in Asheville. A brief summary of these surveys follows with more detail included as attachments to this report.

Survey #1 – Using the city's new communication and public engagement tool, *Open City Hall*, the city invited stakeholders to respond to a short four-question survey that gauged community support for the use of ADUs for guest accommodations. The survey remained open for 17 days and it received 489 responses. Those who responded strongly supported the use of ADUs as a Homestay (76.3% v. 27.3%), but also disproportionately represented property owners as opposed to renters (89.6% v. 8.8%). The survey also asked respondents to identify potential impacts that may be experienced with the five most common responses being:

- Parking problems
- No impacts
- Noise
- Loss of housing
- Increased traffic/turnover

Survey #2 – This survey sought to benchmark how other cities regulated both ADUs and Homestays/short-term rentals. This survey includes responses from a number of North Carolina cities as well as other cities across the country that were of a similar size to Asheville and/or had been identified as having a relatively strong tourist economy. Of the 16 communities surveyed, only three did not allow ADUs. Of the 13 cities that did allow ADUs, six cities allowed them to be used for short-term renting and all included some special standards such as: minimum stay, a limit on the number of people and separation

requirements. The special standards for three of those cities included a requirement that the owner reside on the property.

Survey #3 – Staff contacted 13 Asheville property owners who were recently issued permits for an ADU that asked about their use or intended use of the ADU. Of the 13 individuals surveyed, seven were renting with one of those rentals being a Homestay – the rental rates ranged from $600-$850/month. The remaining six units were reserved primarily for friends and family (four respondents) or were being personally occupied (two respondents). When asked if they would consider a Homestay in the future seven respondents indicated "yes" while six replied "no".

Compliance with Comprehensive Plan:

Part 1 – The portion of the wording amendment to allow the use of ADUs as part of a Homestay operation for guest accommodations complies with City's Comprehensive Plan as it relates to Economic Development Goals and Strategies by reviewing and amending city development regulations and incentives to meet the technological and social changes of the local economic development situation. This same text language may also be contrary to the City's Comprehensive Plan as it relates to protecting, preserving and enhancing existing neighborhoods by potentially introducing business activity and related nuisances to existing residential neighborhoods.

Part 2 - The proposed language to clarify residency requirements is supported by the Comprehensive Plan in that it serves to effectively regulate the Homestay operation by maintaining oversight on the property, thereby controlling or mitigating any nuisance related issues.

2036 Council Vision Considerations:

Part 1 - The wording amendment to allow the use of ADUs as part of a Homestay operation can be seen to align with the 2036 Council vision in the following areas:

- **A Thriving and Local Economy.** This amendment seeks to expand an economic opportunity to Asheville residents that allows them to benefit from, and support, the existing tourism industry.
- **A Connected and Engaged Community.** Consideration of this amendment includes community input that was gathered through various tools and outreach efforts.

This same language may also be contrary to the 2036 Council vision goal of:

- **Quality Affordable Housing.** Introducing a potentially disruptive non-residential activity to a residential neighborhood may negatively impact the quality of life for those residents and, as an unintended consequence, incentivize the conversion of long-term housing into homestay operations.

The Planning & Zoning Commission reviewed the amendment at their May 4, 2016, regular meeting. Twelve members of the public spoke with seven individuals speaking in favor of the amendment to allow the use of an ADU as part of a Homestay operation and five speaking against. There was no public comment regarding the proposed clarification on residency requirements. After some deliberation, a motion to approve the wording amendment (both parts) failed 2:5. A second motion to 1) deny the use of an ADU as part of a homestay operation, and 2) to approve the clarifying language passed 5:2.

This amendment must receive approval from the Asheville City Council before going into effect.

Ms. Tuch noted that homestay permits are issued annually, so if there is a decision to move forward with the amendments and there was concern or unintended consequences, it

would be possible do a 12-month pilot and change the standards back and within a 12-month period regain compliance. Mayor Manheimer mentioned a number of other options to control or limit the activity or impacts of using ADUs as part of a homestay operation. Regarding the overall cap, she suggested some consideration be given as to what determines that number; and consideration be given to a city-wide cap or break it down by district or census track or some other defined area. Another option is a separation requirement. Limiting the number of days within a calendar year is impossible to enforce, so the option of a cooling off period has been suggested. Because the permits are issued on an annual basis we could enter into a period where someone has a homestay permit for a period of time (perhaps 1 year) and at the end of that year then the cooling off period (perhaps 1 or 2 years). Another part of that option might be for all new ADUs to enter immediately into the cooling off period, which would help discourage constructing new ADUs for the sole purpose of short term rentals.

This proposal appears to support some goals but may not support others. Prioritizing community goals is a policy decision and is best deferred to the appropriate decision makers. The supplemental research is informational, but not conclusive.

Mayor Manheimer opened the public hearing at 6:42 p.m.

The following individuals spoke in opposition of the wording amendment to expand the options for a homestay operation by allowing the use of an Accessory Dwelling Unit (ADU) for guest accommodations when the property owner or resident manager resides on the same property, for various reasons, some being, but are not limited to: commercial intrusion into residential neighborhoods, parking problems; noise; trash; loss of housing:

Mike Lewis
Casey Campfield, local business owner and local homeowner
Chuck Freeman
President of the Haw Creek Community Association
Barber Melton, member of the Coalition of Asheville Neighborhoods and member of the Affordable Housing Committee
David Rodgers
Will Hornaday
A resident on Nix Street
Janet Hart, resident on Baird Street
Grace Curry
Andrew Fletcher
Jane Mathews

The following individuals spoke in support of the wording amendment for various reasons, but mainly for the economic opportunity of local residents to benefit from the existing tourism industry and also to enable them to use this income to remain in their homes:

A resident
An operator of a homestay
Rebecca Robertson
Helen Powell-Busch, resident in the 5 Points Neighborhood
John Farquhar
Brandee Boggs
Jackson Tierney, Montford resident
Jonathan Wainscott
Anne Doherty
A resident

Ms. Billie Laughlin suggested Council defer a decision until after the Comprehensive Plan process is completed.

Mayor Manheimer closed the public hearing at 8:24 p.m.

Councilman Smith moved to approve the wording amendment modifying the standards in Sec. 7-16-1(c)(9)(c) and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans by clarifying zoning standards that regulate activities in order to promote harmony and compatibility with the surrounding neighborhoods. This motion was seconded by Councilman Bothwell and carried unanimously. This is clarifying the current residency requirements.

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Councilman Smith said that is an emerging and evolving issue. He has been an ADU resident here in Asheville and felt that was an important experience for him. He said we know: that 50% of Asheville's residents are renters; that Asheville is in severe multi-year housing crisis at all price points; that we have skyrocketing housing prices due to lack of supply; Asheville has the highest rents in North Carolina; Asheville was named the 6th most unsustainable housing market in the nation; short term rentals reduce housing supply; people are being pushed out of long term rentals to make room for short term rentals; expansion of homestays has been opposed by the Affordable Housing Advisory Committee, the Housing & Community Development Committee, Planning & Zoning Commission, Coalition of Asheville Neighborhoods, Children First Communities and Schools, Haw Creek Neighborhood Association, Grove Park Sunset Neighborhood Association and the Albemarle Park residents; out of state people are buying home to illegally rent short-term; the use has exploded since it's become more clear that the use is illegal; last year the rationale for expanding the ability to build an ADU on your property was to address the long-term rental housing crisis; cities all over are trying different ways to approach this; when housing developers come before Council, they ask them to mind the housing crisis and to mind the concerns of the neighbors; our current enforcement is inadequate and needs to be improved; cohesive neighborhoods are safer neighborhoods; and residential zoning has meaning and value. In trying to address the affordable housing crisis, Council is taking a multitude of tactics because they know there is no one thing that will solve this problem. Last year City Council made it easier for people to have homestays so they could tap into the local tourist market without jeopardizing affordable housing stock. He said that long-term renters in ADUs are not known and the number of existing ADUs is unknown. He said there is a deep division in Asheville on how to proceed and this Council voiced its displeasure and unwillingness to support the displacement of residents in Lee Walker Heights. He opposes the expansion of ADUs to the homestay operation for two reasons (1) we are in a historically severe housing crisis and anything that can reduce our housing stock is reckless and irresponsible; and (2) there are serious reasonable and historical concerns about commercializing our neighborhoods to open houses up to tourists all over Asheville. One issue that gives him pause is that some people report that they need this income to pay their mortgage, and he doesn't want anyone to be kicked out of their house. He asked Council to take a patient and prudent approach that we not worsen our housing crisis and we not radically alter the meaning of residential zoning and the neighborhoods that that zoning creates. Given a few years, he was confident we will understand these public policy options a lot better and get to a better place.

Councilman Smith then moved to deny the wording amendment modifying the standards in Sec. 7-14-3(b)(3)(a)(3) and find that the request is not reasonable, is not in the public interest, and is not consistent with the Comprehensive Plan in that it: (1) introduces a potentially disruptive use/activity in single family neighborhoods; and (2) will likely result in the reduction of housing in a market where housing is in scarce supply. This motion was seconded by Councilwoman Mayfield.

Councilman Smith said he will also make a motion for the creation of a Task Force to examine policy and processes regarding ADUs by people in dire straights who can't long-term

rent and who may lose their homes, and to refer the duration, make-up and purview of this Task Force to the Governance Committee with final approval to be made by City Council.

Councilman Bothwell said that he stayed in a homestay in Berlin and it was a wonderful experience. His bottom line is that black markets are impossible to regulate. The reason we don't know how many short term rentals there are in the City because outside of the ones that are legal in the commercial areas, they are not legal. We are not going to get control of an international internet operation at a local level. Until we make them legal, licensed, regulated and inspected, we will not get a handle on this issue. There is agreement on Council that they do not want to legalize whole home short term rentals. He suggested having legal homestays add their license to the ads in order for our enforcement staff to immediately identify if the property is legal or not. If we expand ADUs as a homestay operation we can immediately say that they must show their license number in the ad. He explained how the data on the internet is completely unreliable. When Council tries to get developers to add affordable units in large projects, Council incentivizes them with cash (tax breaks). We are not offering tax breaks to homeowners to keep their homes affordable. He believed the best way forward is to find a way to legalize ADUs as short-term rentals, find a way to grandfather the existing ones, and find a way to restrict new construction of ADUs so they cannot immediately short-term rent them. He felt that a lot of people got into the business completely innocent and did not know they were breaking the law. Some people invest significant amounts of money into ADUs. We felt we need to move forward with one of the options described. He suggested this be remanded back to City staff to look for answers in the shorter term. He said that the reports show that short-term rentals are not a big factor in affordable housing. He also noted that short term rental people keep up their properties better than our long-term landlords. He will vote against the motion because he is in favor of a path for legalization.

Councilman Young acknowledged this is a very complex and delicate issue. Affordable housing and the preservation of the fabric of our neighborhoods has been two common threads from e-mails and phone calls. There are a lot of assumptions being made on both sides. One is that if we pass this ordinance, we will erode affordable housing. The other assumption is that the actual homeowners that are doing this will make a concerted effort to rent long-term. And then another assumption is that if they rent long-term that the unit will be affordable. It is hard for him to limit the rights and enjoyment and use of one group of homeowners for the use and enjoyment of another group of homeowners. He has no sympathy for people who have purchased or built homes above their means with the anticipation of utilizing a service that is illegal. People have a personal responsibility to govern themselves accordingly and minimize their own risks. However, he will respect their rights to utilize their property in the way they see fit, with the understanding the City Council reserves the right to regulate that process and minimize the scope of intrusion on neighborhoods or neighbors. Lastly, he did not see anyone in the audience nor has he received any input from the African American neighborhoods. He said those people are struggling on a whole different level. Some can't even be approved for a home loan, let alone being allowed to rent a portion of their home for extra income. He will continue to remain objective but will also see this argument from his point of view - a battle of wills between middle and upper middle-class neighbors. And, if you own a home in Asheville you are de facto middle class. He will continue to lend his voice to solve this issue in a timely manner. He will vote against the motion with the hopes that we can come up with something different.

Councilwoman Mayfield agreed that this is a complex issue. She will support the motion because process is extremely important to her. We take issues like this through the City's processes, e.g., vetting it through all the different boards and commissions who voted not to change the rules. Those recommendations carry a lot of weight with her and even though she will not always agree with them, she will need to have a good reason to disagree with them. Another reason why she will not vote to change the rules is a policy reason. The previous Council made two ADU changes last year in order to expand the availability of housing in our community - not affordable, but housing generally. She agrees with that policy objective. This is only the first step in a whole series of policy changes that will get to the goal of increasing the

availability of housing stock by making it easier to build smaller homes, easier to build multi-unit structures on existing parcels of land, etc. We have to be cognizant of that policy objective behind each one of those and make sure we are not frustrating it by allowing all of that new expansion long-term housing to go into the short-term rental market. She is sensitive to the pleas from people about the fact that their ADU is the reason they can stay in their house. She is not interested in displacing anyone. She felt that a Task Force is a good idea, but it needs to be time limited to 3-4 months.

Councilman Haynes supported allowing ADUs to become part of the homestay operations and they should be highly regulated. He supported looking having staff investigate all the options. He could possibly support a Task Force if it had a short timeline. His main concern is that he knows that people need these rentals in order to survive in our town.

Vice-Mayor Wisler said that just taking the lid off of all ADUs doesn't address some of the uniqueness of ADUs. She feels there is a lot of room for compromise and opportunities to maybe allow some ADUs to be homestays, but she is convinced that there needs to be limitations and we don't currently have the right solution. She did not feel we are ready yet to allow all ADUs without some other regulations around it.

Mayor Manheimer said that she continues to have concerns about the integrity of neighborhoods. But she also worries about people who are being priced out of the home they may have purchased and are struggling to be able to stay in our community. She is more comfortable with the ADU concept because there is a long-term tenant or owner there to address issues that might come up with visitors. She liked exploring the idea of a cap, but we don't have any idea of the number of ADU's in our community. She felt a go-slow approach is a lot easier to manage than trying to open it up and then having to rein it back in. She also would be interested in exploring the idea of a CUP process which would allow Council to vet all applications and give the neighbors an opportunity to be heard. Our affordable housing crisis in Asheville is extreme and is also happening in other communities also struggling with this issue. She felt we need to find a balance that addresses the needs for those that are living in our community that are struggling to make sure they can continue to pay their mortgage with those residents that are here and enjoying their neighbor. She said that it is clear that one purpose of residential zoning is so your neighbor can't run a business out of their home. Yet running a homestay out your home is in essence operating a business out of your home - it's just a home-type business. But, the reason that we have those regulations in place is to preserve the integrity of our neighborhoods and to be able to give people some stability in their investment.

When Councilman Young asked if Councilman Smith would be willing to withdraw or table his motion in order to move in a different direction, Councilman Smith said that he would not because he he wanted to have as much clarity as possible with the knowledge that he will offer another motion to create a Task Force around the concerns raised. Councilwoman Mayfield agreed with Councilman Smith about the need for clarity.

The motion made by Councilman Smith and seconded by Councilwoman Mayfield carried on a 4-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Young voting "no.

Councilman Smith said if Council can find a way to allow those in dire straights, for whom long-term rental is impossible, in order to stay in their house, he moved to create a Task Force to examine policy and processes regarding the use of ADUs by people in dire straights who may lose their homes, and to refer the duration, make-up and purview of this Task Force to the Governance Committee with final approval to be made by City Council.

Councilman Bothwell said that every developer before Council advises them that without a tax break, their deal would fall through. He wondered how people would prove they are in dire straights. He noted the City does not perform need assessments.

Councilman Smith withdrew his motion.

Councilwoman Mayfield then moved to create a Task Force to look at policies and procedures around the issue of ADUs as homestays taking into consideration specifically the concerns expressed at this meeting specifically including (1) concerns around new ADUs being used as short-term rentals and therefore frustrating the policy objective of the rules City Council adopted last year; (2) concerns about people needing the income from ADUs and short-term rentals to remain in their home and in the City; and (3) exploring other strategies, including a cap or cooling off period, that will achieve the policy concern of City Council, and to refer the duration, make-up and purview of this Task Force to the Governance Committee with final approval to be made by City Council.

Councilman Bothwell felt it would make sense to create a Task Force to look ADUs as a use for the homestay operation. And, then the Task Force can look at options.

Councilwoman Mayfield said clearly City Council is not lifting the lid on all ADUs existing today and in the future to be used as short-term rentals. This next step is trying to address the concerns that have been expressed around people needing to stay in their homes and not wanting to frustrate the policy objective of the rules City Council adopted last year.

Councilman Smith seconded Councilwoman Mayfield's motion.

Councilman Bothwell asked for a friendly amendment to suspend enforcement efforts of existing ADUs until the Task Force report is received and acted upon by City Council. Because this is a separate issue which will need to be addressed by City Attorney Currin, Councilman Bothwell withdrew his friendly amendment request.

The motion made by Councilwoman Mayfield and seconded by Councilman Smith carried unanimously.

Councilman Bothwell then moved to suspend enforcement efforts of existing ADUs until the Task Force report is received and acted upon by City Council. This motion was seconded by Councilman Haynes.

City Attorney Currin explained that since the City already has enforcements underway with fines accrued, she didn't think the Council can take a blanket approach of forgiveness. And, more important, the Courts are clear that the City has an obligation to enforce their ordinances and there are cases when they don't, a citizen can bring an action and force the City to enforce their ordinances. Thirdly, ADUs are not a legal use to rent as a homestay, so basically the motion says that the City will let people violate the ordinance until it is amended and that can be problematic because it's not a legal use. The City will be enforcing the ordinance not to allow whole houses to be used as short-term rentals but allowing others to violate the law.

Councilman Bothwell now understood the reasoning behind not suspending enforcement efforts and withdrew his motion. But, he felt that if the Task Force takes six months, people may have to move out of town because they can't afford their house anymore, or they may have made financial plans around something they didn't even know was illegal. He was not comfortable with leaving people hanging.

At the request of Councilman Haynes, Mayor Manheimer said that she will convene a special Governance Committee meeting at which time they will offer suggestions for the make-up of the Task Force and bring it back to Council for their consideration at the June 14 meeting.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 16-115 - RESOLUTION APPOINTING MEMBERS TO THE HAYWOOD STREET ADVISORY TEAM

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing three at-large members to the Haywood Street Advisory Team.

The following individuals applied for this vacancy: Grant Millin, Byron Greiner, Rob Carroll, Leslie LeBlanc, Gary Anderson, Susan Jones, Richard Fort, John Tyler Barnes, David Nutter, Bruce Hazzard, Kevin Teater, Susan Andrew, Janet Whitworth, Geronimo Owen and Beth Stickle.

On April 12, 2016, City Council instructed the City Clerk to arrange interviews for Richard Fort, Geronimo Owen, David Nutter, Gary Anderson, Susan Andrew and Leslie LeBlanc. Mr. Fort and Ms. LeBlanc were unable to attend the interview.

After Council spoke highly of the candidates, Geronimo Owen received 5 votes; David Nutter received 5 votes; Gary Anderson received 3 votes; Susan Andrew received 5 votes; Leslie LeBlanc received 2 votes; and Richard Fort received 1 vote. Therefore, David Nutter, Geronimo Owen and Susan Andrew were appointed as members to the Haywood Street Advisory Team.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:25 p.m.

Magdalen Bowleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 14, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer asked for a moment of silence for the victims and families of the tragedy in Orlando, Florida.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JUNE 16-25, 2016, AS "POLLINATION CELEBRATION WEEK"

Councilman Bothwell read the proclamation proclaiming June 16-25, 2016, as "Pollination Celebration Week" in the City of Asheville. He presented the proclamation to Ms. Phyllis Stiles, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

At the request of City staff, Mayor Manheimer asked for an addition to the Agenda to amend the 2016 City Council meeting schedule.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 17, 2016

B. RESOLUTION NO. 16-126 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE CONTRACTS WITH CHERRY BEKAERT LLP FOR AUDITING SERVICES FOR FISCAL YEAR 2015-16 AND PENSION CENSUS DATA TESTING FOR CALENDAR YEAR 2015

Summary: The consideration of a resolution authorizing the Mayor to execute contracts with Cherry Bekaert LLP for auditing services for fiscal year 2015 – 2016 and pension census data testing for calendar year 2015.

North Carolina General Statute §159-34 requires that local governments have its accounts audited each fiscal year and submit a copy of the audit report and financial statements to the Local Government Commission. In response to the aforementioned general statute, staff recommends retaining the services of Cherry Bekaert LLP to conduct the audit of the city's accounts for the fiscal year ending June 30, 2016. The estimated fee for fiscal year 2015-2016 audit and financial statement preparation is $88,000.

In addition to the regular annual audit required by the general statutes and discussed above, the City is required to have its pension census data tested this year. Government Accounting Standards Board (GASB) Statement 67 "Financial Reporting for Pension Plans" introduced new reporting requirements. These requirements have prompted a new procedure by the NC Office of State Auditor (OSA) to select several employer participants in the Local

Government Employees' Retirement System (LGERS) each year and require those units to engage their independent auditors to provide assurance to the OSA on the accuracy of the pension census data supplied to LGERS for their actuarial studies. The City of Asheville was chosen by the OSA for calendar year 2015 testing. The fee for this service, also provided by Cherry Bekaert LLP, is $5,000 and will be contracted separate and apart from the City's annual audit.

The Audit Policy portion of City Council's Financial Policies which states that the City "shall enter into multiyear agreements of not more than five years in duration through a series of single-year contracts as consistent with applicable legal requirements." This will be the fourth consecutive year of contracting Cherry Bekaert LLP to perform the City's audit. No competitive bid process was conducted this year.

Pro:

- Contracting with Cherry Bekaert LLP aligns with City Council's financial policy and will help ensure the timely and successful completion of the annual audit.

Con:

- None noted.

Fees of $88,000 for the annual audit and $5,000 for the pension data testing have been proposed and are included in the Finance Department's portion of the annual operating budget.

Staff recommends adoption of the resolution authorizing the Mayor to execute contracts with Cherry Bekaert LLP in the amount of $88,000 for auditing services for fiscal year 2015-2016 and $5,000 for pension data testing services for calendar year 2015.

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C. RESOLUTION NO. 16-127 - RESOLUTION SUPPORTING STRATEGIC EVENT PARTNERSHIP AGREEMENTS AND CONTINUATION OF FEE DISCOUNTS FOR EVENTS PRODUCED BY 501c NON-PROFIT ORGANIZATIONS

Summary: The consideration of a resolution supporting strategic event partnership agreements, and continuation of fee discounts for events produced by 501c non-profit organizations.

In October 2013, outdoor special event administration became a function of the Community & Economic Development department with a focus on cultivating outside partnerships to capitalize on the benefits of special events, leveraging event programs to maximize economic and community development returns. At the City Council meeting on May 27, 2014 a resolution was passed establishing three-year event partnership agreements with the Asheville Downtown Association, YMI Cultural Center, and Community Betterment Foundation/Folk Heritage Committee supporting events including but not limited to the Asheville Holiday Parade, Downtown After 5, Goombay, and Shindig on the Green at a combined maximum in-kind support value of $125,000 per year. A 75% reduction in property use and event permit fees continued for all other outdoor special events open to the public and produced on public property by registered 501c non-profit organizations.

City staff has worked through each partnership to establish goals, track performance over time, and manage in-kind service delivery costs. Efforts to serve a diverse community have been accomplished through performance measures tracked by city staff.

Calendar year 2016 is the final year of the City's current strategic event partnership agreements. A request for proposals seeking partners for years 2017-2019 was released and proposals were received as outlined in Table A. To partner with all organizations for the scope of

work and value proposed, an in-kind and cash total of $188,364 would be required for year 1, $166,864 for year 2, and $166,864 for year 3. *The higher amount in year 1 is based on a request from LEAF to secure partnership funding beginning with the 16-17 fiscal year in the amount of $21,500 to allow support for the 2016 LEAF Downtown festival. A list of the proposers and support requested by each is provided in Table A, below.

TABLE A

Organizations	Cash Reimbursement	In-Kind & Fee Waivers	Total Per Year
5 Point Film Festival	$15,000	$15,000	$30,000
Appalachian Sustainable Agriculture Project	$0	$16,747	$16,747
Asheville Area Arts Council	$0	$9,336	$9,336
Asheville Downtown Association	$0	$61,225	$61,225
Asheville Grown Business Alliance	Undefined	Undefined	$0
Community Betterment Foundation/Folk Heritage Committee	$0	$15,008	$15,008
*LEAF	$0	*$48,650/$27,150	$27,150
Mountain Sports Festival	$0	$5,478	$5,478
RiverLink	$0	$1,920	$1,920
Total Year 1 (2017) Support Value (*incl. LEAF Downtown in 2016)			**$188,364**
Total Annual Support Value (2018 & 2019: Years 2 & 3)			**$166,864**

Staff led a proposal evaluation process employing the assistance of two groups: staff members from the Special Event Review Team, and a five-member stakeholder team comprised of City board and commission representatives. An additional level of review by Finance delivered observations on the financial health derived from budget information provided with each proposal.

Staff presented its findings and recommendations to the Planning & Economic Development Committee (PED) on April 19, 2016. Staff recommendations included establishing partnership agreements with LEAF, the Asheville Downtown Association, the Community Betterment Foundation/Folk Heritage Committee, the Asheville Area Arts Council, Appalachian Sustainable Agriculture Project, and RiverLink at a total combined maximum in-kind commitment of $118,000 per year. Staff also recommended the continuation of fee reductions to registered 501c non-profit organizations at a rate of 50% off standard property use and permit fees when the events are open to the public and produced on public property.

PED reviewed the staff recommendations, and felt that the proposals submitted align with the 2036 council vision in the areas of support for a diverse community, a well-planned and livable community, a thriving local economy, and a connected and engaged community. As a smart city, the City of Asheville invests in partnerships that enrich the quality of life for its citizens.

A motion to recommend to City Council to fund all proposals at 100% of requested amounts was unanimously approved, including LEAF in 2016, but excluded a $15,000 per year cash request from 5 Point Film Festival. This motion also supported the continuation of fee reductions to 501c non-profit organizations at the current rate of 75% off standard property use and permits fees.
Pros:

- Allows the City to leverage resources for programming and events that serve a wider and more diverse audience
- Creates performance-driven public-private partnerships that employ events as a tool to stimulate the local economy while providing quality cultural experiences and opportunities for community engagement
- 3-year terms allow time for outcomes to be evaluated and provides multi-year consistency to effectively scale special event initiatives
- Supports non-profit organizations

Cons:

- Overtime for Police, Fire and Public Works staff
- Lost revenue for permits, parking fees and property use fees

In-kind support and fee discounts result in lost revenue, and labor support results in increased personnel expenses. Associated expense and revenue impacts are accounted for under existing department budgets for outdoor special event support.

The Planning & Economic Development Committee recommends City Council adopt a resolution authorizing the City Manager to approve a resolution permitting the Community & Economic Development department to execute strategic event partnership agreements with the Asheville Downtown Association, Appalachian Sustainable Agriculture Project, LEAF, Community Betterment Foundation/Folk Heritage Committee, RiverLink, Asheville Area Arts Council, Mountain Sports Festival and 5 Point Film Festival at an in-kind maximum value of $173,364 for year 1, $151,864 for year 2, and $151,864 for year 3, and the continuation of discounts to registered 501c non-profit organizations at a rate of 75% off standard property use and permit fees for outdoor special events that are open to the public and produced on public property.

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D. RESOLUTION NO. 16-128 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PINNACLE LANDSCAPING LLC TO PROVIDE GROUND MAINTENANCE SERVICES AT PACK SQUARE PARK. GRACE'S GARDEN AND PRITCHARD PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscaping, LLC to provide grounds maintenance services at Pack Square Park, Grace's Garden and Pritchard Park in the amount of $139,915 plus a contingency of $15,000 for a total of $154,915.

The grounds maintenance contract for Pack Square Park, Grace's Garden and Pritchard Park consist of the provision of all labor, supervision, equipment, materials, and supplies necessary to perform various grounds maintenance services.

The City of Asheville (City) prohibits the use of all herbicides including glyphosate on City property. Pinnacle Landscaping, LLC will use environmentally friendly weed control methods as approved by the City and specifically stated in the grounds maintenance contract. Edible plant materials will be considered in the landscape materials in compliance with the City's Food Action Plan and in coordination with the Office of Sustainability.

In support of this operations project, the City issued an Advertisement for Bids for annual grounds maintenance and received three bids.

1. Pinnacle Landscape, LLC, Asheville, North Carolina ($139,915)
2. Locust Property Management, Inc., Charlotte, North Carolina ($150,000)
3. Rivertop Contracting, Inc., Swannanoa, North Carolina ($198,190)

After thorough review and evaluation, staff selected Pinnacle Landscape, LLC, 61 Dillingham Road, Asheville, North Carolina as the lowest, responsible bidder. The base bid is $139,915 plus a contingency of $15,000 for unit costs associated with repairs to landscaping, irrigation, and seasonal maintenance items such as snow removal for a total of $154,915. Pinnacle Landscape, LLC held the ground maintenance contract for Pack Square Park for the Fiscal Year (FY) 2014-2016. Grace's Garden and Pritchard Park are an addition to the scope of work for the FY 2017 contract.

The grounds maintenance contract will extend until June 30, 2017, with the option for two (2), twelve (12) month renewals based on contractor performance.

Pro:

- Supports the efficient delivery of core park maintenance services.

Con:

- None

The $139.915 plus contingency of $15,000 for a total of $154,915 to support the Pinnacle Landscape, LLC contract to provide grounds maintenance services at Pack Square Park, Grace's Garden and Pritchard Park is budgeted in the general fund operating budget for the Parks and Recreation Department.

Staff recommends that City Council adopt a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscape, LLC to provide grounds maintenance services at Pack Square Park, Grace's Garden and Pritchard Park in the amount of $139,915 plus a contingency of $15,000 for a total of $154,915.

RESOLUTION BOOK NO. 38 - PAGE 64

E. ORDINANCE NO. 4506 - BUDGET AMENDMENT FOR THE PROCUREMENT AND INSTALLATION OF LED EXTERIOR LIGHTING AT TWO TRANSIT FACILITIES

Summary: The consideration of a budget amendment in the amount of $6,000 from General Fund Sustainability funds to increase the original project budget for the procurement and installation of LED exterior lighting at two Transit facilities.

In February 2015, City Council approved a project budget of $10,000 for exterior lighting upgrades at both the Asheville Redefines Transit station on Coxe Avenue as well as the Transit Maintenance Facility on West Haywood Street. Funding from the Federal Transportation Administration provided $8,000 toward the project and the City's Sustainability program covered the remaining $2,000.

This project was then delayed due to staff workload. Bids were finally solicited in April of 2016, and the winning bid came in at $14,507.06. In order to have enough funding to award the bid and provide for a contingency, staff is requesting a budget amendment in the amount of $6,000 from General Fund Sustainability funds.

Pros:

- Energy saving opportunity will cut energy consumption of exterior lighting in half
- Better, brighter light will create a safer environment for both ART riders and ART staff

Cons:

- None foreseen

The lighting project will be paid with a combination of $8,000 FTA grant money and $8,000 from the City's Sustainability program.

City staff recommends City Council adopt a budget in the amount of $6,000 from General Fund Sustainability funds to increase the original project budget for the procurement and installation of LED exterior lighting at two Transit facilities.

ORDINANCE BOOK NO. 30 - PAGE 337

F. RESOLUTION NO. 16-129 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN ADOPT-A-PARK AGREEMENT WITH JUST FOLKS TO INCLUDE A WAIVER OF PERMIT FEES FOR TRIANGLE PARK FOR FISCAL YEAR 2016-17

Summary: The consideration of a resolution authorizing the City Manager to sign an Adopt-a-Park Agreement with Just Folks to include a waiver of permit fees for Triangle Park for Fiscal Year (FY) 2016-2017.

Just Folks is a local non-profit organization whose primary purpose is to support community-building activities in the Eagle/Market Street area known as "The Block". Beginning in 2012, City Council has annually approved a resolution authorizing the City Manager to sign an Adopt-a-Park Agreement with Just Folks that includes a $2,500 waiver of park use fees at the reduced rate provided for local non-profits.

The waiver makes it possible for Just Folks to produce events that activate Triangle Park by providing a variety of positive activities including music festivals, community cookouts and other community-building events in the park. These events contribute to more positive use of the area and result in the park being used by a more diverse group of city residents and visitors.

Beginning with the FY 2016-2017 agreement, Just Folks is expanding its events to require the use of tents and food preparation. The addition requires fees to include park use, tent use and fire permits. The additional permits increases fees from the historic amount of $2,500 in previous fiscal years to $3,058 in Fiscal Year 2016-2017.

Just Folks is requesting renewal of its Adopt-a-Park Agreement with the City for FY 2016-2017, and the $3,058 fees for park use, tent use and fire permits be waived as part of the agreement.

Pros:

- Strategic partnerships allow the City to leverage programming and events to reach a wider and more diverse audience.
- Provides additional quality cultural programming and diversity in a park that is generally not used for this type of event.
- Reduces staff time in processing fee and permitting waiver requests related to this group's events.
- Consistent with other partnerships for park programming in key community development areas.
- Creates a sense of place in an historic area of the city.

Con:

- The reduction in park use and permit fees result in lost revenue for the City; however, the City has not budgeted for this revenue.

The value of the waived park use, tent use, and fire permit fees is $3,058; however, this revenue is not included in the FY 2016-2017 budget.

Staff recommends that City Council authorize the City Manager to sign the Adopt-a-Park Agreement with Just Folks including a fee waiver for park use, tent use, and fire permit fees up to $3,058 associated with programming in Triangle Park.

RESOLUTION BOOK NO. 38 - PAGE 65

G. RESOLUTION NO. 16-130 - RESOLUTION APPOINTING A MEMBER TO THE MILLS RIVER PARTNERSHIP BOARD OF DIRECTORS

Summary: The City of Asheville has an unfilled seat on the Board of Directors for the Mills River Partnership. Mr. Marc Hunt be and he is hereby appointed as a member to the Mills River Partnership Board of Directors to serve a three-year terms, term to expire June 14, 2019, or until his successor has been appointed.

RESOLUTION BOOK NO. 38 - PAGE 66

H. MOTION ADOPTING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR THE ASHEVILLE OUTLETS LOCATED AT 800 BREVARD ROAD, ASHEVILLE, N.C.

Summary: This public hearing was held on May 17, 2016.

I. RESOLUTION NO. 16-131 - RESOLUTION REAFFIRMING RESOLUTION NO. 15-104 APPROVING THE ISSUANCE OF BONDS BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE FOR SPRUCE HILL APARTMENTS

Summary: The consideration of a resolution re-affirming Resolution No. 15-104 approving the issuance of bonds by the Housing Authority of the City of Asheville for the Spruce Hill Apartments.

As explained in the Staff Report presented to City Council on June 9, 2015, SP Affordable Housing Group III LLC (SP) has requested that the Asheville Housing Authority issue up to $10,000,000 in multi-family revenue bonds for the acquisition and renovation of Spruce Hill Apartments, consisting of 174 affordable apartments, located off Old Haw Creek Road in East Asheville. SP is seeking to keep these units affordable, using a combination of 4% Low Income Housing Tax Credits and bond debt.

Spruce Hill Apartments was constructed in 1975/1976 through the Federal Housing Administration ("FHA") 236 program, which provided the project with below-market rate financing in exchange for 104 rent-restricted units (60% of project units). This mortgage and its interest reduction payment subsidy are scheduled to expire in October 2017. The proposed prepayment of the 236 mortgage serves two purposes. First, it allows for a recapitalization of the Property with LIHTC equity and attractive long-term debt that will allow for a beneficial capital injection. Second, it triggers the issuance of HUD tenant protection vouchers to all qualifying residents. These vouchers act as a safety net for residents who might otherwise be rent burdened as existing subsidies expire.

The remaining 70 units (40% of project units) are supported by a project-based Section 8 Housing Assistance Payment ("HAP") contract. This contract will be extended for a 20-year term as part of the proposed recapitalization plan.

All units at Spruce Hill will be affordable to households earning no more than 60% of Area Median Income for 30 years. 18 units will be affordable to households at 50% of Area Median Income.

The resident-in-place renovation will address a variety of project needs ranging from deferred maintenance items to project upgrades that will let Spruce Hill compete favorable with market rate product. The proposed scope of work includes new siding and insulation; new design elements including entryway canopies; full kitchen and bathroom renovations including energy efficient appliances and fixtures throughout; new durable flooring; new kitchen countertops; fire alarm and electrical upgrades; new HVAC systems and energy-efficient hot water tanks; ADA-accessible play structures; and improved landscaping and signage.

At present, there are no ADA compliant units at Spruce Hill. As part of the renovation, nine (9) units will receive ADA upgrades, as will all common areas, including the basketball court and new play structures, will be made accessible. These capital improvements will extend the Property's useful life, while hopefully improving quality of life for Spruce Hill's residents.

SP Affordable Housing Group III LLC is the affordable housing arm of Seattle-based Security Properties, one of the largest owners, operators, and developers of multi-family housing in the United States. Security Properties was founded more than 45 years ago as a syndicator of low income housing properties prior to the introduction of the Section 42 LIHTC program in 1986. Today, Security Properties owns approximately 16,000 units nationwide, of which 8,600 are affordable. Since its formation in 1969, Security Properties and its partners have invested over $1.0 billion of equity in multifamily real estate, representing a portfolio value of nearly $4.0 billion.

The IRS requires that any bonds issued by Housing Authority for developments such as this have the approval of the plan of financing by City Council, following a public hearing with respect to such plan. On May 27, 2015 the Housing Authority held a public hearing, and there were no comments.

On June 9, 2015, the City Council adopted Resolution No. 15-104 approving in the principle the issuance of up to $10 Million Multi-Family Housing Revenue Bonds to provide financing for the acquisition and renovation of Spruce Hill Apartments. In May of this year, the City was informed by the Housing Authority's Counsel, that the financing process had taken longer than anticipated and that the approved bonds had not yet been issued. Counsel also informed the City that the IRS Code requires that bonds of the Housing Authority approved by the City must be issued within one year of the date of such approval. Therefore, a resolution re-affirming the City Council's prior approval of the bond issuance is required.

Pro:

- 174 units of affordable housing will be preserved and renovated.

Con:

- None.

This financing plan does not require City investment, and maintains and improves residential tax base.

Staff recommends that City Council approve the resolution re-affirming the approval of the issuance by the Housing Authority of the City of Asheville up to $10,000,000 of multi-family bonds for the Spruce Hill Apartments acquisition and renovation.

RESOLUTION BOOK NO. 38 - PAGE 67

J. RESOLUTION NO. 16-132 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE KRUGER BROTHERS CONCERT PRE-RECEPTION

RESOLUTION NO. 16-133 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT BEAT THE HEAT

RESOLUTION NO. 16-134 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE RUNNING EXPERIENCE

Summary: The consideration of authorizing the City Manager to approve resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Kruger Brothers Concert Pre-Reception, Beat the Heat, and the Asheville Running Experience.

- Wild South has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Kruger Brothers Concert Pre-Reception and allow for consumption at this event.

  The Kruger Brothers Concert Pre-Reception will be held on Friday, June 24, 2016 from 5:00 p.m. to 9:00 p.m., within the boundaries of Church Street between the intersections of Commerce Street and Aston Street, as per the area limits referenced on the accompanying site map.

- Friends of the WNC Nature Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Beat the Heat and allow for consumption at this event.

  Beat the Heat will be held on Friday, July 22, 2016 from 6:00 p.m. to 8:00 p.m. within the boundaries of the WNC Nature Center as per the area limits referenced on the accompanying site map.

- Blue Ridge Roller Derby, Inc. has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Running Experience and allow for consumption at this event.

  The Asheville Running Experience will be held on Saturday, August 20, 2016 from 5:00 a.m. to 8:00 p.m. within the boundaries of Coxe Avenue between the intersections of Banks Avenue and Hilliard Avenue as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Wild South, Friends of the WNC Nature Center, and Blue Ridge Roller Derby, Inc.

Con:

- Potential for public safety issues

Staff recommends City Council authorize the City Manager to approve resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Kruger Brothers Concert Pre-Reception, Beat the Heat, and the Asheville Running Experience.

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RESOLUTION NO. 16-133 - RESOLUTION BOOK NO. 38 - PAGE 71
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K. RESOLUTION NO. 16-135 - RESOLUTION AMENDING THE ASHEVILLE STANDARD SPECIFICATIONS AND DETAILS MANUAL

Summary: The consideration of an amendment to the City's Standard Specifications and Details Manual.

The City's Standard Specifications and Details Manual provides design guidelines and technical specifications for construction activities related to streets, sidewalks, water systems, storm drainage, parking lots, and pavement structure. The Manual outlines the City's minimum construction standards and is applicable to projects on both public and private property.

The Manual is intended to be periodically updated so that it continues to reflect generally accepted professional technical standards and specifications and City policies. City Council is required to approve all revisions and updates to the Manual, and the most recent update was approved by City Council on June 9, 2015.

The Manual sets forth a process by which a developer/property owner may request and be granted an alternation, modification or waiver of the Manual's requirements. City Staff recommends amending the Manual, to clarify the effect that obtaining such approval has on determining whether the requirements of the Manual have been met. Specifically, City Staff recommends adding language that states: "projects which are granted an alteration, modification or waiver under this process are deemed to be in compliance with the requirements of this Manual with respect to the provision(s) so altered, modified or waived." This amendment is recommended, in part, to clarify the relationship between the Manual and development standards set forth in the UDO that require compliance with adopted City plans and manuals.

Pros:

- Continues to provide minimum design and construction standards, guidelines, and specifications.
- Clarifies that projects which are granted an alteration, modification or waiver under this process are deemed to be in compliance with the requirements of this manual with respect to the provisions so altered, modified or waived
- Clarifies what constitutes compliance for UDO development standards that require compliance with the Manual.

Con:

- There are no known negative impacts.

There is no known fiscal impact associated with this action.

City staff recommends that City Council approve a resolution amending the Standard Specifications and Details Manual.

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L. RESOLUTION NO. 16-136 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN AN AGREEMENT WITH BUNCOMBE COUNTY FOR ONE-TIME FUNDING FOR THE COMMUNITY-BASED GROUP CHANGING TOGETHER

Summary: The consideration of a resolution authorizing the City Manager to sign an agreement with Buncombe County (the "County") for one-time funding, in the amount of $35,000, for two crime prevention programs coordinated by the County Contractor, SPARC Network, LLC, and involving the work of the community-based group, Changing Together.

The Asheville Police Department (APD) has received a request for $35,000 in one-time funding from the community-based group, Changing Together (CT) to help offset the loss of the program's primary grant funding.

Changing Together works in collaboration with APD to coordinate the Violent Criminal Initiative (VCI) and the Domestic Violence Intimate Partner (DVIP) Initiative. These programs rely on coordinated efforts between Federal , State and Local Law Enforcement Agencies including the District Attorney's Office, North Carolina Department of Corrections/Probation, APD and the Buncombe County Sheriff's Office. Partnering agencies coordinate efforts to assist in identifying subjects that could benefit from community accountability meetings referred to as "Call Ins."

During "Call Ins," offenders are addressed by all partnering law enforcement agencies and offered support services provided by various partner agencies/non-profit agencies. The goal is to minimize the chance offenders will reoffend by offering a variety of social services. The City has been an ongoing partner since the program's inception and launch in 2011.

The Changing Together program is housed under the SPARC Network, LLC which provides contracted programming for Buncombe County Health and Human Services. The proposed agreement would be between the City of Asheville and Buncombe County and would rely upon the performance measures currently assessed by the County.

Pros:
- Changing Together provides programming that supports the mission of APD.
- The City has a history of partnering with Changing Together – programmatic oversight of grant requirements was overseen by the City's Communication and Public Engagement Division (CAPE) in previous years and APD provided $6,600 in support in the current fiscal year.
- APD has identified savings in its current FY 2015-16 budget to fund the request.
- Through its contract with the SPARC Network, LLC, Buncombe County has systems in place to measure performance outcomes.

Cons:
- Request was received outside the normal process for funding Strategic Partner agencies.
- Funding Changing Together sets a precedent for other agencies whose mission closely aligns with APD's.

The fiscal impact of the City's support is $35,000 from the existing FY 2015-16 Police Department budget.

Staff recommends that the City Council authorize the City Manager to sign an agreement with Buncombe County for one-time funding, in the amount of $35,000, for two crime prevention programs coordinated by the County Contractor, SPARC Network, LLC and involving the work of the community-based group, Changing Together.

City Manager Jackson responded to Councilwoman Mayfield regarding the process cycles of funding to outside partners.

RESOLUTION BOOK NO. 38 - PAGE 79

M. RESOLUTION NO. 16-137 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH 4 SEASONS SITE & DEMO INC. FOR THE DEMOLITION OF 33-35 PAGE AVENUE

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $98,788 plus a contingency of 16.4% ($16,212) with 4 Seasons Site & Demo Inc. for the project known as 33 & 35 Page Avenue

Demolition, City of Asheville Project # ED-15-16-001, and further authorizing the execution any change orders to said contract which may arise during demolition of said building up to the budgeted amount of $115,000.

City Council has asked that this building be demolished, and a budget amendment in the amount of $115,000 was approved at Council's March 8, 2016, meeting for this project. The project was advertised on April 22, 2016. Bids were opened on May 3, 2016, with the following results:

4 Seasons Site & Demo of Wilmington NC,	$ 98,788
Empire Dismantlement of Grand Island NY,	$109,750
Mitch Contracting of Fairview NC,	$127,000
NHM of Asheville NC,	$130,000
Patton Construction Group of Asheville NC,	$130,590
B Allen Construction of Candler NC,	$157,400

A 16.4% contingency ($16,212) has been added to allow payment for any unforeseen costs that typically arise during demolition projects. The work produced from this contract would demolish a vacant building in poor condition and make space for a future project.

Pros:

- Will demolish a vacant building in poor condition downtown.
- Will abate the asbestos in the building
- Will create space for a future project.

Con:

- Demolition will be disruptive to adjacent residences and businesses.

The total budget for this project, including contingency, is $115,000. As noted above, a budget of $115,000 was established for this project in March 2015 using unassigned General Fund fund balance.

City staff recommends City Council adopt the resolution awarding the contract to 4 Seasons Site & Demo Inc. for the 33 & 35 Page Avenue Demolition Project and giving the City Manager the authority to execute any change orders up to the budgeted amount.

RESOLUTION BOOK NO. 38 - PAGE 80

N. RESOLUTION NO. 16-138 - RESOLUTION APPROVING AN INSTALLMENT FINANCING AGREEMENT WITH WELLS FARGO FOR THE FISCAL YEAR 2016 CAPITAL IMPROVEMENT PROGRAM ACQUISITION OF VEHICLES AND OTHER EQUIPMENT

Summary: The consideration of a resolution authorizing execution of a $5,520,000 installment financing contract for Fiscal Year (FY) 2016 Capital Improvement Program (CIP) Vehicles and Other Equipment.

Appropriations for FY 2016 include $5,520,000 for various vehicles, computer equipment and fire department equipment with the capital expenditures financed through debt proceeds.

On May 24, 2016, the City distributed a Request for Proposal (RFP) seeking competitive bids for the financing to selected financing partners willing to take a UCC filing for the security of the financing. Three proposals were received, the most favorable of which was submitted by Wells Fargo Bank, NA (the Bank) at an interest rate of 1.25% per annum for a term of 48 months (computer equipment) and 59 months (vehicles).

The proposed resolution authorizes an installment financing contract between the City of Asheville and the Bank for the purchase of the vehicles and computer equipment and it authorizes the City Manager, City Attorney, Finance Director and City Clerk to execute and deliver any and all necessary documents. The contract will place a security interest in the vehicles and computer equipment in favcr of the Bank in order to secure the City's obligation under the contract. Pursuant to a previously adopted reimbursement resolution, proceeds from this financing contract will allow the City to reimburse itself for the cost of the vehicles and computer equipment which have already been procured.

Pros:

- Provides funding of capital expenditures at a very favorable effective interest rate.
- Financing capital purchases spreads the cost of acquisition over several years of the useful life of the asset.
- Reimbursing this capital purchase with the proceeds of the financing, as opposed to paying for the purchase by using the City's available cash balances, increases currently available funds through restoration of fund balance.
- The financing conforms to the approved Financing Plan for capital expenditures.

Con:

- Financing the purchase increases nominally the lifetime cost of the acquisition due to the payment of interest and closing costs on the amount financed.

The annual debt service payments for this financing range between approximately $1,243,000 in the first year and approximately $801,000 in the fifth year. Funds are included in the City's FY 2016-17 proposed debt service budget to cover this cost.

City staff recommends that City Council adopt the resolution authorizing the City Manager to execute an installment purchase contract and closing process with Wells Fargo for the acquisition of the vehicles and computer equipment.

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O. RESOLUTION NO. 16-139 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION ENGINEERING AND INSPECTION CONTRACT WITH VAUGHN & MELTON CONSULTING ENGINEERS FOR THE HENDERSONVILLE ROAD SIDEWALK IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction engineering and inspection (CEI) contract with Vaughn & Melton Consulting Engineers (Vaughn & Melton), for the amount of $192,698.76 plus 20% contingency and any change orders within the project budget for the project known as Hendersonville Road Sidewalk Improvements Project, City of Asheville Project #ENG-12-13-015, pending concurrence with award by the N.C. Dept. of Transportation (NC DOT).

The 4.5-mile stretch of Hendersonville Road (US 25) from Seminole Street to Long Shoals Road is populated by many commercial properties, offices, and residential complexes, and lacks consistent pedestrian infrastructure. The project connects existing isolated sidewalks with the construction of approximately 13,000 linear feet of new sidewalk, and also includes new retaining walls, storm water drainage structures, a pedestrian boardwalk, pedestrian crossing signal facilities, and all associated appurtenances. Federal funding administered through the North Carolina Department of Transportation will account for 80% of the project, with the City of Asheville matching the remaining 20%.

A request for qualifications (RFQ) was issued on September 28, 2015, and the following firms submitted RFQ packages:

A. Morton Thomas & Associates	Charlotte, NC
Michael Baker Engineering	Asheville, NC
Vaughn & Melton	Asheville, NC

Following the municipal and required NC DOT RFQ procurement process, a panel of staff members performed a thorough review and evaluation and recommended Vaughn & Melton of Asheville, North Carolina as the most qualified. However, the CEI contract was not awarded at that time due to an NC DOT offer to provide CEI services. NC DOT has been providing inspection services for the project, but is unable to continue for the remainder of the project due to staffing issues. Following NC DOT notice of discontinuation of CEI services, staff successfully negotiated a final scope of work and project budget with Vaughn & Melton, and are awaiting NC DOT's review of the Vaughn & Melton proposal.

Pros:

- Provides connectivity for needed linkage.
- Ensures pedestrian safety.
- Confirms investment in community infrastructure

Con:

- Project management and contract administration will consume staff time and resources.

Funding for this project is already included in the City's adopted Capital Improvement Program. As noted above, federal funding administered through the N.C. Dept. of Transportation will cover 80% of the project costs, with the City of Asheville matching the remaining 20%.

City staff recommends City Council adopt the resolution awarding the contract to Vaughn & Melton Consulting Engineers, pending concurrence with award by the NC DOT, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $192,698.76 plus a contingency of 20% ($38,539.75), for a total of $231,238.51 with Vaughn & Melton Consulting Engineers, LLC for the project known as Hendersonville Road (US 25) Sidewalk Improvements Project.

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P. RESOLUTION NO. 16-140 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT AMENDMENT WITH DAVENPORT ENGINEERING INC. FOR ADDITIONAL PROFESSIONAL SERVICES ON THE LIVINGSTON STREET COMPLETE STREET PROJECT

Summary: The consideration of a resolution authorizing the City Manager to amend an existing engineering services contract with Davenport Engineering, Inc. in the amount of $8,000 plus a contingency of 14% of the amended contract amount ($37,000) to to develop additional construction documents and specifications required to comply with Federal requirements for the project known as Livingston Complete Street.

City Council had previously adopted a resolution authorizing the City Manager to enter into a contract with Davenport Engineering Inc. in August 2015, for $250,000. This original contract resulted in the development of plans, estimates and environmental documentation.

The Livingston Complete Street project will improve Livingston Street and a portion of Depot Street from approximately 372 Depot Street to Victoria Road. This project is one of the City's TIGER VI projects. The project includes improving the corridor for pedestrians, bicyclists and transit users while maintaining functionality for motorized vehicles.

Pro:

- The additional documents and specifications are required to secure Federal funding.

Con:

- Adds up to $45,000 dollars to the design cost of the project.

Sufficient budget is included in the adopted CIP to fund the change order request for this contract.

City staff recommends City Council adopt a resolution authorizing the City Manager to amend the current contract with Davenport Engineering, Inc. to provide additional construction documents and specifications for the Livingston Complete Street Project in the amount of $8,000 plus a contingency of 14% of the amended contract amount ($37,000).

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RESOLUTION NO. 16-141 - RESOLUTION AMENDING THE 2016 CITY COUNCIL MEETING SCHEDULE

Summary: The 2016 City Council meeting scheduled is amended as follows: (1) A worksession on a bond referendum has been scheduled for Monday, June 20, 2016, at 3:00 p.m. in Room 623 of City Hall; (2) A worksession on a bond referendum has been scheduled for Tuesday, June 28, 2016, at 10:00 a.m. in the 4th Floor Training Room of the Municipal Building; (3) A formal meeting is hereby scheduled on Tuesday, July 5, 2016, beginning at 5:00 p.m. in the Council Chamber, Second Floor of City Hall. (Note: The July 12, 2015, City Council meeting has been previously cancelled.); (4) The formal meeting previously cancelled on August 9, 2016, is hereby re-established. Said meeting will be held beginning at 5:00 p.m. in the Council Chamber, Second Floor of City Hall; and (5) The formal meeting scheduled on August 23, 2016, is hereby cancelled.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Haynes and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. QUARTERLY I-26 CONNECTOR UPDATE

Transportation Director Ken Putnam updated Council on the I-26 Connector Project, noting that the N.C. Dept. of Transportation (NCDOT) selected for Section A - Widening; Section B - Alternative 4-B; and Section C - Alternative F-1. The then presented the tentative schedule as follows: Mid 2017 - final Environmental Impact State; Late 2017 - design public hearing; 2019 - Section C right-of-way acquisition; 2021 - Section C construction and Section B right-of-way acquisition; 2014 - Section B construction; and future years - Section A right-of-way acquisition and construction. The City of Asheville looks forward to continuing the positive working relationship between the city's working group and the N.C. Dept. of Transportation to address these issues, and looks forward to positive decisions emerging from those discussions.

Councilwoman Mayfield said that the NCDOT is about to recreate an aesthetics committee who will have input on what the project looks like, e.g., landscaping, sound walls, bridge design, aesthetic treatments, etc. For anyone interested in this committee, please contact the City's Transportation Director Ken Putnam who will forward the information to the NCDOT.

B. LEGISLATIVE UPDATE

Mayor Manheimer updated the Council on some disturbing legislation being introduced this week: (1) House Bill 483 (land use bill) which will revise how conditional zonings, conditional use permits and Board of Adjustment appeals are handled, etc.; and (2) redistricting of Asheville.

Mayor Manheimer said that we have not received the N.C. Supreme Court's opinion on our water lawsuit. The next date opinions are issued will be August 19, 2016.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

Mayor Manheimer said that the applicant has requested this public hearing be continued until June 28, 2016. Vice-Mayor Wisler moved to continue this public hearing until June 28, 2016. This motion was seconded by Councilman Young and carried unanimously.

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 55 MIAMI CIRCLE AND 70 ALLEN AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT AND INSTITUTIONAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 290 MULTI-FAMILY UNITS CONTAINED WITHIN 4 BUILDINGS, WITH CONDITIONS MODIFYING LANDSCAPE STANDARDS

ORDINANCE NO. 4507 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 55 MIAMI CIRCLE AND 70 ALLEN AVENUE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT AND INSTITUTIONAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF 290 MULTI-FAMILY UNITS CONTAINED WITHIN 4 BUILDINGS, WITH CONDITIONS MODIFYING LANDSCAPE STANDARDS

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 55 Miami Circle and 70 Allen Avenue from RM-16 Residential Multi-Family High Density District and Institutional District to Institutional District/Conditional Zoning for the development of 290 multi-family units contained within 4 buildings, with conditions modifying landscape standards. This public hearing was advertised on June 3 and 10, 2016.

Ms. Bernstein said that the applicant is requesting review of a conditional zoning request from Residential Multi-Family High Density District (RM-16) and Institutional (INST) to Institutional Conditional Zone (INST-CZ), in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO), for the construction of a multi-unit residential development.

The project site consists of two parcels with a combined area of approximately 11.39 acres in South Asheville, just north of Long Shoals Road. The larger parcel (55 Miami Circle, 7.66 acres) is zoned Institutional and the other lot (70 Allen Avenue, 3.73 acres) is zoned RM-16.

Nearby zoning includes Institutional, RM-16, RS-8 and RS-2.

The area is developed with a mix of uses including apartments, single-family homes, educational and recreational uses (TC Roberson High School and the Zeugner/Skyland Recreational Center to the east and north) and commercial uses along Long Shoals and Hendersonville Roads. There are approximately 55 mobile homes currently occupied on the Miami Circle parcel, which will be removed. A sewer line and vacant single-family home are to be removed from the Allen Avenue parcel. There is a stream and associated buffer running across the northwest corner of the Allen Avenue lot.

The applicant is proposing to construct a multi-family development consisting of 290 residential units in eight separate buildings. Plans indicate 258 one and two-bedroom units and 32 three-bedroom configurations. Two buildings are shown as four-stories (maximum height 42 feet); four as three-four splits (maximum height 33 feet) and two with two-stories (maximum height 20 feet). There is also clubhouse and maintenance buildings and a pool.

There are three vehicular access points into the site; one is off of Miami Circle, which connects to Long Shoals Road; the second access is from Allen Avenue, which connects to Hendersonville Road; and the third is through the southern end of the site to Long Shoals Road and is intended to be the project's primary access point. The applicant is proposing for the Miami Circle access point to be restricted to emergency vehicles only and would include a siren-activated gate.

A network of internal sidewalks and walking paths are proposed throughout the site and a public sidewalk is proposed along the short stretch of Miami Circle frontage. Additionally, there is a sidewalk proposed along the primary entrance driveway to Long Shoals Road *(see staff proposed conditions regarding additional sidewalk considerations)*.

Due to the number of units proposed, a range between 322 and 612 parking spaces is required; 420 are proposed. Parking is distributed around the site and also includes a minimum of 13 accessible spaces and at least 21 bike parking spaces.

The project is required to comply with landscaping standards, including a Type A (20 foot wide) property line buffer along the eastern edge of the site where properties are zoned RM-16 and a Type B (30 foot) buffer against RS-2 to the south. Additionally, the proposal includes street buffers, street trees, parking lot and building impact landscaping, dumpster screening and tree save area (3.417 acres). There are several proposed encroachments into the property line buffer as detailed in the conditions for the project, resulting in a request to provide a reduced buffer along a portion of the project boundary. Additionally there is a stream buffer that will be maintained through the center of the site.

Fifteen percent of the project area is required to be dedicated as open space, which is approximately 1.71 acres and is shown on plans.

There are several retaining walls shown on site plans; additional information will be provided at Final Technical Review Committee (TRC) review regarding wall heights to determine the extent of screening compliance needed.

Building height in the Institutional District is limited to forty feet within 100 feet of a residentially-zoned property; this project appears to comply as the taller buildings are outside of this area.

Conditions - This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. Small portions of the community building, pool and driveway encroach into the 30 foot

property line buffer along the southern end of the project area.

2. A sidewalk will be provided along Miami Circle to link the project site to the Buncombe County School property with a walking path to be extended into the TC Roberson High School campus (exact location of the walking path to be determined with the school representatives but proposal loosely follows the existing access driveway from Miami Circle and is shown on exhibit D).
3. Staff recommends that the applicant work with property owners to extend the sidewalk along Miami Circle southwards to connect down to Long Shoals Road. As of the writing of this report, the applicant has not agreed to this enhanced condition and there does not appear to be sufficient room in the existing right-of-way to provide the sidewalk.
4. The project shall contain at least 10% affordable units at rent standards not to exceed 80% Area Median Income (AMI) as published in the 2016 Affordable Housing Standards. This commitment will stand for a time period not less than 15 years and will be deed restricted. Staff recommends that the project will contain at least 20% affordable units; the applicant has not agreed to this enhanced condition (20%).

At the Planning & Zoning Commission meeting, the developer agreed to pursue a condition that they would contribute $250,000 into a fund to be managed by the City and its partners for use in relocating current residents of the property. After distribution of the funds for relocation use, any money that remains will be put in the City's Housing Trust Fund to be used for affordable housing development.

After several meetings with City staff, the applicant, current owner, residents and their advocates, the proposal has been modified that the applicant will provide $250,000 directly to the residents to be distributed equally among the households. There will be an additional $40,000 contribution from the current owners to the City's Housing Trust Fund to assist in the development of affordable units elsewhere in the City. Staff anticipates these transfers to occur via a Memorandum of Understanding following City Council's approval.

This proposal was approved with conditions by the Technical Review Committee (TRC) on April 18, 2016, and requires review by the City Council and Final TRC prior to zoning approval.

At their meeting on May 4, 2016, the Planning & Zoning Commission reviewed this request and ultimately recommended approval by a 7-0 vote. Their vote included the condition noted above regarding the financial contribution offered by the developer (which has been since modified as described above). Members of the public were present at the hearing to comment on the impact of displacement on current long-time residents and the need to provide time and assistance to these families who are losing their homes.

Staff has met with many current residents and members of the public regarding this project; primary concerns are related to the displacement of the families currently occupying the approximately 55 manufactured houses on the site and the approximately 63 school children within these families. Concerns have been raised about the ability for relocation of the manufactured housing units (which is unlikely due to the age of the units and related HUD restrictions) and the impact on the permanent housing situation for these residents. City staff from the Community Development Department has been working closely with community partners on assisting with relocation assistance and housing issues for the affected residents.

Regarding density, under the current zoning on the sites, a total of approximately 295 units would be allowed (approximately 230 allowed currently on the Institutional parcel [246 proposed] and 65 allowed currently on the smaller RM-16 lot [44 proposed]). By conditionally zoning both parcels as a combined project, 342 units would be allowed by right and can be spread out over the full acreage. The project is proposing 290 apartments or approximately 25 units per acre (gaining greater density on the parcel currently zoned Institutional).

A proposal for a major subdivision creating 29 single-family lots on the Allen Avenue

parcel was approved by the Planning & Zoning Commission in April 2015 (BP 15-02454 PZ); this application effectively replaces that approval. There is a Level I application currently under review for a Pizza Hut at the corner of Miami Circle and Long Shoals Road (BP 16-01283) and a number of commercial developments recently reviewed and approved along the Long Shoals Road corridor.

The multi-family residential development is considered compatible with the surrounding uses and zoning in the area. Institutional zoning anticipates and allows for a higher-density residential component and this location places families and residents within walking distance to schools (K-12), recreational uses, commercial uses and transit (Hendersonville Road). Staff's suggested condition to extend sidewalks along Miami Circle to Long Shoals Road and within the TC Roberson school campus would further the positive integration of the proposed project into the area, provide protection for pedestrians against the increased vehicular traffic, and provide a safer route for school children that walk to area schools.

Several elements of this proposal are directly aligned with the *Asheville City Development Plan 2025* including "higher-density residential infill development"; density above the minimum necessary to improve and enhance transit; safe routes for pedestrian and the proposed inclusion of dedicated affordable housing.

The staff suggested condition on sidewalk extension along Miami Circle would improve compliance with the *Plan* with sidewalk extensions to improve pedestrian safety and access and to connect residential uses to shopping, employment options, the high school and transit. Also, the recommended increase in the affordable housing set-aside, from 10% to 20%, would better align the project with the affordable housing policies of the *Plan* due to the project's proposal to remove the existing 55 mobile homes.

Regarding other adopted plans and the dedication to affordable housing, the City's recently completed *Housing Needs Assessment* (2015) contains a section on mobile home rental units and indicates an average rental range per unit of approximately $595-795 in Buncombe County (the rent in this existing mobile home park is approximately $225 per month). The rental range on manufactured housing in the area is significantly lower than the rental range that will be offered once the development would be completed (according to affordable housing standards at 80% AMI). This considerable disparity between what is considered to be "affordable" verses the low rents which serve a specific population of City residents that will be lost through this development demonstrates the concerning displacement of a population that will not be easily re-served and re-housed.

The proposal aligns with the 2036 Council vision in the following areas:

- *A Well-Planned and Livable Community* – The project is ideally situated, placing higher-density residential development proximate to complementary uses.
- *Transportation and Accessibility* - Sidewalk connections to the school campus and Long Shoals Road will create safe pedestrian routes to school, recreation, transit and shopping.
- *Quality Affordable Housing* – The applicant is proposing to include 10% of the units as affordable (29 units); staff is suggesting 20% (58 units). Additionally, at least $40,000 will be dedicated to the Housing Trust Fund for the creation of affordable housing throughout the City.

Considerations:

- Appropriately sites higher-density residential development proximate to educational, recreational and commercial uses and within one-tenth of a mile to transit (S3).
- Provides sidewalk connections to adjacent school use along Miami Circle.
- Project will contain at least 10% affordable units at rent standards not to exceed 80% Area Median Income (AMI) as published in the 2016 Affordable Housing Standards. This commitment will stand for a time period not less than 15 years. ***Staff suggests raising***

this amount to at least 20% of the units to more closely mirror the number of existing units that are being removed.

- Development displaces residents in mobile home units that have been in place for several decades, with residents paying rents significantly below even the current standards for 60% AMI.

Based on policies stated in the Comprehensive Plan and other plans, such *as the Housing Needs Assessment and City Council's 2036 Vision Considerations*, staff finds this request to be reasonable and within the public interest and recommends support of the proposed conditional zoning as proposed. However, while recognizing the contribution offered to the Housing Trust Fund staff does still recommend that the applicant increase the amount of actual dedicated affordable units to 20% to equal the number of affordable units being displaced and to continue to work to provide sidewalk along the full extent of Miami Circle to Long Shoals Road to further meet the City's stated goals.

In response to Councilman Smith, Ms. Bernstein said that the mobile home park was established decades ago and noted that residential is allowed in the Institutional District.

In response to Councilman Bothwell, Ms. Bernstein said that the current owners have legally issued notices and can proceed with eviction regardless of this conditional zoning application. The owner has the right to construct 295 units with the existing zoning; however, they are asking for this conditional zoning to allow them to put a greater number of units on the Institutional parcel and then less than the number of maximum units on the other parcel. This conditional zoning application will make it a more comprehensive project.

Mr. Chris Day, representing Civil Design Concepts, explained the specifics of the project. They had met multiple times with Buncombe County Schools and will construct a walking path into the TC Roberson campus from Miami Circle following the existing driveway. The new plan is for the Miami Circle access point to be restricted to emergency vehicles only with a siren-activated gate. They will open up Lance Lane (for the residents of the development to use to reach Long Shoals Road) to mitigate the traffic concerns of school traffic driving onto Miami Circle being in conflict with traffic from the development.

Councilman Bothwell urged the developer to leave existing healthy trees as much as possible. Mr. Day said that along the property line there is an existing creek that will have 30-foot setback buffers so there will be a 60-foot wide area that will remain undisturbed.

Mr. W. Louis Bissette, Jr., attorney for the applicant, said that there has been a lot of discussion with the existing mobile home park community, including their representatives at St. Barnabas Catholic Church, Pisgah Legal Services, Homeward Bound, etc. The developer is prepared to do two things (1) commit 10% affordable units at rent standards not to exceed 80% Area Median Income for a period of not less than 15 years; and (2) contribute $290,000 for the relocation needs of the mobile home park community. Prior discussion was that the developer would contribute $250,000 for relocation needs and $40,000 to the City's Affordable Housing Trust Fund. The developer is prepared to do either one of these things. He then detailed how the $290,000 would be distributed on an equal basis amongst the 55 mobile home residents via Homeward Bound. After City Council approval, between 30-45 days, each home would receive $2,272 (requirements would be that (1) a survey be submitted - all mobile home residents have this survey; (2) a termination agreement signed; and (3) that all residents be current on rent/utilities). Homeward Bound and St. Barnabas will be available to help any residents who need help to complete paperwork or have them pick up their checks. When they receive the $2,272 check, they would need to sign a termination agreement and agree to vacate the property in 60 days. When the developer closes on the property (90-120 after Council approval), each home would receive $3,000. He noted that the 15 households that have already vacated the property will also receive receive the total $5,272 relocation assistance). He felt that the

developer could not up the affordable units to 20% but felt that the $290,000 actually goes to the people who need it the most.

When Vice-Mayor asked about the staff recommendation for sidewalks along Miami Circle to Long Shoals Road, Mr. Bissette replied that they don't control the property.

Councilman Bothwell asked if the developer would be willing to make the affordable units 20 years instead of 15 years, Mr. Bissette responded that since the developer will pay an administrative fee to Homeward Bound, in addition to the $290,000 for relocation assistance, the developer is at his limit as to what he can do.

When Councilman Young asked about the requirements to receive the first check, Mr. Bissette explained that the three requirements (survey, termination agreement and current on rent/utilities), he said that if they are not current on their rent/utilities, the amount could be deducted from their first check. He noted that there are less than five households that are currently in arrears on anything. He said that St. Barnabas has a program to help people if they need it.

Vice-Mayor Wisler asked if the developer would consider adding one month free rent on the land in addition to the $2,272 in order to help with relocation cash flow. Mr. Bissette replied that would be something the current owner (Miami Made LLC - all local people) would need to consider, not the developer. He also noted that the additional one-month rent is not something the residents requested and since the developer is not the owner of the property, he felt providing the one month free rent would be difficult.

Mr. Jim Lowder, Acting Executive Director of Homeward Bound of WNC, said that even though this is out of their normal work, they were happy to participate. Since none of the families are currently homeless, they would not quality for any kind of funding they might have available, so this gives them an opportunity to make sure none become homeless. He was also happy that there will be 290 units needed for housing in our area.

Deacon Rudy Triana of St. Barnabas Catholic Church, speaking on behalf of the 55 mobile home residents, said that they have had countless meetings with the developer, along with the President and Board Members of the Lakeview Mobile Home Park Association. At their last meeting, the Board voted unanimously for them to try to negotiate more with developers. As a result, the developers have graciously and generously came up with the current offer and the Association has agreed with the offer and the disbursement schedule. All residents have assured him that all rents/utilities will be paid. He hoped the disbursement will take place prior to residents having to move so the relocation assistance will help them with deposits and other necessary relocation expenses. He thanked Council for helping those without a voice.

There was discussion, initiated by Councilwoman Mayfield, about a possible condition to make sure that the tenants receive the full amount ($5,272) before they have to vacate the property. Mr. Bissette said that the developer feels that the closing will happen prior to the residents having to vacate; however, if the closing is postponed he would encourage the developer to extend the 60 days within which to vacate the property. Regarding a condition, City Attorney Currin said that financial agreements between third parties are not something that should be written into a zoning ordinance.

In response to Councilman Bothwell, Deacon Triana said that the Association has only seen bullet points of the agreement, not the executed agreement. Mr. Bissette responded that there is a Memorandum of Understanding with Homeward Bound that spells out the proposal; however, it is not signed yet. There will not be an agreement with the residents because they will be paying money to Homeward Bound to distribute it.

Mayor Manheimer announced a short recess in order for Deacon Triana, the President of the Association, Homeward Bound and the developer to review the unsigned Memorandum of Understanding and sign if it agreeable.

Mr. Bissette provided a signed Memorandum of Agreement between the developer Nicholas S. Hathaway (Director of Development who has the authority to sign on behalf of Hathaway Development, LLC) and Jim Lowder (Acting Executive Director who has the authority to sign on behalf of Homeward Bound of WNC). The Agreement, executed today, states in part that "(1) Developer shall contribute a total of $290,000 (the "Resident Fund") to Homeward in accordance with the following schedule: (a) $125,000 will be paid within 45 days following the Asheville City Council's approval of the Project; and (b) $165,000 will be paid at the time of Developer's closing of the acquisition of the Property from Miami Made, LLC ("Seller") the current owner of the Property. (2) Developer and Homeward shall develop a survey/questionnaire (the "Questionnaire") for Homeward to distribute to the Resident Households. (3) Developer shall cause the Seller to deliver to each of the Resident Households the 60-day notices to vacate/notice to quit as provided for under North Carolina General Statute Section 42-14. Such notices shall be delivered on July 1, 2016. (4) Developer will pay Homeward a reasonable administrative fee, as payment for its services hereunder (the "Admin Fee"). Such Admin Fee shall be paid at the conclusion of Homeward's administration of the Resident Fund in accordance with the Memorandum of Understanding. (5) Homeward shall administer and distribute the Resident Fund in accordance with the following terms, conditions and procedures: (a) The resident Fund shall be distributed equally to all Resident Households satisfying the conditions set forth herein, up to a maximum of 55 Resident Households; (b) Such Resident Household must be current on its rent and utility obligations with the Seller prior to receiving any distribution from the Resident Fund; (c) Such Resident Household must have executed and delivered a termination agreement, terminating such Resident Household's lease and relinquishing any rights to the Property, prior to receiving any distribution from the Resident Fund; and (d) All claims from the Resident Fund must be submitted to Homeward no later than December 31, 2016, and no Resident Household shall have any claims after such date. Further, unclaimed funds remaining in the Resident Fund after such date shall be paid to Homeward, to be applied first towards the Admin Fee, and then to general operating account of Homeward." (6) Homeward shall communicate with Resident Households and neighboring churches and associated interests to educate them on the Resident Fund and to advocate support for the Project in the community and at the Asheville City Council meeting in which the Project is presented. (7) This MOU shall be binding upon and inure to the benefit of the parties and their successors and assigns, including any affiliate of Developer formed for purposes of the Project. Any notices to be given hereunder shall be in writing to the parties at the address set beneath their signatures below." The Resident Association representative, Deacon Triana, Homeward Bound and the developer all have a signed copy of the Agreement.

The President of the Resident Association thanked City Council for their support.

Mayor Manheimer opened the public hearing at 7:00 p.m.

Christopher Chiaronmonte felt the residents should be assured they will have the total amount of relocation assistance prior to vacating their property. He also wondered how much Homeward Bound will be paid for their administrative fee.

Mayor Manheimer closed the public hearing at 7:03 p.m.

In response to Councilman Smith, the President of the Residents Association said that the residents currently pay $225/month for land rent and also a unit fee. Mr. Bissette said that in the new development a one-bedroom units will be $850, and $762 (maximum $895 with utilities) for the affordable one-bedroom units.

When Councilman Smith asked how many units are in the current mobile home park, the president of the Residents Association said there are 55 units and approximately 60 school age children.

Councilman Smith said that a community is not just about houses, but neighbors helping neighbors. This will be the end of a neighborhood. He was troubled by the precedent this sets as Council is being asked to sanction the elimination of a neighborhood/community. He said that Council will be breaking up a decade long community. While he appreciated the agreement, the residents really do not have a lot of leverage. He understood that $8-11,000 per household would be more in line of what it would cost to relocate and that doesn't even figure in the loss of family. And he also understood that the developer need not pay any relocation assistance money. Normally he would vote against this as he would never want to displace 55 families, but if Council says no, then the families would not receive anything and the developer can develop the property anyway. This way Council is trying to at least let the residents receive something. This is a real bind; however, he will follow the neighborhood's lead and support the conditional zoning because he wants to make sure the neighborhood gets all they can. He does not, however, support the displacement of entire neighborhoods. Council is appreciative of the developer's contribution, but not the displacement of residents. He also felt that the developer's contribution of 10% affordable units (29 units) at $833/month (three times of what the residents are paying now for half the number of units) is instant gentrification.

Councilman Young and Councilwoman Mayfield agreed with Councilman Smith's comments.

Mayor Manheimer said this is one of the frustrating topics where cities don't have the authority to provide for residents in this type of situation, other than through tools of our zoning process, which is not a perfect way to deal with this situation. She was pleased how organized the community has been and how well they have communicated amongst themselves and come up with that they wanted even though ultimately it is the demise of their community. She felt the Council's vote is more in support of the work the residents have done in getting to this point. In the future, she hoped Council will look at any other possible rules that a city might be able to adopt to deal with a situation like this.

Councilman Bothwell was also deeply sympathetic to the breakup of this neighborhood, but we can't ignore the lack of housing in our community. With this development, we will get six times as many units on this property. It will address the housing shortage.

Councilman Smith suggested building in relocation reimbursement into this kind of development where people will be displaced. City Attorney Currin said that there may be ways that Council may be able to preserve the communities, other than necessarily telling the developer that they need to make a financial contribution.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the conditional zoning request from Residential Multi-Family High Density District (RM-16) and Institutional (INST) to Institutional Conditional Zone (INST-CZ) with the requested conditions for the development of a multi-family residential project and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal places higher density residential development in an area proximate and walkable to transit, commercial, educational and recreational uses; (2) The project includes pedestrian connections to community uses and transit; and (3) The project includes dedicated affordable housing units (a minimum of 10% of the units at 80% AMI for a minimum of 15 years). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4508 - ORDINANCE ADOPTING THE FISCAL YEAR 2016-17 ANNUAL OPERATING BUDGET AND AMENDMENTS TO THE FEES & CHARGES MANUAL

Director of Finance & Management Services Barbara Whitehorn said that this is the consideration of an ordinance to adopt the Fiscal Year 2016-17 Annual Budget.

The Fiscal 2015/2016 Proposed Annual Operating Budget was presented to City Council on May 10, 2016. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 6, 2016. City Council conducted a public hearing on the Proposed Budget on May 17, 2016. The Fiscal 2016/2017 Proposed General Fund Budget is balanced with an Ad Valorem tax rate of $0.475 per $100 of assessed value, remaining the same as the current year tax rate. All essential City services are maintained in the Proposed Budget.

Changes to the Proposed Budget - Since the Proposed Budget was presented to City Council, there have been some adjustments per Council direction that have altered the budget that is presented tonight for Council adoption.

- **Use of Fund Balance:** At the May 10 City Council meeting, Council requested that approximately $800,000 in additional funds expected to be realized from net income as of the March 31, 2016 third quarter financial report, which would otherwise flow into unrestricted, unallocated fund balance, be reserved for the Lee Walker Heights Project. This allocation brings the fund balance allocation to that project to $2,180,000. This change has no effect on 2016/2017 operating revenue or expenditures.

- **Additional Resources Dedicated to the Short-Term Rental Program (Homestay):** Funding for additional staffing and related equipment has been added to the 2016/2017 budget. This position is funded through an increase in Development Services revenue. The total revenue and expense added to the General Fund operating budget is $130,000.

- **Dedication of funds for the Festival of Neighborhoods**: Councilmember Smith asked that $2,000 be added to the General Fund operating budget to assist with the funding of the Festival of Neighborhoods. Revenue estimates for Development Services were reevaluated with the addition of the FTE discussed above, and $2,000 was added to offset this increase.

- **Sustainability "Green Fund":** Greenworks recycling, composting and education - $15,000.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year.
- General Fund Budget is balanced with no fund balance appropriation for ongoing operating expenses and all essential City services are continued.

Con:

- None.

As noted above, the Proposed FY 2016/2017 General Fund budget is balanced with no fund balance appropriation for ongoing operating expenses. Based on revenue and expenditure

projections for FY 2015/2016, staff estimates that the City's unassigned fund balance in the General Fund will be $22.4 million on June 30, 2016. The following reservations and dedications will be made per Council direction:

Lee Walker Heights	$2,180,000
Infrastructure Reserve	1,100,000
Deferred Maintenance	200,000
One-Time Investments	760,000

The remaining $18,160,000 in unrestricted, unallocated fund balance is 16.4% of General Fund total budgeted expenditures for FY 2016/2017. Council adopted a policy of a minimum 15% unrestricted, unallocated fund balance and set a goal for June 30, 2016 of 16.5% at the April 26 worksession. Additional revenues and/or savings realized in the fourth quarter of FY 2015/2016 may increase the percentage slightly.

Staff requests that Council adopt the FY 2016/2017 Annual Budget Ordinance with the changes noted above.

Councilman Smith was very interested in the Pay As You Throw program and assuming that the City remain on their proposed one-year rollout time period, this garbage fee increase will be temporary for those who chose to participate in the program.

Mayor Manheimer stated that since the public hearing was held on May 24, 2016, no public comment would be accepted.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved for the adoption of Ordinance No. 4508, as amended above. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 352

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Accessory Dwelling Unit Task Force - It was the consensus of Council to adopt the following recruitment statement regarding the Task Force: "The City of Asheville is recruiting a community Task Force to help shape decisions about Accessory Dwelling Unit (ADU) homestay rentals. The City of Asheville currently does not allow full-home short-term rentals in residential neighborhoods but does permit homestays provided certain conditions can be satisfied. A homestay is a legal form of short-term renting where the owner or resident manager resides on the property full-time. Under Asheville's current homestay rules, an ADU may not be used as part of a homestay operation; although, ADUs (such as garage apartments and cottages) can be legally used for long-term rentals in residentially zoned areas, with "long-term" defined as anything rented for one month or longer.

Task Force members will be expected to attend approximately six meetings between July and September 2016 to research, discuss and recommend programmatic and land use regulations related to the potential use of ADUs as part of a homestay operation. The Task Force will not be responsible for researching, discussing or recommending changes to either general standards regulating homestays, nor to the position to continue to prohibit whole-house rentals, as City Council recently approved an ordinance (on November 17, 2015) that addresses these issues.

The City seeks a range of collaborative, solution-oriented participants to serve on the Task Force of up to 12 people. The City Council will appoint a group that will work respectfully together to create well-informed recommendations for programmatic and land-use regulations in the Fall of 2016. The City recommends stakeholder groups nominate individuals to apply to represent their collective interests. Applicants should understand both sides of the debate, the vacation home rental industry, the land use process and/or have other pertinent experience.

There will be approximately eight at-large Task Force seats to be filled by members of the community via an application process. The City intends to distribute those seats evenly among:

- Concerned neighbors who are impacted by the ADU short-term rentals
- Members of the community who own, manage or benefit from such rentals
- Renters
- Neutral but interested individuals

There will be four other seats filled by representatives from the following stakeholder groups:

- Asheville Short-Term Rental Advocates
- Asheville Neighborhood Advisory Committee
- Land of the Sky Association of Realtors
- Asheville Affordable Housing Advisory Committee

The above groups will nominate three individuals each from their respective organizations. In June 2016, the city's Governance Committee will select one representative from each of the four groups to serve on the ADU Task Force.

Regular attendance for the task force is crucial for this effort. The first meeting is anticipated in July 2016.

Each applicant also needed to indicate whether they are (1) a concerned neighbor who is impacted by the ADU short-term rentals; (2) a member of the community who owns, manages or benefits from such rentals; (3) a renter; or (4) a neutral but interested individual. In addition, the following responses to the questions needed to be included with each application: (1) What do you see as the major challenges faced in Asheville's current housing market; (2) What would you envision as the preferred outcome of this task force; and (3) As a member of this task force, it is expected that you will be fair and act in the best interest of the larger Asheville community. Please indicate whether you have any conflicts with this statement."

The following individuals applied for one of the eight at-large seats on the ADU Task Force: Carol Polsgrove, Nan Chase, Sarah Nie, John Farquhar, David Raphael Smith, Lisa Nanney, Brenda L. Crawford, Kama Ward, Jackson Tierney, Wendy Dean, Andrew Pardue, Alan Escovitz, Marian Patten, George Kroncke, Jane Mathews, Brandee Boggs, David Rodgers, Robert Michel, Maggie Smith, Carter Webb and Greta Bush.

It was the consensus of the Governance Committee on June 14, and the agreement of City Council, to readvertise, with an emphasis on recruiting renters.

African American Heritage Commission - Since no one applied for the vacancy, it was the consensus of Council to re-advertise for this seat.

Comprehensive Plan Advisory Committee - It was the consensus of Council to adopt the following recruitment statement regarding the Advisory Committee: "The City of Asheville will be undertaking a 15 to 17 month process to update the City of Asheville Comprehensive Plan. The plan will act as a resource for policy decisions by reflecting the community's vision for the

location and form of future development, while ensuring sufficient infrastructure, parks and other community services. The city has retained the services of Skidmore Owings and Merrill (SOM) to lead this effort. SOM will work with city staff to facilitate the planning process, which will include extensive public engagement.

The purpose of the Comprehensive Plan is to set forth goals and policy opportunities for sustainable growth and development over the next 10-20 years and beyond. The plan will include strategies related to land use, multimodal transportation, economic development, social equity, infrastructure, housing, livability, placemaking, open space, climate change adaptation, and sustainability.

Scope of the Comprehensive Plan Advisory Committee: SOM will work with city staff to form an Advisory Team to provide input and feedback on the planning and public engagement process. The Advisory Team will represent a broad diversity of interests on topics relevant to the Comprehensive Plan and will have representation, at minimum, from the following committees/organizations (in no particular order), plus three at-large members:

- Planning and Zoning Committee;
- African American Heritage Committee;
- City of Asheville Recreation Board;
- Asheville Downtown Commission;
- Historic Resources Commission of Asheville & Buncombe County (HRC);
- Public Art and Cultural Commission (PACC);
- Buncombe County liaison;
- Downtown Commission;
- Sustainability Advisory Committee on Energy and the Environment (SACEE);
- Asheville Multi-modal Transportation Commission;
- Asheville Affordable Housing Advisory Committee;
- Neighborhood Advisory Committee; and
- Asheville Area Chamber of Commerce.

With respect to the at-large member seats, preference will be given to candidates who broaden the diversity of interests represented on the committee.

The Advisory Committee will be involved throughout the community visioning process. The scope of the Advisory Committee includes, at a minimum, the following tasks:

- Attend a workshop with SOM's Planning Team and city staff during the Assessment Phase of the project to review deliverables related to data collection, benchmarking and public/stakeholder engagement.
- Attend 2 workshops with SOM's Planning Team and city staff during the Strategy and Vision Phase of the project to provide input on strategies related to public engagement, economic development, physical opportunity scenarios and the establishment of Asheville's Principles and Goals.
- Attend a teleconference with SOM's Planning Team and city staff at the Draft Comprehensive Plan Phase of the project to review a draft progress package and attend a follow-up workshop with SOM's Planning Team and city staff to review and comment on the Final Draft of the Plan.
- Attend a workshop with SOM's Planning Team and city staff for a presentation on the Final Comprehensive Plan.

In addition, the following responses to the questions needed to be included with each application: (1) What do you see as the major challenges facing Asheville in the next 10 years; (2) What do you see as the major opportunities available to Asheville in the next 10 years; and (3)

Do you have any affiliation with an existing City of Asheville Board or Commission? If so, please indicate the Board or Commission."

The following individuals applied for an at-large seat: Cate Ryba, Laura Evans, Kevin Teater, Suzanne Devane, Barber Melton, Marjorie McGuirk, Robert Carroll, Rachel Murdaugh, Mike Marcus, Jane Mathews, Sabrah n'haRaven, Linda Giltz and Blake Esselstyn.

It was the consensus of City Council to readvertise since they are looking for geographical diversity.

Multimodal Transportation Commission - The following individuals have applied for a vacancy: Meredith Gregory, Eric Workman, Richard Rozzelle, Keaton Edwards, Seth Connelly, Michael Speciale, Devin Clancy, Adam Charnack, Kevin Teater and David Nutter. It was the consensus of Council to postpone appointments until recommendations are received from the Multimodal Transportation Commission.

WNC Regional Air Quality Control Agency - The following individuals applied for the vacancy: Robert Lane and Joel Storrow. It was the consensus of Council to interview both candidates.

RESOLUTION NO. 16-142 - RESOLUTION APPOINTING A MEMBER TO THE GREATER ASHEVILLE REGIONAL AIRPORT AUTHORITY

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Stephanie Brown, as a member of the Greater Asheville Regional Airport Authority, expires on June 30, 2016.

No one applied for the vacancy.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. Brown to serve a four-year term.

Councilman Smith moved to reappoint Stephanie Brown to serve as a member of the Greater Asheville Regional Airport Authority, to serve a four-year term, term to expire June 30, 2020, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 86

RESOLUTION NO. 16-143 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that on May 17, 2016, City Council amended the composition to (1) convert the Asheville-Buncombe Community Relations Council seat to a seat dedicated to a resident of property owned by the Housing Authority; and (2) convert the two current ad hoc member seats to at-large seats appointed by City Council with three-year terms.

The following individuals applied for the two at-large seats: Lisa Thomson, Fred Cooke and Allison Scott.

It was the consensus of the Boards & Commissions Committee to appoint Allison Scott and re-advertise for the other at-large seat.

Councilman Smith moved to appoint Allison Scott to serve as an at-large member of the Citizens-Police Advisory Committee, to serve a three-year term, term to expire June 30, 2019, or

until her successors have been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 87

RESOLUTION NO. 16-144 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of David Nutter and Woody Farmer, as members of the Asheville-Buncombe Historic Resources Commission, expire on July 1, 2016.

The following individuals have applied for a vacancy: Craig Cline, Guy Cothran and Helen Glenn Court.

The Boards & Commission Committee recommended reappointing Mr. Farmer and appointing Craig Cline.

Councilman Smith moved to (1) reappoint Woody Farmer to serve an additional three-year term, term to expire July 1, 2019, or until his successor has been appointed; and (2) appoint Craig Cline to serve a three-year term, term to expire July 1, 2019, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 88

RESOLUTION NO. 16-145 – RESOLUTION APPOINTING A MEMBER TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of DeWayne Barton (representing 28806 or 28728 zip code); and Teddy Jordan (at-large member) expire on July 1, 2016. In addition, Alan Escovitz (at-large member) resigned, thus leaving an unexpired term until July 1, 2016.

The following individual applied for a vacancy: Billie Harper Buie.

It was the consensus of the Boards & Commissions Committee, and recommendation from the Neighborhood Advisory Commission, to appoint Billie Buie and re-advertise for the other seats.

Councilman Smith moved to appoint Billie Buie (Alan Escovitz at-large member) to serve a three-year term, term to expire July 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 89

RESOLUTION NO. 16-146 - RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Jaan Ferree (term to expire June 30, 2017) and K. Johnson Bowles (term to expire June 30, 2018), have resigned from the Public Art & Cultural Commission.

The following individuals applied for this vacancy: Matthew Lands, Alyssa Dreyfus and Andrew Fletcher.

It was the consensus of the Boards & Commissions Committee to appoint Andrew Fletcher and Alyssa Dreyfus.

Councilman Smith moved to (1) appoint Andrew Fletcher as a member to the Public Art & Cultural Commission to serve the unexpired term of Ms. Ferree, term to expire June 30, 2017, or until his successor has been appointed; and (2) appoint Alyssa Dreyfus as a member to the Public Art & Cultural Commission to serve the unexpired term of Mr. Bowles, term to expire June 30, 2018, or until her successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 90

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Diane Allen, bus operator and Union President for the Amalgamated Transit Union Local 128, Ms. Kim Roney, member of the Transit Committee and Multimodal Transportation Commission, and Ms. Sabrah n'haRaven all expressed concerns and disappointment regarding the Request for Proposals and ultimate recommendation to contract with First Transit for the management of the operation of the Asheville Transit System.

Ms. Nina Hart, resident on Wellington Street, along with other area residents, showed pictures and explained the issue of massive flooding that occurs after a heavy rain on Wellington St., in the Hall Fletcher neighborhood. Although the city's storm water managers have been out to survey the situation, they have been mostly unresponsive, and have advised them, despite laws that pertain to hydraulic trespass, to direct the water into our neighbor's yard, and that is not acceptable. Using photos, they showed how fences are knocked down, neighbor's homes flood, the street is impassible, and having a "river" in their neighborhood is not acceptable. Flooding appears to be a combination of new construction (new culverts created from construction up above on Bradley St. too,) and an inadequate mitigation system for the stream running through the Hall Fletcher Elementary School property. They asked that the City mitigate all stormwater from Hall Fletcher Elementary School, Bradley Street, Collin Street, E. Indiana Street, and Frances Street so that it is not directed into the residents' private properties but rather into City storm drains. They also asked the the City be responsible and pay for mitigation on residents' private property where land and homes have been affected by outdated stormwater runoff practices. And, the asked that Development Services implement new, progressive regulations at building sites for managing stormwater runoff. City Manager Jackson was directed (1) to contact a third-party engineer and see what their recommendation is for a scope of work and associated public/private participation costs; and (2) research the City's 1992 resolution regarding storm water drainage.

Christopher Chiaronmonte spoke to Council.

Two individuals spoke to Council asking for assistance in hooking up 218 Summer Drive and surrounding homes in Arden to City water (with Duke Energy Progress paying for the hookup), due to their proximity to the coal ash plant and their contaminated water. Councilwoman Mayfield suggested (and Council agreed) that they e-mail her a copy of the water test results to see how we can get this problem addressed.

At the request of Councilman Bothwell, it was the consensus of Council to instruct the City Manager to review the tree ordinance to see if there are ways to help protect trees.

Councilwoman Mayfield announced that the Energy Innovation Task Force has created four working groups (programs, technology, peak reduction and community engagement) and encouraged interested people to apply.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:23 p.m.

Magdalen Bullion
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 20, 2016 - 3:00 p.m.
Room 623 - City Hall

Worksession on Bond Referendum

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

City Manager Jackson explained the purpose of the bond referendum. He explained that the additional revenue that could be realized from a bond referendum would allow Council to prioritize projects that are planned for 10 said that the City embarked on a comprehensive capital improvement program (CIP) beginning in Fiscal year 2013, when Council raised the tax rate $.02 for economic development projects and $.01 for maintenance of existing infrastructure and facilities. The CIP is at capacity; no additional projects can or more years into the future and address critical community needs.

Director of Finance and Management Services Barbara Whitehorn then outlined the General Obligation Bond Presentation Agenda - (1) Criteria to establish "Bond Ready" Projects; (2) Bond Question Categories; (3) Category Options; and (4) Recommendations.

Staff has evaluated Master Plans and existing CIP to develop the following criteria to determine which projects could be included in a 2016 bond referendum: (1) The project ties to an existing Master Plan; (2) The project has been previously discussed with Council; and (3) The project addresses a previously identified need.

Based upon the criteria, the following categories have been identified: (1) Affordable Housing; (2) Infrastructure (horizontal); (3) Parks and Recreation (parks and facilities); and (4) Public Safety facilities.

- **Affordable Housing.** Potential investments in affordable housing include dedicating additional funds to the Housing Trust Fund and the Affordable Homeownership Developer Loan program, as well as establishing a community land trust. Alternatively, there is potential for the redevelopment of city-owned land for affordable housing.

  Affordable Housing Options include (1) Housing Trust Fund Enhancement for Rental Development - Existing Structure in Place; (2) Affordable Homeownership Developer Loan Program - Secondary Construction Loans to Developers; (3) Establishment of a Community Land Trust - Contribution to a Non-Profit Third-Party; and (4) Redevelopment of Existing City-Owned Land - Key Parcels Identified and City Control of Process.

  Affordable Housing recommendations: Housing Trust Fund Enhancement, Affordable Homeownership Developer Loan Program and Community Land Trust; OR Redevelopment of Existing City-Owned Land. Total of $15 million.

- **Streets, Sidewalks and Greenways**. Streets resurfacing including pedestrian and bicycle improvements, and the replacement of traffic signals is recommended according to prioritization through the Pavement Condition Index (PCI) and area of the City. In fiscal years 2014-16, staff identified critical sidewalk needs including repair and rebuild of existing sidewalks and the addition of needed linkages. Further implementation of the Greenway Master Plan through greenway connectors and expansion of the system is also recommended.

Infrastructure Options include (1) Sidewalks - Identified critical needs throughout City; (2) Streets - According to Pavement Condition Index (PCI), Location and Impact; (3) Intersection, Pedestrian and Bicycle Improvements - Signals at Intersections in Central Business District; and Bike Lanes and Pedestrian Safety Improvements in tandem with Streets and Sidewalks – Advancing the Asheville in Motion (AIM plan); and (4) Greenways - Advancing the Greenway Master Plan.

Infrastructure recommendations: (1) Sidewalk Projects: $10,000,000; and (2) Streets & Related Projects: $20,000,000. Total of $30 million.

Transportation Infrastructure and Related Improvements:

Project	Primary	Priority/PCI	Area of City
Haywood Street	Sidewalk, other improvements	A	Central
Martin Luther King Jr. Drive	Resurfacing, Sidewalk	23, A	Central
Caledonia Road	Resurfacing, Sidewalk	47, A	East
Kenilworth Road	Sidewalk	A	East
Lakeshore Drive	Resurfacing, Sidewalk	34, A	North
N. Charlotte Street	Resurfacing, Sidewalk	40, A	North
Fulton Street	Sidewalk	A	North
Royal Pines Drive	Resurfacing	41	South
Caribou Road	Resurfacing, Sidewalk	49, A	South
Brooklyn Road	Resurfacing, Sidewalk	53, A	South
All Souls Crescent	Sidewalk	A	South
State Street	Resurfacing, Sidewalk	35, A	West
Old Haywood Road	Resurfacing, Sidewalk	45, A	West
Sulphur Springs Road	Resurfacing, Sidewalk	49, A	West
Vermont Avenue	Sidewalk	A	West
New Haw Creek Road	Sidewalk	NEW	East
Airport Road	Sidewalk	NEW	South
Swannanoa River Road	Sidewalk	NEW	South
Hill Street	Sidewalk	NEW	West
Johnston Boulevard	Sidewalk	NEW	West
Mills Gap Road	Sidewalk	NEW	South
Gerber Road	Sidewalk	NEW	South
Tunnel Road (gaps and connections)	Sidewalk	NEW	East
Patton Avenue (gaps and connections)	Sidewalk	NEW	West
Rock Hill Road	Sidewalk	NEW	South
Onteora Boulevard	Sidewalk	NEW	East
Overlook Road	Sidewalk	NEW	South
Intersection Upgrades/Replacements	Safety	n/a	Central
Greenway Connectors, extensions	Greenways	NEW	City-wide

The above list totals more than $45 million in improvements and additions to the City's sidewalk network. Staff recommends consideration of a $30 million bond in order to improve the streets infrastructure and PCI, and to further the Multimodal Transportation Master Plan.

- **Public Safety Facilities.** The AFD and APD stations and substations have been neglected for some time and need considerable upgrades and renovation to reach current code requirements, including the addition of sprinklers to some building and structural repair to others. These are prioritized by greatest need.

  Public Safety Facilities Options include (1) Fire Stations and Police Substations - Aging and outdated buildings; and Built in 1950s- 1970s; (2) Municipal Building - Staff outgrowing space; and Ongoing parking issues; and (3) Increasing maintenance and repair costs.

  Public safety facilities recommendations: (1) Fire Stations and Police Department Facilities (a) Municipal Building Improvements; (b) Police Sub-Station Improvements; (c) Fire Station Improvements; and (d) Parking Improvements. Total of $13 million.

  Public Safety Facilities:

Station/Substation	Approximate Year Built	Location
Municipal Building	1925	Central
AFD Station #12	1985	Haw Creek, East
AFD Station #9; Oakley Police Resource Center	1980	Oakley, East
AFD Station #7	1975	UNCA, North
AFD Station #5	1975	Hendersonville and Caribou, South
AFD Station #2	1975	Livingston and South French Broad, Central
AFD Station #3	1980	Oregon Avenue, West
AFD Station #8	1975	Tunnel Road, East
AFD Station #6, West Asheville Police Resource Center	1954	Haywood Road, West

The total cost to completely renovate all fire and police stations and resource centers far exceeds available resources. Staff recommends dedicating $13 million to the most critical needs including significant improvements to the Municipal Building, the oldest building in Public Safety's portfolio.

- **Parks and Recreation.** Staff used the Parks Master Plan to identify priorities for facilities and parks upgrades, including the Wesley S. Grant Sr. Center and Jake Rusher Park, ballpark improvements and lighting upgrades, improvements to playgrounds and safety, and the expansion of the park system in south Asheville.

  Parks & Recreation Options include (1) Significant Park & Facility Upgrades - Priorities according to Parks Master Plan; and 2-3 Major Projects; (2) Land Acquisition for Future Park Development - Areas of City Lacking Park Facilities; (3) Ball Field and Lighting Improvements; and (4) Playground and Court Improvements.

  Parks & Recreation recommendations: (1) Major Park Upgrades - $13,000,000; (a) Wesley Grant Sr. Center, Phase II; (b) Jake Rusher Park; and (c) Others as funding allows; (2) Ball Fields and Lighting - $2,000,000; and (3) Playgrounds and Courts - $2,000,000. Total of $17 million.

  Recreation and Parks Facilities Improvements:

Project	Primary	Master Plan?	Area of City
Wesley Grant Sr.	Continuation of vision	Yes	Central

Center Phase II			
Memorial/Mountainside Stadium	Structural and aesthetic improvements	Yes	Central
Jake Rusher Park	Major park facility upgrade	Yes	South
Montford Park Complex	Parking and improvements	Yes	North
Richmond Hill Park Restrooms	Addition of Restrooms	Yes	East
Outdoor Courts and Playgrounds	Rebuild, resurface; upgrades and equipment replacement	Yes	City-wide
Ball Fields and Lighting	Upgrades and conversion of lighting to LED	Yes	North & South
Land Acquisition	Purchase land to build parks in areas of the City lacking park facilities	Yes	North & South

The above list totals approximately $17 million in improvements.

Director of Communication and Public Engagement Dawa Hitch said said that best practices in City-sponsored communications of bond referendums include two important steps prior to questions being placed on the ballot:

- Public Engagement to determine the types of projects to place on the ballot
- Multi-channel education campaigns

Public Engagement - In determining the types of projects to include in the bond package, municipalities approach this stage in ways that best align with community needs and/or preferences. Common strategies include citizen committees, surveys, input sessions and polls. Asheville residents regularly provide input on preferences for City investments. Examples include the Downtown Master Plan; Parks Recreation and Cultural Arts Master Plan, Affordable Housing Plan, Asheville in Motion (multi-modal transportation) Plan and the Plan-on-a-Page Plans many neighborhoods are currently designing. The Citizen Surveys © conducted in 2008 and 2015 also indicate preferences and/or satisfaction with City investments.

The public participation aspects of these city plans, created a solid foundation for identifying categories and projects appropriate for a bond referendum. These plans and the public participation that created them influenced the projects outlined for today's work session. Moving forward, polling is an option to better understand community priorities at this current point in time. Another consideration is a current Board or Commission such as the Neighborhood Advisory Committee which has representation from across the City and could offer a broad perspective on priorities.

Examples from other cities:

- The City of Winston-Salem, in its 2014 bond referendum, relied on a citizen committee to identify community needs. The committee considered projects in two categories: 1) areas of disrepair, and 2) future needs for building an attractive community. In the end, the City of Winston-Salem's $139.2 million bond package included 42 projects across the city that addressed needs in the areas of parks and recreation, public safety, streets and sidewalk, housing, and economic development/infrastructure.
- The City of Hickory also collaborated with a citizen committee in narrowing down the projects that eventually made up the bond package. Hickory's $35.5 bond package includes three major projects: 1) "Riverwalk," 2) "Citywalk," 3) Streetscapes/Gateways with a final $4.5 million designated for a community park.

- The City of Charlotte has a long standing bond program and has used public input in various forms over the years, including some level of polling, to determine community priorities. Most recently, Charlotte's program has been branded a Community Investment Plan (CIP) and incorporates a high level of public engagement in the planning and implementation of the funds. The engagement includes community meetings, surveys and collaborative meetings with City planners and project managers.

The proposed projects reflect community input and priorities gathered in master planning processes and the most recent Citizen Survey. More fine-tuning opportunities include (1) polling the community regarding priority projects; and (2) gathering input from a current organized group/board/commission.

Education Campaigns - Once priority projects are identified, a multi-channel education campaign maximizes community understanding of general obligation bonds and the projects to be included on the ballot. All of the City's resources would be available for dissemination including, but not limited to: webpage, community meetings, newsletters, City Source, fact sheets, brochures, Frequently Asked Questions, PowerPoint presentations, social media and video production.

These materials would be available for any advocacy or position groups that form regarding the referendum.

Discussion surrounded the four categories identified by staff; the possibility of making progress in both of the affordable housing options/recommendations; the effect upon property taxes; why some projects are not identified since more time is necessary for analyzing and planning; what is the timeframe for completing the bond projects; how specific do the bond questions need to be; if this bond referendum is successful, possible bond referendums in future years; Homeownership Developer Loan Program and if it can work in tandem with the redevelopment of City-owned properties; acknowledgement that these potential bond projects would not come into fruitation until after 2025 based on current capacity of the CIP (noting though that some may because of the allocation of other funding sources or other allocations); need to identify major projects for the bond referendum, but will have ability for flexibility; request to include some transit station improvements; how prudent is this bond referendum from a city management and financial standpoint; how much internal staff will be required for administration of the projects (noting that some management will be able to be capitalized through the project but other costs coming out of the General Fund or other funding sources); obtaining input from relevant boards/commissions; and can we use more informal methods to do reader polls.

Additional information requested by City Council included: a side by side comparison of the CIP next to this list for a more global review of what can be accomplished with a bond referendum; geographic map for major projects; how this bond referendum aligns with successful bond referendums in other cities; sense of how far along we are in the plan for the projects so Council can get a sense of how close the estimates are from a dollar perspective, as well as the work plan; need additional information on the public safety facilities (noting it has not been discussed by the Public Safety Committee); information on what is identified in the Transit CIP and their priorities; where we are with debt per citizen if the bond program moves forward; information on what type of taxpayer increase will be necessary to cover the project and administrative costs, going beyond just the building construction (maintenance, etc.); information on how Asheville's taxes are compared to other North Carolina cities; additional linkage of parks to the Master Plan; and request to see what the benefits would be for the taxpayers in the four categories. City Manager Jackson said that he would work on providing this information to Council prior to their next worksession on June 28. He also asked that if Council had other questions, to please e-mail them to him and he would attempt to get that information prior to the next worksession as well.

Council agreed that public input in important and would be interested in receiving that prior to the decision of placing the questions on the ballot. Some Council felt that the $75 Million bond referendum proposed is a little high.

Mayor Manheimer personally had a concern about the public safety facilities, along with the affordable housing category.

City Manager Jackson acknowledged that if all projects are approved by the bond referendum that it will require a significant amount of project management, outside engineering services, etc., that is built into the estimates. He felt confident in staff's ability to complete the projects in 5-7 years, but did not recommend any more projects. He even suggested Council scale back the list to some degree.

Mayor Manheimer suggested the polling topics include (1) Affordable Housing; (2) Infrastructure (horizontal); (3) Parks and Recreation (parks and facilities); and (4) Public Safety facilities." She also suggested subtopics as outlined in the presentation. Councilwoman Mayfield also suggested questions related to potential increases to tax bill.

It was the consensus of Council to instruct Ms. Hitch to begin the process of polling, with said contract amount of a sample size of 330 being in the $5-10,000 range; and also the consensus for staff to move forward with the four broad categories recommended by staff.

Mayor Manheimer adjourned the meeting at 4:28 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – June 28, 2016 - 10:00 a.m.
Municipal Building

Worksession on Bond Referendum

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

City Manager Jackson recapped where we are up to today.

Director of Finance and Management Services Barbara Whitehorn provided the Council with the property tax history and context.

Ms. Whitehorn then reviewed the following four main categories, with assistance from Public Works Director Greg Shuler, Transportation Director Ken Putnam, Director of Parks & Recreation Roderick Simmons, Assistant City Manager Paul Fetherston, Community Development Manager Jeff Staudinger, and Assistant City Manager Cathy Ball. They then outlined each subproject justification and amount, and asked if these are the categories that Council wants to see on the ballot.

1. Parks and Recreation - Funding Recommendation $17 Million.

Option Justification: The City of Asheville – located in the heart of the Blue Ridge Mountains – has a history and culture that supports the benefits of cultural and recreational opportunities within the community. As outlined in the City Council adopted Parks, Recreation, Cultural Arts, and Greenways Master Plan (2009), the City must invest in improvements to existing facilities, programs, development of new parks and facilities in order to maintain and enhance the level of service in Parks and Recreation.

This proposed package of investments in Parks and Recreation was developed in conjunction with the following principles:

- Assuring high quality facilities by concentrating facility improvement efforts on bringing older facilities up-to-date as neighborhood centers before adding new community-wide center elements to the system
- Providing for facilities and resources across the community that meet level of service needs within those areas
- Focus on improvements of assets across the community in a manner that maximizes access to quality resources community-wide and within each area of the community, or through centralized and accessible resources

As outlined below, a bond package that focuses investments within these areas enables the community to complete significant capital maintenance and improvement projects that otherwise would not be completed within the next 5-10 years, if not later. In addition, the investments enable the community to maximize its resources on long-term improvements rather than in a piece-meal manner that is focused on short term reactionary maintenance efforts in an environment of competing interests for limited resources.

Recommended Projects:

Project	Area	Amount

Wesley Grant Center Phase II	Central	$4.65 Million
Memorial/Mountainside Stadium	Central	$4.075 Million
Jake Rusher Park	South	$825,000
Montford Park Complex Improvements	North	$1.7 Million
Richmond Hill Park Restrooms	East	$520,000
Outdoor Courts and Playgrounds	City-Wide	$2.03 Million
Ball Fields Lighting	North & South	$1.2 Million
Land Acquisition for Parks	North & South	$2 Million
	Total	$17 Million

2. Infrastructure - Funding Recommendation $30 Million.

Option Justification: The City's infrastructure plays a vital role in connecting people to places safely for work and play. Improved transit, bikeways, greenways and mobility have been identified as priorities for our city by the Asheville in Motion mobility plan, the Transit Master Plan, the Greenway Master Plan, City Council's 2036 Vision and the citizen of Asheville.

Recommended Projects:

- Streets and Bikeway Improvements
- Sidewalk Maintenance
- New Sidewalks
- Transportation Safety
- Greenway

Streets and Bikeways	$15,500,000
Sidewalk Improvements	$ 3,535,000
New Sidewalk Projects	$ 6,320,000
Transportation Safety	$ 1,900,000
Greenways	$ 4,600,000
Total	$31,855,000

3. Public Safety - Funding Recommendation $13 Million.

Option Justification: City-wide Facilities Overview - Currently, the City of Asheville provides operations, services and programs to a community base of approximately 87,882 (2014) residents, and these services support between three and nine million visitors annually. Such operations, services and programs are provided by an employee base of 1,203 located in over 60 facilities located across the city. The facilities from which these operations, services and programs are based vary in age and condition. Each year, capital funding of $275,000 (Facility Upgrades) and $150,000 (Roof Replacements) is allocated to address capital improvements and renovations for all facilities. General fund dollars pay for operations & maintenance costs such as utilities and contracted services (e.g., elevator maintenance), and there is a separate general fund allocation of $363,000 to pay for day-to-day repairs and maintenance.

Public Safety Facilities Overview - The City provides public safety services (Police, Fire and Rescue) on a 24 hour/7 day per week basis to the residents and visitors within the community through an employee base of 545 (45% of City employees). The facilities from which these public safety services are provided include the Municipal Building (located at 100 Court Plaza), remote fire stations, and police sub-stations, plus a number of support facilities for equipment and other purposes. As noted later in this report, the age and condition of each facility vary. There is no dedicated funding stream for capital improvements or renovations for public safety facilities, so these buildings compete with

all City-owned facilities for the total annual capital allocation of $425,000 for Facility Upgrades & Roof Replacements and any available general fund dollars for repairs & maintenance.

This proposed package of investments in Public Safety facilities was developed in conjunction with the following principles:

- Assuring facilities through which critical public safety services can be provided in a manner that meets level of service needs across the community and within each respective area;
- Focus on improvements to facilities through which critical public safety services can be provided in an equitable manner community-wide and within each area of the community;
- Prioritize renovations at facilities with the highest level of occupancy or use, which is 24/7 at the proposed locations.

As outlined below, a bond package that focuses investments within these areas enables the community to complete significant capital maintenance and improvement projects that otherwise would not be completed within the next 5-10 years, if not later. In addition, the investments enable the community to maximize its resources on long-term improvements rather than in a piece-meal manner that is focused on short term reactionary maintenance efforts in an environment of competing interests for limited resources.

Recommended Projects:

PROJECT	AREA	AMOUNT	TIMING without bond	TIMING with bond
Municipal Building Renovations and Improvements	Downtown with City-wide impacts	$8 million total Renovations-$3 million Expansion-$5 million	Unknown as no funding allocated	Renovations complete within 2-3 years; Expansion complete within 4-5 years
Remote Fire Station and Police Sub-Station Renovations	Specific community locations with City-wide impacts	$5 million	Unknown as no funding allocated	Renovations complete within 2 years
TOTAL		$13 million		

4. Affordable Housing Programs - Funding Recommendation $30 Million.

Option Justification: Asheville is in an affordable housing crisis that continues to worsen each year. Even with the increase in the number of rental units on the market, rental prices are still increasing. The Affordable Housing Score Card completed in January 2014 states that, "In 2013, the Asheville Consortium assisted with 402 affordable housing units, while the city of Durham assisted with 167 units." Even with our successful accomplishments, it is not enough.

The Bowen Report of January, 2015, stated that the City needs more than 7,000 housing units affordable to low and moderate income families by 2020. Our current pace to meet that need, supporting 100- 200 new units a year through our existing funding, falls far short of meeting that need, and short of Council's goal of 2,800 new units by 2022.

Additional funding dedicated to affordable housing will help provide new housing solutions, as well as creates economic benefit through job creation, materials purchasing and secondary spending.

Many of the programs recommended in this package will require additional resources in the early years of the bond to establish processes and procedures. The staffing demands become less onerous as the programs become more established.

The city's comprehensive affordable housing strategy includes the recommendation for additional dedicated funding for affordable housing through:

- Creating diverse housing choices in every neighborhood.
- Facilitating the creation of a variety of housing options in every part of the city, including existing single-family neighborhoods and commercial districts.

Recommended Programs/Initiatives:

1.	Homeownership Developer Loan Program	- $7 Million
2.	Increased Housing Trust Fund	- $5 Million
3.	Community Land Trust Formation	- $3 Million
4.	Land Banking or Repurposing City Owned Land	- $15 Million
	Total	- $30 Million

Ms. Whitehorn then reviewed the remaining 6 week schedule, noting that staff goes to the Local Government Commission (LGC) to present the purpose and scope on Friday, July 1, 2016. At this meeting, the maximum scope and all categories must be determined.

Councilwoman Mayfield asked that $250,000 be dedicated to the renovations of the Thomas Wolfe Cabin. It was the consensus of Council to include that in the proposal under the Parks and Recreation category.

After discussion and staff responses to questions/comments, Council then each identified their preferences on the project categories, along with how much funding should be dedicated to each category and to the whole. It was the consensus of Council to rename "Infrastructure" to "Transportation."

Mayor Manheimer: Transportation - entire $32 Million; Parks and Recreation - entire $17 Million; Public Safety - Zero; and Affordable Housing - $5 Million (only for Housing Trust Fund). Total of $54 Million.

Vice-Mayor Wisler: Transportation - $25 Million; Parks and Recreation - $10-15 Million range; Public Safety - Zero; and Affordable Housing - $5 Million (only for Housing Trust Fund). Total $40-45 Million.

Councilman Young - Transportation - entire $30 Million; Parks and Recreation - $11 Million; Public Safety - Zero; and Affordable Housing - $20 Million (no Housing Trust Fund). Total $61 Million.

Councilman Smith - Transportation - entire $32 Million; Parks and Recreation - entire $17 Million; Public Safety - Zero; and Affordable Housing - $21 Million. Total $70 Million.

Councilwoman Mayfield - Transportation - entire $32 Million; Parks and Recreation - $15 Million (no land acquisition for parks); Public Safety - $10 Million (expansion only); and Affordable Housing - $23 Million (no Homeownership Developer Loan Program). Total $80 Million.

Councilman Bothwell - Transportation - entire $32 Million; Parks and Recreation - entire $17,000; Public Safety - Zero; and Affordable Housing - $15 Million (no land banking or repurposing City-owned land). Total $64 Million.

Councilman Haynes - Transportation - entire $32 Million; Parks and Recreation - entire $17 Million; Public Safety - Zero; and Affordable Housing - $25 Million (no Housing Trust Fund). Total $74 Million.

After a brief discussion about whether to leave Public Safety as a category to advance to the LGC and have it as a polling question, it was the consensus of Council to remove that as an item to move forward to the LGC. Council agreed that this particular issue needed to receive review by the Public Safety Committee and the full Council.

It was the consensus of Council to have the following three categories presented to the LGC: (1) Transportation - $32 Million; (2) Parks and Recreation - $17 Million; and (3) Affordable Housing - $25 Million. Total - $74 Million. Council also will work towards a bond reduction amount of approximately $50-60 Million.

Mayor Manheimer adjourned the worksession at 11:55 a.m.

Tuesday – June 28, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RESOLUTION NO. 16-147 - RESOLUTION IN MEMORY OF ISAAC COLEMAN

Councilman Young read the resolution in memory of Isaac Coleman and presented it to Ms. Wanda Coleman. Ms. Coleman, on behalf of his family, hoped that everyone would remember what Isaac stood for.

Resolution No. 16-147 was adopted by acclamation.

RESOLUTION BOOK NO. 38 – PAGE 91

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 14, 2016 AND THE WORKSESSION HELD ON JUNE 20, 2016

B. ORDINANCE NO. 4509 - BUDGET AMENDMENT FROM DUKE ENERGY PROGRESS FOR ENERGY EFFICIENCY REBATES

Summary: The consideration of a budget amendment, in the amount of $6,708.90, from Duke Energy Progress for energy efficiency rebates.

The funds received are from Duke Energy Progress for the upgrade of the exterior spotlights on City Hall. The new LED lights use 1/10 of the energy of the previous metal halide lights. The received funds will go into sustainability programming, which will fund further energy efficiency upgrades and other green initiatives.

Pro:

- Accepting these funds will allow the city to continue investing in improving in public energy infrastructure.

Con:

- None can be identified.

The $6,708.90 will be used as revenue to further fund sustainability programming.

City staff recommends City Council accept $6,708.90 from Duke Energy Progress for energy efficiency rebates.

ORDINANCE BOOK NO. 30 - PAGE 359

C. RESOLUTION NO. 16-148 - RESOLUTION APPOINTING A MEMBER TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Summary: On May 17, 2016, City Council amended the composition of the Citizens-Police Advisory Committee to (1) convert the Asheville-Buncombe Community Relations Council seat to a seat dedicated to a resident of property owned by the Housing Authority; and (2) convert the two current ad hoc member seats to at-large seats appointed by City Council with three-year terms.

Mr. Sir Charles Gardner, 14 Granada Street, Asheville, N.C., be and he is hereby appointed to the seat dedicated to a resident of property owned by the Housing Authority, to serve a three-year term, term to begin immediately and expire June 30, 2019, or until his successor has been appointed.

RESOLUTION BOOK NO. 38 - PAGE 92

D. RESOLUTION NO. 16-149 - RESOLUTION REAPPOINTING ALAN COXIE AS CHAIR TO THE CIVIL SERVICE BOARD

Summary: It is the responsibility of City Council to appoint the Chair of the Civil Service Board and the Chair of the Civil Service Board shall be appointed annually by City Council.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

On April 14, 2016, all members were advised to contact City Clerk Burleson if they were interested in serving as Chair. Mr. Alan Coxie was the only interested member. The term of the current Chair Alan Coxie expired on June 25, 2016.

Mr. Alan Coxie be and he is hereby reappointed as Chairman of the Civil Service Board to serve a one-year term until his successor is duly appointed or until his term on the Civil Service Board expires, whichever occurs first.

RESOLUTION BOOK NO. 38 - PAGE 93

E. RESOLUTION NO. 16-150 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT ADDITIONAL EMERGENCY SOLUTIONS GRANT FUNDS FOR RAPID RE-HOUSING AND ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to accept additional Emergency Solutions Grant funds for Rapid Re-housing and Administration.

The State of North Carolina has awarded 2015-16 Emergency Solutions Grant (ESG) funds to the City of Asheville in order to fund local agencies to provide emergency shelter and rapid rehousing services for homeless individuals and families, as well as administrative support for the City of Asheville. Due to high outcomes in FY14-15, additional Rapid Re-housing money and administration support has been awarded.

The City of Asheville has been granted an additional $30,372 in the FY16 cycle for the following activities:

	Emergency Response	Housing Stabilization	Administration	Total
Organization				
Homeward Bound		$ 28,372		$ 28,372
City of Asheville			$ 2,000	$ 2,000
TOTAL AWARD		**$ 28,372**	**$ 2,000**	**$ 30,372**

The award of funds was limited to Homeward Bound and the City of Asheville, as the other ESG recipients do not perform Rapid Re-housing or Administration activities. All of the State's requirements have been met by the agencies being recommended for the additional grant funds.

Pro:

- Approval of the Amendment allows additional homeless households to move to permanent housing in 2016.

Con:

- None noted.

The Emergency Solutions Grant is fully funded from the State of North Carolina Division of Aging and Adults Services, Housing and Homeless Unit.

Staff recommends approval of the resolution authorizing acceptance of an additional $30,372 in Emergency Solutions Grant funds from the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

RESOLUTION BOOK NO. 38 - PAGE 94

F. RESOLUTION NO. 16-151 - RESOLUTION AUTHORIZING THE CITY TO APPLY FOR FUNDS THROUGH THE US OFFICE OF JUSTICE 2016 EDWARD BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION

Summary: The consideration of a resolution authorizing the City to apply for funds through the US Office of Justice 2016 Edward Byrne Justice Assistance Grant –Local Solicitation in the amount of $55,150.

The City of Asheville Police Department (APD) requests authorization to apply for the Byrne JAG – Local Solicitation. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. If the grant is approved the Asheville Police Department

and Buncombe County Sheriff's Department will be allocated $55,150 based on the award matrix, with Asheville receiving $43,902 and Buncombe County receiving $11,248. The distribution of funds would be approved through a signed Memorandum of Understanding.

Funds will be utilized to purchase Taser devices which will serve to enhance officer safety and potentially reduce the propensity for injury that offenders could be exposed to during altercations with officers. Effective Taser applications have demonstrated the capability to incapacitate threatening subjects by using an electrical charge to target the motor nerves that control movement. Ideally, these devices facilitate effective restraint while reducing the opportunity for injury to all involved parties, thereby potentially reducing workers' compensation claims and liability claims.

There will be an expense of $43,902 by the APD for the purchase of approximately 30 Tasers. The Buncombe County Sheriff's Department will be awarded $11,248 for its identified needs. This accounts for the total allocation of $55,150 for this grant.

This is a 100% funded non-local match grant that will serve to enhance officer safety for substantially more patrol officers and potentially reduce the probability of injury for threatening offenders.

Pros:

- Increasing the number of Tasers for patrol officers will enhance officer safety and that of the community
- Increased accountability because of the downloadable content related to deployments
- Costs of the devices could offset the costs incurred by workers' compensation or liability claims

Cons:

- Additional burden on future operations budget for the cost of maintenance and replacement after the approximate five-year service life of the device
- Additional training costs associated with purchasing the training cartridges at an approximate cost of $40 per year per device.

If the grant is awarded, there is no local match required, however there would be maintenance and replacement costs for the equipment that would need to be included in future fiscal year budgets.

Staff recommends City Council adopt the resolution authorizing the City Manager to apply for grant funds through US Office of Justice Programs in the amount of $55,150.

RESOLUTION BOOK NO. 38 - PAGE 95

G. RESOLUTION NO. 16-152 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN INTERLOCAL AGREEMENT WITH BUNCOMBE COUNTY FOR PHASE II OF THE COMPOSTING FEASIBILITY STUDY

Summary: The consideration of an Intergovernmental Agreement between Buncombe County and City of Asheville to continue a partnership to study the implementation of an organic waste processing operation at the Buncombe County Landfill.

In February 2013, City Council approved Resolution 13-178 authorizing The City of Asheville and Buncombe County partnership to perform a feasibility study for an organic waste processing operation. The study focused on organic waste generated by residential units in the

City with the objective of determining the most cost effective and sustainable means of collecting, hauling and processing organic waste from the City.

The study included a waste composition field audit that estimate a percentage of the organics in the post-recycled waste stream from residential units within the City. Organic waste identified for the study included: food waste, food-contaminated paper products, household plants and yard debris. The audit yielded 26% organic waste within the post-recycled waste stream.

Through the Phase I Organic Waste Study, it was concluded that the best method for processing organic waste was by an anaerobic digester based on estimates for capital expenditures, annual operations and maintenance, and revenue from power sales.

Phase II of the study will focus on waste generation projections in Asheville and Buncombe County, projected program costs and landfill capacity.

Phase II tasks to be completed:

1. Introductory report,
2. Refine current and future waste generation projections,
3. Estimate the amount of organic waste available for the proposed processing facility,
4. Evaluate MSW collection system modification options,
5. Project future solid waste program costs and landfill capacity,
6. Draft final report, and
7. Meetings.

Pros:

- Addresses Resolution 14-27 Waste Reduction Goal and Benchmarks
- Continued effort towards Zero Waste Asheville
- Evaluate the feasibility of a large scale organics program for the residents of Asheville

Con:

- None foreseen

Phase II of the study will be performed by Environmental Infrastructure Consulting and proposed a cost of $75,000. The City has agreed to reimburse the County for one half the cost of this work, $37,500. Sustainability funds will be used for the Phase II study.

City staff recommends City Council adopt the Intergovernmental Agreement with Buncombe County to continue the organics study.

RESOLUTION BOOK NO. 38 - PAGE 96

H. ORDINANCE NO. 4510 - ORDINANCE ENACTING A 25 MILES PER HOUR SPEED LIMIT ON VARIOUS SECTIONS OF STREETS IN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of streets in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed

limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit would be reasonable and safe on Beaver Valley Road from Beaverdam Road to End of City Maintenance, Charlotte Street from Orchard Street to Woodlink Road, Davenport Road from Brevard Road to End of City Maintenance, Gudger Road from Sand Hill Road to Sand Hill School Road, Holly Ridge Drive from Westridge Drive to Bevlyn Drive, Homeway Road from Appalachian Way to Lakeside Drive, Inglewood Road from Elk Mountain Scenic Highway to Windsor Road, Iris Street from Shady Oak Lane to London Road, Reed Street from US 25A Sweeten Creek Road to Fielding Street, School Road East from Onteora BLVD to End of City Maintenance, Sulphur Springs Road from US 19/23 Bus Haywood Road to Mimosa Road, Westridge Drive from Overlook Road to Springside Road.

Pros:

- City staff has been able to respond favorably to citizen's requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $1,500.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $1,500.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting a 25 mph speed limit on Beaver Valley Road from Beaverdam Road to End of City Maintenance, Charlotte Street from Orchard Street to Woodlink Road, Davenport Road from Brevard Road to End of City Maintenance, Gudger Road from Sand Hill Road to Sand Hill School Road, Holly Ridge Drive from Westridge Drive to Bevlyn Drive, Homeway Road from Appalachian Way to Lakeside Drive, Inglewood Road from Elk Mountain Scenic Highway to Windsor Road, Iris Street from Shady Oak Lane to London Road, Reed Street from US 25A Sweeten Creek Road to Fielding Street, School Road East from Onteora BLVD to End of City Maintenance, Sulphur Springs Road from US 19/23 Bus Haywood Road to Mimosa Road Westridge Drive from Overlook Road to Springside Road.

At the suggestion of Vice-Mayor Wisler, it was the consensus of Council to have the Traffic Engineer brief the Public Safety Committee on the City's current policy regarding the City-wide 35 miles per hour speed limit and the possibility of reducing it to 25 miles per hour.

ORDINANCE BOOK NO. 30 - PAGE 361

I. RESOLUTION NO. 16-153 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN EASEMENT FROM THE ASBURY UNITED METHODIST CHURCH FOR PARKING IMPROVEMENTS

Summary: The consideration of a resolution authorizing the City Manager to accept by donation or otherwise, an easement of real property for parking and sidewalk improvements on Kimberly Avenue at the Asbury Memorial United Methodist Church.

Asheville City Streets Department has been working with the Asbury Memorial United Methodist Church (Asbury Church) to relocate the sidewalk and alter the parking along Kimberly Avenue at their property located at 171 Beaverdam Road. An easement from the church would be needed to make these improvements. The Church is located at Beaverdam Road and

Kimberly Avenue and the PIN for this parcel is 9740-54-3475. The City is requesting 4,500 square feet or 0.103 acres of permanent easement. The Church had indicated that they are donating this easement.

Pro: The installation of public infrastructure on Kimberly Avenue will increase safety for pedestrians and vehicles using this street.

Con: The City would be responsible for ongoing maintenance of improvements.

No fiscal impact as the Asbury Church expects to grant the easement at no cost to the City.

City staff recommends that the City Council approve a resolution authorizing the City Manager to accept the easement in real property through donation or otherwise for the purpose of implementing these street improvements on Kimberly Avenue.

RESOLUTION BOOK NO. 38 - PAGE 97

J. RESOLUTION NO. 16-154 - RESOLUTION SETTING A PUBLIC HEARING ON JULY 26, 2016, TO CONSIDER A LAND USE INCENTIVE GRANT FOR SMITH MILL PLACE (BIOTAT LLC)

Summary: The consideration of a resolution setting a public hearing on July 26, 2016, to consider a land use incentive grant for Smith Mill Place (Biotat LLC).

The developer of Smith Mill Place, Biotat LLC, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015.

Biotat LLC, represented by Ward Griffin, seeks to develop a 3.71 acre site, located at 29 Oak Hill Road. The developer estimates a total development cost of $6.95 million. The project consists of 72 residential rental apartments (36 one-bedroom units, and 36 three-bedroom apartments) in three, three story buildings.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing - The proposed project will provide 36 units affordable to households at 60% or less of median income, and the developer has committed to the affordability period of 15 years. The project qualifies for 60 points.

Workforce Rental Housing - The proposed project will provide 36 units (the remainder of the units) for households earning 100% of less of median income (this has been verified with the

developer, who indicated 120% of median income in the application), for a period of 20 years. The project qualifies for 15 points.

Superior locational efficiency - The proposed project is within .25 mile of an existing bus-stop served by one-half hour ART transit frequency. The project qualifies for 10 points.

Long term affordability - The proposed project will be committed to serving households at the designated rental rates for a period of 20 years. This qualifies the project for 10 points.

Staff has scored the project with 95 points, and the developer agrees with that scoring. The project qualifies for a Nine and One-Half Year (9.5) Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report.

Pros:

- The proposed project will provide affordable rental housing to 60 households earning 60% or less of area median income, for a period of at least 20 years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Cons:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

Estimated value of Land Use Incentive: The current assessed value of the property is $243,100. The developer's estimate of completed project taxable value is $6,949,313. The current annual city tax, based on current assessed value, is $1,154.73. The annual estimated city tax post completion, based on the developer's estimate of value is $33,009.24. Therefore, the estimated annual Land Use Incentive Grant would be $31,854.51, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 9.5 years, the estimated Grant would be $302,617.86. The subsidy per affordable and workforce unit would be $4,203. The subsidy amount per affordable and workforce unit/year would be $210.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $162,000. The value of each 10% of the fee rebate would be $16,200. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 95 point level, the fee rebate would be $153,900, which is $2,138 per unit.

This project has been approved for a Housing Trust Fund loan. The loan amount approved is $520,000, for a loan term of 20 years, with a graduated 2% interest rate. The HTF loan per affordable unit is $14,444. The total estimated subsidy per affordable unit, if the LUIG is approved, would be $20,785.

Staff recommends that Council set a public hearing on July 26, 2016, to hear and act upon the request of Biotat LLC for a Land Use Incentive Grant.

RESOLUTION BOOK NO. 38 - PAGE 98

K. RESOLUTION NO. 16-155 - RESOLUTION AUTHORIZING THE APPROVAL OF THE 2016-17 STRATEGIC PARTNERSHIP FUND GRANTS

Summary: The consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for the 2016-17 Strategic Partnership Fund.

The HCD Committee received applications from 21 eligible organizations for Strategic Partnership Funds for 2016-17. The HCD Committee considered these applications at their meeting on June 7, 2016, and now recommends 16 applications for funding. The recommendations are:

AGENCY	**AWARD**
Asheville Area Arts Council	$10,000
Appalachian Sustainable Agriculture Project	$5,000
Asheville Design Center	$2,000
Bountiful Cities	$11,000
Children First	$20,000
Residents' Council – Asheville Housing Authority	$10,000
Homeward Bound	$30,000
My Daddy Taught Me That	$20,000
OnTrack Financial	$12,000
One Youth at a Time	$5,000
Partners Unlimited	$5,000
Project Lighten Up	$3,500
Read to Succeed	$4,000
WNC New Economy Coalition	$6,900
United Way 211	$2,000
YWCA	$12,000
TOTAL	**$158,400**

Total recommended funding is $158,400. This amount is unchanged from last year's Strategic Partnership Fund Program.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.

- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funded from the City's general fund. The funding recommendations do not exceed the fiscal limits included in the FY 2016-2017 Budget of $158,400.

The HCD Committee recommends approval of the 2016-17 Strategic Partnership Fund grants as presented.

RESOLUTION BOOK NO. 38 – PAGE 99

L. RESOLUTION NO. 16-156 - RESOLUTION REJECTING ALL OF THE BIDS SUBMITTED FOR THE JOHN B. LEWIS SOCCER COMPLEX SYNTHETIC TURF REPLACEMENT PROJECT

Summary: The consideration of a resolution rejecting all of the bids submitted for the John B. Lewis Soccer Complex Synthetic Turf Replacement project.

The John B. Lewis Soccer Complex opened in 2005 and features four soccer fields. The fields were installed with synthetic turf with an expected lifespan of ten years. As a result, the fields have exceeded their useful life and the turf is worn and needs to be replaced.

ABYSA, who will be funding a majority of the construction cost, directly engaged an engineer to design the project and provide the specifications for the turf replacement which include the bid evaluation process.

The City was responsible for conducting the public bid process for this formal construction project. The City issued an Advertisement for Bids (bid #298-bidjbl) for the Turf Replacement (a formal construction process subject to NCGS 143-129) and on May 31, 2016, there were four bids received and opened.

Initial evaluation of all of the bids was conducted by the engineer who had written the project specifications and then provided his assessment to City staff for final review.

During this review staff concluded that in certain aspects, these evaluations were inconsistent with the City's standard evaluative process and the public bidding statutes.

And therefore, due to these concerns, it would be in the best interest of the City to reject all bids and start the process anew with the City staff assuming responsibility for the project's entire process for construction.

North Carolina General Statute §143-129 authorizes the rejection of bids for any reason determined by the governing body to be in the best interest of the City.

Additionally, it was made clear in the instructions for this Turf Replacement Bid, as with all City bids, that the City reserves the right to reject any and all bids.

Therefore, staff is requesting that the City Council reject the bids for the project. ABYSA is working with the Buncombe County Tourism Product Development Fund Committee to get an extension of the grant they were awarded for this project.

City staff recommends that the City Council reject all of the bids submitted for the John B. Lewis Soccer Complex Synthetic Turf Replacement project opened on May 31, 2016.

RESOLUTION BOOK NO. 38 - PAGE 101

M. RESOLUTION NO. 16-157 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MUTUAL AID AGREEMENT AND MEMORANDUM OF AGREEMENT WITH LAND OF SKY REGIONAL COUNCIL TO PURSUE REGIONAL GIGABIT BROADBAND ADVANCEMENT IN IN WESTERN NORTH CAROLINA AND SUPPORT A LAND OF SKY GRANT APPLICATION

Summary: The consideration of a resolution authorizing the City Manager to enter into a Mutual Agreement and Memorandum of Agreement with Land of Sky Regional Council (Land of Sky) to pursue regional gigabit broadband advancement in Western North Carolina; and to support a Land of Sky grant application.

For Council's review are three documents relative to Asheville's participation in the initiative led by Land of Sky, called "West – Next Generation Network" (WestNGN). The initiative seeks to expand high-speed Internet service at gigabit speeds. The City's Finance committee will review these documents at their June 28 meeting.

The first of the documents is the Mutual Agreement. This spells out the work of the steering committee and overall goals. The second document is the Memorandum of Agreement, which spells out Asheville's contractual relationship with Land of Sky to provide technical assistance and project management. Specifically, Land of Sky will be contracting with an individual or firm to draft an RFP to achieve goals related to expanding high speed ("gigabit") service in the region. Land of Sky will also be compiling data and administering an RFP release and response process. Land of Sky will also apply for an Appalachian Regional Commission (ARC) grant to support the effort, and staff proposes to supply a letter of support.

Pros:

- This effort is built on a model used elsewhere (Research Triangle)
- Regional collaboration between cities including Fletcher, Hendersonville, and Asheville
- Gigabit network availability has shown to be a positive in municipalities like Kansas City and Chattanooga

Con:

- Some cost associated with the effort.

Regional municipal partners are cooperating to cover Land of Sky costs. Asheville's share will be $11,893 and will be funded within the existing FY 2015-16 ITS Departmental budget.

City staff recommends City Council approve a resolution authorizing the City Manager to enter into a Mutual Agreement and Memorandum of Agreement with Land of Sky Regional Council to pursue regional gigabit broadband advancement in Western North Carolina; and to support a Land of Sky grant application.

RESOLUTION BOOK NO. 38 - PAGE 102

O. RESOLUTION NO. 16-158 - RESOLUTION AUTHORIZING THE MAYOR TO CONVEY AN EASEMENT TO DUKE ENERGY PROGRESS FOR THE CONSTRUCTION OF UNDERGROUND PRIMARY ELECTRIC CAPABILITIES FOR WHITE LABS ON SOUTH CHARLOTTE STREET

Summary: The consideration of a resolution authorizing the Mayor to convey an easement to Duke Energy Progress for the construction of underground primary electric capabilities for White Labs on South Charlotte Street.

White Labs has requested that Duke Energy Progress (DEP) construct underground primary electric capabilities with padmount transformer location at their site on Charlotte Street. This property at 172 S. Charlotte Street (PIN #9648-58-2843) is owned by the City of Asheville and White Labs has a recorded lease to upfit the structure and operate their business on this site for five years. In order to construct these improvements, DEP will have to cross city property and therefore, DEP is requesting 2,978 square feet or .068 acres of permanent easement. The easement is five (5) feet on either side of the cable center line for a total of ten (10) feet and ten (10) feet from the edge of the transformer pad.

White Labs is a yeast manufacturing business that was recruited to locate in Asheville and is a vital part of the craft brewery industry. They plan to operate a 26,000 square foot combination laboratory, production facility and tasting room. They will be creating 65 jobs and plan to make a $8.1 million investment over five years.

Pro: Granting this easement is part of the revitalization a downtown city property. The site which is still owned by the City of Asheville will have upgraded capabilities for electrical energy.

Con: None

City staff recommends City Council approve a resolution authorizing the Mayor to convey this permanent utility easement across a city owned parcel on S. Charlotte Street.

RESOLUTION BOOK NO. 38 - PAGE 103

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Mayfield moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. STORMWATER ANNUAL REPORT

Stormwater Services Manager McCray Coates provided Council with an update on the Stormwater program and the projects included in the 10-Year Capital Improvement Plan.

Following the record breaking rainfall year of 2013, staff has continued to receive concerns from citizens related to stormwater issues. Staff has produced an annual report of projects which the stormwater utility has been working on over the past year. This is a detailed report that identifies larger scale projects such as the Craven Street Improvement project which targets stormwater control measures such as pervious parking, a stream restoration, a constructed wetland and several rain gardens; to projects that are re-establishing a ditch along a neighborhood street. The report also identifies the various partners that the Stormwater Division is working with. The report gives an update on the status of the current neighborhood projects such as the Westover Project which is nearing completion, and the Morris Street stormwater improvement project which is in the easement acquisition stage and a contract is anticipated to be let for construction later this summer. Also included is the larger flood mitigation project partnering with the Corps of Engineers along the Swannanoa River.

Staff has also entered into a contract with Brown and Caldwell to perform a city wide stormwater assessment and develop a 10-year capital improvement projects (CIP) list which will guide the program moving forward related to larger capital projects.

In order to get accurate information, Brown and Caldwell has conducted an assessment of the City's drainage system. This assessment has identified potential issues, provided concepts toward solutions to these issues and has prepared a 10-year Capital Improvement Plan. The CIP plan prioritized projects for future implementation.

As this CIP list has been developed, consideration to many important factors have been considered including the age and material type of the infrastructure, the proximity to critical infrastructure (hospitals, schools, power supply substations, etc), proximity to private infrastructure, roadway flooding issues, drainage structure size, drainage area impacted, green infrastructure opportunities and partnership opportunities. Part of the scope of services from the consultant is to develop a decision matrix that staff can utilize as situations change within projects which may shift priorities. This is key as partnership opportunities may arise and infrastructure issues may worsen.

The recommended multi-year capital improvement plan and the associated projects included in this report will come to Council as part of the annual budget process. Projects would potentially be funded with a mixture of pay-as-you-go contributions from the Stormwater Operating Fund and the issuance of long-term debt, either limited obligation bonds (LOBs) or revenue bonds. Debt service on any bond issuances would be funded with revenue from the stormwater fee.

The City has a goal to continue to be stewards of the environment. Through this assessment, Brown and Caldwell will also assist in identifying and prioritizing watersheds for further studies. The team has identified opportunities to implement green infrastructure practices into the projects selected and opportunities for localized flood mitigation projects. Localized flooding is a rising concern for the citizens of Asheville.

Mr. Carl McDonald, Project Manager for Brown and Caldwell, reviewed with Council the 10-Year CIP projects and their locations.

Mr. Coates and Mr. McDonald responded to various questions/comments from Council.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING PROPERTY LOCATED AT 9999 LOOKOUT DRIVE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4511 - ORDINANCE TO REZONE PROPERTY LOCATED AT 9999 LOOKOUT DRIVE FROM RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to rezone property located at 99999 Lookout Drive from RS-4 Residential Single-Family Medium Density District to RS-8 Residential Single-Family High Density District. This public hearing was advertised on June 17 and 24, 2016.

The area of the subject property is approximately 0.13 acres, measuring 60 feet wide along Lookout Drive, and 100 feet long. The lot is currently vacant and is a legally established

nonconforming lot based on the development standards of the Residential Medium Density Single-Family (RS4) zoning district. Historically, the lot was part of a larger Hy-Vu Terrace subdivision that established 34 parcels on this block, which is reflected in the Office of the Register of Deeds for Buncombe County in Plat Book 10, at Page 110.

The applicant has requested a standard rezoning from Residential Medium Density Single-Family (RS4) zoning district to Residential High Density Single-Family (RS8) zoning district.

The subject lot measures 5,662 square feet in area and is approximately 60 feet wide, which is a dimension that is much closer to the standards for RS8 than those of RS4, which require a minimum area of 10,000 square feet and a lot width of at least 80 feet.

Rezoning to RS8 would bring the parcel into dimensional conformity because it would then meet the minimum lot requirements, which include a 5000 square foot area minimum and minimum width of fifty feet. No subdivision would be permitted under the proposed rezoning. The biggest impact would be that the front and rear setbacks would go from 25 to 15 feet, and side setbacks would be reduced from 10 to 6 feet. The applicant would be allowed to build a home 10 feet closer to the street.

Considering this parcel is immediately adjacent to RS8, staff believes that RS8 would be a more appropriate zoning designation.

The Asheville City Development Plan 2025 encourages compatible "adaptive reuse, redevelopment and infill development" and states, "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure". Staff feels this rezoning would be compatible with the goals of the Comprehensive Plan.

This action aligns with the 2036 Council Vision in the following area: *A Well-Planned and Livable Community* – the proposed rezoning promotes thoughtful resident-led planning that will result in infill development that is compatible with the goals of the Comprehensive Plan.

Considerations

- Rezoning would reduce front and rear setbacks from 25 to 15 feet and side setbacks from 10 to 6 feet
- The lot size would become a parcel that is conforming to RS8 zoning district standards

Based on the above findings and the analysis provided in the report, staff finds this request to rezone 99999 Lookout Drive from RS4 to RS8 to be appropriate and consistent with the context of the neighborhood and broader city goals.

Mayor Manheimer opened the public hearing at 5:29 p.m., and when no one spoke, she closed the public hearing at 5:29 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the zoning map amendment from RS-4 Residential Medium Density Single-Family zoning district to RS-8 Residential High Density Single-Family zoning district and find that the request is reasonable; is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the zoning change will encourage the adaptive reuse of vacant property; and (2) promote compatible infill development within the urban fabric of the city by establishing a conforming residential lot. This motion was seconded by Councilman Haynes and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 363

B. PUBLIC HEARING TO CONSIDER A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 1401 TUNNEL ROAD FOR THE CONSTRUCTION OF A SIX-STORY, 88-UNIT VETERAN HOUSING DEVELOPMENT

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

Principal Planner Shannon Tuch submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

She said that the applicant Asheville Buncombe County Christian Ministries (ABCCM) is requesting review of site plans for the construction of a six story, 50,150 square feet apartment building supporting 88 multi-family units, along with related parking and other site improvements. This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates a Level III review for projects with more than 50 residential units (Attachment to City Exhibit 3 - Location Map). Level III projects are reviewed as Conditional Use Permits.

The project is located on a single parcel located at 1401 Tunnel Rd. in east Asheville, PIN 9668-94-7987. The project site is 4.54 acres and is zoned River. The Swannanoa River borders the property on the southern and eastern sides with the river's regulated floodway and floodplain occupying a significant portion of the property on these sides. The property has mild to moderate topography and slopes downward towards the river.

The proposed project includes the construction of a new six-story, multi-family structure that would house 88 new dwelling units (Attachments to City Exhibit 3 - Aerial Map; Site Plan; Building Elevation; and Exterior Elevations). The first and sixth floors will not contain any residential units with the first floor including structured parking and some residential amenities such as laundry, bathrooms, mailboxes, etc.; the sixth floor will contain meeting space and a service kitchen; and floors two through five will contain a mix of studio and two-bedroom units. The building is proposed to be constructed in two phases with the northern module to be constructed first. There is an existing single story brick building that will be demolished before the construction of Phase II. In addition to the building, a small parking lot, access drive and minor landscaping are also proposed. The property owner/developer also owns and operates the existing veteran housing located at 1329 Tunnel Rd. which abuts the subject property along the southwest side. Internal access between the properties will be provided along this shared property boundary.

The project is unique in that it proposes to use cross-laminated timber (CLT) construction for this project. While new to the United States market, CLT is generally regarded as a sustainable building material with numerous benefits including: solid construction using a sustainable raw material, short construction times and efficiency through pre-fabrication, space gain and low thermal conductivity.

There are currently two access points to the property from Tunnel Rd. The easternmost entrance will be closed with the construction of Phase I while the westernmost entrance will be maintained and become the primary entrance to the property. The existing veterans housing property located to the west of the subject property also has two well-marked entrances that may be used to access 1401 Tunnel Rd. through an internal cross-connection between the parcels.

Pedestrian access is also provided with an existing five-foot public sidewalk along the property frontage and internal sidewalks as required for accessibility.

The property provides housing for low income individuals and the UDO uniquely calculates the off-street parking requirement with a min/max requirement of one to two spaces per unit regardless of the number of bedrooms. As a result, the proposed 88 units would require a minimum of 88 parking spaces and be allowed a maximum of 176 spaces. The new construction will provide 34 new parking spaces, 22 of which are structured parking and 12 are surface parking. The remaining 54 spaces will be shared with the existing veteran housing development to the west. When combined, the two projects will provide 206 parking spaces in total meeting the minimum requirement for 200 low income, residential units (112 existing, 88 proposed). This project and the existing property are also eligible for a 20% reduction in parking per UDO Sec. 7-8-19(f)(9).

Landscaping for the new construction will be required and includes street trees, parking lot, building impact and tree save landscape requirements. The proposed site plans show compliance, or the ability to comply, with all required landscaping.

Open space is also required for this project and is classified as a "Suburban" development and requires 15% of the lot area to be set aside for open space with this project supplying open space well in excess of the minimum required.

The subject property is zoned River which has more robust setbacks and landscape requirements for the project. A flood permit is also required although the structure will be placed entirely outside of both the 100 and 500-year regulatory flood hazard areas exceeding the regulatory requirements.

The site is currently zoned River (RV) and the use proposed is permitted by-right and the applicant will meet the standards of the District with this development proposal. The surrounding properties on the south side of Tunnel Rd. are similarly zoned River and the majority of the property across Tunnel Rd. is zoned Highway Business (HB).

This proposal was approved with conditions by the Technical Review Committee (TRC) on May 16, 2016, and requires a quasi-judicial review by City Council and a Final TRC review prior to final zoning approval or the issuance of any permits.

The Planning and Zoning Commission also reviewed and approved the proposal (7:0) at their June 1, 2016, meeting. One member of the public requested consideration of a "net zero" carbon footprint associated with building for the project.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application.

Mr. Crawford Murphy, architect and representative of ABCCM, said that the building is a much needed facility for veterans. He explained that the building is vertical due to the topography (floodplain) of the site, and the economy of the use of the cross-laminated timber for construction. He explained the unique structure. He was also pleased to note that every public space meets all Americans with Disability standards. He asked that the statement on how the project meets the seven conditional use standards be included as an attachment (Attachment to City Exhibit 3).

Mr. Murphy responded to Mayor Manheimer regarding the use of the CLT process and the advantages of its use; along with the reasoning behind the enclosed exterior staircase,

Mayor Manheimer opened the public hearing at 5:50 p.m., and when no one spoke, she closed the public hearing.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to recommend approval of the conditional use permit for the ABCCM Veterans' Housing Project located as 1401 Tunnel Road because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Bothwell and carried unanimously.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be placed on the July 26, 2016, agenda.

C. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING ORDINANCE TO (1) REZONE PORTIONS OF THE PROPERTY AT 311 AND 315 OLD HAW CREEK ROAD FROM INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT, RS-4/CZ RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING, AND INSTITUTIONAL DISTRICT/CONDITIONAL ZONING; (2) MODIFY THE SITE PLAN AND PROPOSED USES TO REMOVE STUDENT HOUSING FROM THE PROJECT PLAN; AND (3) ALLOW CONDITIONS TO REDUCE SETBACKS, PROVIDE SIDEWALKS AND ALLOW PARKING WITHIN A PROPERTY LINE BUFFER

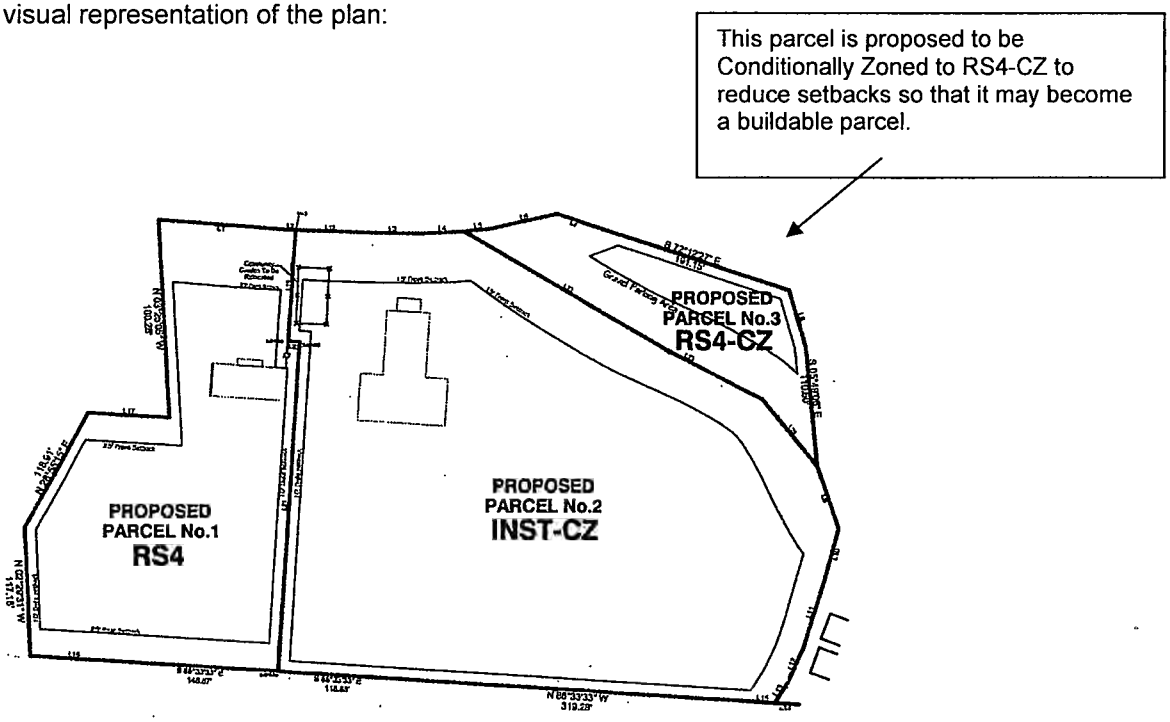
ORDINANCE NO. 4512 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING ORDINANCE TO (1) REZONE PORTIONS OF THE PROPERTY AT 311 AND 315 OLD HAW CREEK ROAD FROM INSTITUTIONAL DISTRICT/CONDITIONAL ZONING TO RS-4 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT, RS-4/CZ RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT/CONDITIONAL ZONING, AND INSTITUTIONAL DISTRICT/CONDITIONAL ZONING; (2) MODIFY THE SITE PLAN AND PROPOSED USES TO REMOVE STUDENT HOUSING FROM THE PROJECT PLAN; AND (3) ALLOW CONDITIONS TO REDUCE SETBACKS, PROVIDE SIDEWALKS AND ALLOW PARKING WITHIN A PROPERTY LINE BUFFER

Urban Planner Vaidila Satvika said that this is the consideration of an ordinance to amend a previously approved conditional zoning ordinance to (1) rezone portions of the property at 311 and 315 Old Haw Creek Road from Institutional District/Conditional Zoning to RS-4 Residential Single-Family Medium Density District, RS/4/CZ Residential Single-Family Medium Density District/Conditional Zoning, and Institutional District/Conditional Zoning; (2) modify the site plan and proposed uses to remove student housing from the project plan; and (3) allow conditions to reduce setbacks, provide sidewalks and allow parking within a property line buffer. This public hearing was advertised on June 17 and 24, 2016.

In accordance with Section 7-7-8 of the City's Unified Development Ordinance (UDO), the applicant is requesting review of a conditional zoning amendment to revise the site plan and associated conditions of Ordinance 4449, a conditional zoning ordinance that was adopted by City Council on September 8, 2015.

The project area consists of a single 6.16-acre parcel located at 311 & 315 Old Haw Creek Road with secondary frontage along Bethesda Road. The parcel is zoned Institutional – Conditional Zone (INST-CZ) and contains a church and minister's parsonage, and a cemetery that measures nearly 69,000 square feet, occupying one quarter of the property. The site is primarily surrounded by residential uses. The site is immediately north and adjacent to Haw Creek Elementary School, a school of approximately 410 students in grades kindergarten through fifth.

The applicant is seeking to amend a site plan primarily to remove student housing from the proposed uses and site plan, to rezone the portion of land at the parsonage back to RS4, and to rezone the portion of land north of Bethesda Road to RS4-CZ in order to subsequently subdivide those portions of property for future residential construction. See diagram below for a visual representation of the plan:


This parcel is proposed to be Conditionally Zoned to RS4-CZ to reduce setbacks so that it may become a buildable parcel.
PROPOSED PARCEL No.3 RS4-CZ
PROPOSED PARCEL No.1 RS4
PROPOSED PARCEL No.2 INST-CZ

Access to the property is from either Old Haw Creek Road or Bethesda Road. There will be two parking areas, one accessed from Old Haw Creek Road, the other from Bethesda Road. The third parking area to the rear of the property where the tiny homes were previously proposed has been removed.

There are currently 35 parking spaces on the premises. Based on the mix of uses and the expected overlap, the project requires 31 spaces but will provide 36 parking spaces including two accessible spaces. Bike parking will be provided.

Along the street, a new sidewalk measuring at least five feet wide is proposed along the length of the church property adjacent to Old Haw Creek Road and Bethesda Road. A sidewalk will also be provided south along the cemetery through the property to make it easier for visitors to access the cemetery and to provide a direct connection to support school drop off and pickups.

The site is along the ART bus route E2 with a bus stop across the street from the site.

Landscaping is required for this project including street trees, parking lot landscaping, street buffer, building impact landscaping, and a property line buffer.

The open space requirement is 15% of the lot area for the proposed INST-CZ parcel,

which totals 0.59 acres of open space and more than two acres of open space will be provided - the project is providing more open space than was previously approved.

The INST-CZ parcel will provide a 30-foot-wide property line Type B buffer along the western and southern property line. The applicant is requesting modifications to the property line buffer to permit the existing driveway to be located along the approved property line buffer that will now be located between the church and the residentially-zoned parsonage parcel. The modification would place the same number of plantings but they would be dispersed throughout the property line buffer. The proposed alternative compliance is detailed below.

Conditions Relating to Development Standards:

1. Sec. 7-11-3(d): *Prohibitions in a buffer.* Parking Areas; Driveways or drive aisles, other than approved openings, are specifically prohibited from encroaching into required buffer areas.
    a. The same number of trees and shrubs will be planted within the property line buffer but will be disbursed throughout the area.

This project was reviewed earlier as a Conditional Zoning that was approved by City Council on September 8, 2015. Conditional Zoning amendments are not required to be reviewed by TRC per UDO Section 7-7-8(c)(6) but are required to be approved by City Council.

We have received one letter in opposition to the proposal from the property owner adjacent to the portion of land that is requesting reduced setbacks. The letter states that the parcel should not have setbacks reduced because it is buildable without modified setbacks. Although this is technically true, it would limit the location of the home to one spot, restrict its shape, and it would make the inclusion of a garage and/or accessory structures challenging if not viable.

The site was rezoned from RS-4 to INST-CZ on September 8, 2015. The site is surrounded by residential properties zoned RS-4, most of which are single-family residential. There is a pocket of RM-6 zoning to the north of the site, which is mostly used as a place of worship.

The requested amendment calls for the currently-zoned INST-CZ district to be rezoned into three parts: RS4 (1.65 acres), RS4-CZ (0.56 acres), and INST-CZ (3.95 acres). The RS4 zoning would bring the land under the parsonage back to its earlier zoning. The church would continue to be zoned INST-CZ, with no changes to the proposed uses (See B.1 Conditions list). The portion of land to the north of Bethesda Road would be rezoned to RS4-CZ in order to allow reduced setbacks to create a buildable parcel. The setbacks on that parcel would be as follows:

- The front setback (along Bethesda Road) will be reduced from 25 feet to 15 feet
- The corner setback (along Old Haw Creek Road) will be compliant with RS4 zoning, which is 50% of the standard front setback: 12.5 feet
- The rear setback would be reduced from 25 feet to 10 feet
- The side setback will be compliant with RS4 zoning: 10 feet

The proposal calls for changes to the site plan that will have a lower overall impact than previously proposed, with exception to the reduced setbacks on the portion of land between Old Haw Creek Road and Bethesda Road, which would allow a home to be placed closer to the property line than is permitted in RS4. In order to convert that long and narrow portion of land into a fully viable residential parcel, the reduced setbacks seem to be a reasonable condition.

Student housing will be provided off site and the newly-created residentially-zoned land will subsequently provide needed long-term housing. Overall, the amendment will have fewer negative impacts on the neighborhood than the previously adopted proposal.

The proposal complies with policies adopted by the City. As stated in the *City Development Plan 2025,* reusing older buildings is "the most sustainable construction" and helps to preserve and protect neighborhood vitality.

This action aligns with the 2036 Council Vision in the following areas: (1) *A Well-Planned and Livable Community* – the proposed rezoning promotes thoughtful resident-led planning that will result in infill development that is compatible with the goals of the Comprehensive Plan; and (2) *A Connected and Engaged Community* – the proposed rezoning provides co-working spaces that bring community members together to share a work environment.

Considerations:

- Student housing is removed from the site plan and proposed uses
- Conditions will allow two lots to be rezoned to RS4 and RS4-CZ and to be subsequently subdivided for residential purposes as permitted in the underlying zoning district
- Associated site work and grading will be reduced

Staff recommends approval of the proposed conditional zoning amendment to remove student housing from the project and to rezone portions of the property to RS4, RS4-CZ, and INST-CZ because the plan is consistent with the earlier proposal and will have fewer negative impacts. This recommendation includes approval of the property line buffer modification as described above and specified on the conditions list.

In response to Councilwoman Mayfield, Mr. Satvika explained that the setbacks for the RS-4/CZ portion is to allow the developer more area to build a home and possibly a permitted accessory structure.

When Councilwoman Mayfield asked if the setback might be reduced in a different way, Mr. Sean Rice, contractor for Haw Creek Commons, said that they requested the setbacks because of the odd shape of the lot. He was agreeable to reducing their requested rear setback from 10 feet to 15 feet.

Mayor Manheimer opened the public hearing at 5:59 p.m., and when no one spoke, she closed the public hearing at 5:59 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the conditional zoning amendment request for Haw Creek Commons at 311 & 315 Old Haw Creek Road, to amend the zoning of the property from Institutional District – Conditional Zone (INST-CZ) to Institutional District – Conditional Zone (INST-CZ), Residential Single Family Medium Density (RS4), and Residential Single Family Medium Density– Conditional Zone (RS4-CZ) based on the revised site plan and conditions list (with the conditions amended that the rear setback be 15 feet) and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) The development is existing and was deemed appropriate through the 2015 conditional zoning process; (2) by removing student housing and associated tiny homes from the project plan, the proposed plan will be less impactful on the land and on the neighborhood than the earlier proposal. This motion was seconded by Councilwoman Mayfield and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 366

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO

HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

ORDINANCE NO. 4513 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 60 MILLS GAP ROAD FROM INDUSTRIAL DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR THE DEVELOPMENT OF A 272 UNIT MULTI-FAMILY DEVELOPMENT

Mayor Manheimer said that on January 26, 2016, a motion was made to continue this public hearing, at the applicant's request, until April 26, 2016. On April 26, 2016, at the applicant's request, this public hearing was continued until June 14, 2016. On June 14, 2016, at the applicant's request, this public hearing was continued until this date.

Urban Planner Vaidila Satvika said that this is the consideration of a request to conditionally zone property located at 60 Mills Gap Road from Industrial District to Highway Business District/Conditional Zoning for the development of a 272 unit multi-family development on 15.3 acres. This public hearing was advertised on January 15 and 22, 2016.

The subject site is located at 60 Mills Gap Road (PIN 9655-35-7074) and measures 15.3 acres. The site is currently zoned IND. It was previously home to Plasticorp, a plastic injection molding company that closed its operations. The existing one-story, metal and brick building measures approximately 81,000 square feet. The building and related site features are proposed to be removed as part of the development application.

Adjacent zoning includes IND to the north, Commercial Industrial (CI) to the west and southwest, and High Density Multi-Family (RM16) to the southeast.

The applicant is seeking to construct a 272-unit multi-family development contained within two, four-story buildings, plus a clubhouse, for a total of 334,184 square feet. The buildings will have a height of 46 feet as measured to the highest roof peak. The total disturbed area for the residential project equals approximately seven acres. The applicant has agreed to set aside 15% of the dwelling units (41) as affordable units.

The affordable units will be provided at rental rates not to exceed 80% area median income (AMI) as published by the Affordable Housing Standards of the year the units become available. The developer has committed to providing the affordable units for a period of 15 years. Per Affordable Housing Standards, rent standards may be allowed to increase annually with any increases in AMI over the agreed-upon period but shall not be required to be decreased below the rates set for the year the project receives its certificate of occupancy.

Vehicular access to the site will be provided at both Sweeten Creek Road and Mills Gap Road. Sidewalks are proposed for Sweeten Creek Road and Mills Gap Road, which connect to internal pedestrian paths within the development to connect the buildings with parking areas and site amenities.

Parking will be provided for 401 vehicles, including 10 accessible spaces, as well as 20 bicycle spaces, which meets the parking requirements for the project.

The project is required to comply with requirements for street trees, parking lot landscaping, building impact, dumpster screening, tree save (4.6 acres) and open space areas. In total 270 trees and 724 shrubs will be planted. Tree save and open space proposed plantings will be refined as the applicant surveys the existing trees to determine tree credits.

Fifteen percent of the total lot area (2.3 acres) is required to be dedicated as open space, which will be met.

As per the City's Unified Development Ordinance (UDO) Section 7-7-8(d), a conditional zoning application shall be reviewed by the City's Technical Review Committee (TRC), and the Planning and Zoning Commission shall hold a public hearing to review the application and make a recommendation to City Council for approval or denial, or to continue the consideration in order to receive further information.

- This proposal was reviewed by the TRC and was approved with conditions on December 21, 2015.
- The project was reviewed by the Planning and Zoning Commission on November 19, 2015 and, after being continued,
- The project was reviewed again by the Planning and Zoning Commission on January 6, 2016 with changes to the original site plan. These changes included removal of the proposed commercial component of the project and the inclusion of affordable housing units. The Planning and Zoning Commission recommended approving the proposal (6-1) based partially on the project providing 20% affordable housing units for a period of 10 years.

In the six months since the P&Z Commission reviewed the project, the following has transpired:

- The applicant met with the community on two occasions to discuss the project
- The applicant has changed the proposed affordability of units from 20% for 10 years to 15% for 15 years

The proposal requires a change in zoning due to the fact that the maximum residential density in the IND zoning district is two units per acre, which would result in only 31 units allowed on the subject site. The current proposal for 272 dwelling units on 15.3 acres requires a zoning district that allows at least 18 units per acre. The conditional zoning request to HB would allow 35 units per acre.

This site contains a nearly five acre area that is mostly flat where the previous plastics manufacturer operated, and which is essential for industrial operations in order to navigate trucks in, around and out of a facility. As such, the site is well suited for industrial purposes. In order to create more local jobs and to raise the area's average wage, it is important to protect key industrial parcels that will attract and serve future businesses that seek to expand or relocate to Asheville, such as advanced manufacturing, the sector with the largest capital investment according to the Asheville 5x5 Plan, launched with support from the City of Asheville in 2010 in order to create more jobs and capital investment in the area.

From one perspective, rezoning the property for residential purposes would diminish the City's limited stock of viable industrial properties and would thereby move in a direction counter to the established public policy of the City to preserve industrial property for industrial purposes. A November 19, 2015, letter from the Economic Development Coalition (EDC) of Asheville-Buncombe County supports this point by acknowledging the importance of preserving viable industrial property when possible. Nevertheless, the EDC also expresses that the parcel in question is not best suited for national and global clients, citing expensive cost of land, population, and traffic concerns.

Staff has concerns that the existing infrastructure, in particular the roads and lack of sidewalks, as well as limited transit service, are not well suited for the proposed residential use of the subject property. The project's traffic impact study (TIS) states that the level of service for nearby intersections is problematic. The traffic impact study's conclusion states:

> *"... the study area is currently experiencing significant periods of congestion, delay and poor levels-of-service due to the recent significant residential and retail growth in the area*

coupled with a roadway infrastructure (two-lane, two-way roadways along Mills Gap Road and Sweeten Creek Road) that is underdeveloped for the traffic volumes present."

Since 2013, the City has permitted the construction of over 800 residential units within two miles of this project. Within one mile there are nearly 600 apartments that are currently in development that are not yet generating traffic. It should be noted that the city requirement for traffic impact studies mitigates the increase in traffic associated with the subject proposal only, and that the TIS associated with the project is not required to take into consideration the cumulative traffic associated with projects that are not yet constructed. As per UDO Section 7-11-6, previously approved projects that resulted in total peak hour trips equal to or greater than 100 peak hour trips were required to submit a TIS.

The TIS references two N.C. Dept. of Transportation (NC DOT) projects as potentials for mitigation, including the future widening of Sweeten Creek Road from two lanes to four lanes; however, these projects are not currently slated for construction until 2021 and 2022.

There are currently no sidewalks adjacent to or within the vicinity of the subject site. The applicant has proposed new sidewalks directly adjacent to the site and has proposed a new off-site sidewalk on Mills Gap Road, near the Norfolk Southern train tracks, which would connect to the existing sidewalk network between Sweeten Creek Road and Hendersonville Road. When completed, this sidewalk network would result in an approximately quarter mile walk between the subject site and the existing bus stop (S3 line) on Hendersonville Road. That bus service currently maintains a service frequency of about one and a half hours. Staff believes the vehicular-oriented and suburban nature of the surrounding area is not conducive to pedestrians. Furthermore, the planned widening of Sweeten Creek Road will result in additional lanes of traffic that pedestrians would have to traverse if walking toward Hendersonville Road.

This project deals with multiple, competing city goals, including the protection of scarce industrial property; the provision of affordable housing; and providing infill and adaptive reuse of property. The landscape of industrial operations has changed significantly in recent years and it is understandable that each parcel of industrial land may not be currently necessary for industrial purposes within current market conditions. Nevertheless, within the environment of the continued housing crisis, how are we to determine which industrial property to protect if every parcel is available for residential purposes?

Staff supports the production of more affordable housing units but believes there is an abundance of appropriately-zoned land for residential development that would not have the negative side effect of placing downward pressure on viable industrial land.

In December 2014, the City took a proactive step to protect scarce industrial property by down zoning Commercial Industrial (CI) districts to allow eight residential units per acre rather than 16. Although that Ordinance (No. 4374) increased residential densities in commercial areas for all other districts, it reduced the number of units by 50% for CI zoned properties in order to reduce housing market pressure on industrially-zoned land.

The City's Comprehensive Plan highlights that one of the main factors contributing to economic development becoming such a critical issue is the loss of land suitable for industrial purposes for other uses. The City's Smart Growth Land Use policies further emphasize this point by stating that industrially-zoned land should be reserved for industrial purposes. Further, the Sustainable Economic Development Strategic Plan (2000) notes the shortage of industrial sites within the City as an area of concern, stating that the City should seek to ensure the availability of suitable sites to meet the business needs of the City's future.

The Comprehensive Plan also encourages the construction of affordable housing that is compatible with existing neighborhoods and community development patterns. The Comprehensive Plan further encourages compatible, adaptive reuse for infill development.

Considerations:

- Rezoning Industrial land for residential purposes (272 units)
- 15% affordable units (41) provided for 15 years of affordability

Based on policies stated in the Comprehensive Plan and other plans, staff does not find this request to be reasonable or within the best public interest because there is other land available within districts that permit this scale of residential development without negatively impacting scarce industrial property; therefore, staff cannot recommend support of the proposed rezoning as proposed.

It should be noted that the Planning and Zoning Commission voted 6-1 to approve the proposal because it includes affordable units; the proposal is an adaptive reuse of a vacant property close to transit and other community services; and the developer will make traffic related improvements as a part of the project that will help to mitigate any potential traffic impacts related to the proposal. Planning and Zoning Commission meeting minutes and recommendation form are a part of this record.

Council may find that these benefits outweigh the concerns relating to the protection of industrial property and other noted concerns. The Comprehensive Plan supports (Goal III) and encourages transit supportive density along and adjacent to major corridors and at logical transit nodes and (Goal V) encourages the construction of affordable housing throughout the community. Likewise, Council's current 2036 Vision seeks affordable housing to be "transformed into a diverse mix of affordable and market rate homes within vibrant neighborhoods."

Mr. Satvika responded to Councilman Young when he questioned whether this parcel is viable industrial land. Mr. Satvika felt that even though the property may not be the best site for a multi-national national business, but there are plenty of Asheville-based businesses that are looking to expand.

In response to Councilman Young, Mr. Satvika said that residential development is allowed in a lot of other districts, not just residential.

Director of Planning & Urban Design Todd Okolichany noted that he was told that as early as 12 months ago the property was being used to store parts for a local industrial company.

Mr. W. Louis Bissette, Jr., attorney representing the developer, said that after holding two community meetings and listening to the neighborhood, the applicant has agreed to several conditions to lessen the impact on the neighborhood, specifically noting (1) preservation of large oak trees; (2) at least 15% of affordable units for a time period of not less than 15 years from the date of the issuance of the Certificate of Occupancy; and (3) a number of traffic enhancements, which shall be completed prior to the issuance of building permits. They have also agreed to the following two additional conditions raised by the neighborhood (1) construct an auxiliary right turn lane with at least 200 feet of storage along eastbound Mills Gap Road; and (2) the developer/owner will not begin work on the demolition of existing structures, infrastructure, or site work (including grading, utilities and stormwater) and proposed NC DOT road improvements until January 2017. At that time, that work, together with the proposed intersection improvements, will begin as the first phase of the project. Furthermore, the developer has agreed that the City will not be required to issue a building permit for any part of the actual housing of vertical construction until at least January 2018. These efforts will be coordinated with the NC DOT projects (Mills Gap Road Project and Sweeten Creek Road Project). He did not believe the area remains viable for industrial development. Most of the prior industrial uses in this general area have ended. This site has been for sale as an industrial property for a number of years with few, if any, indications of interest for that type of use. He clarified that the property was leased for three months (with no employees) for a storage facility for a company that is building a plant in Haywood County. He said that he has a letter from Mr. Ben Teague, Executive Director of the Economic Development

Coalition dated November 19, 2015, which states in part "I do not believe this property is not best suited for industrial development for the high standards of our national and global industrial clients. Furthermore, the cost to purchase the property and build another facility is far too expensive to accommodate industrial development. The current facility is the lowest quality and even if used would not attract significant job numbers or a pay rate which would advance our community. The density of population and traffic concerns surrounding the property are also a contributing complication which make shipping for a logistical hub difficult." He said that the City also has a housing crisis and this project can help alleviate that crisis by 272 units being added to the housing stock. He said that the developer has removed the commercial uses from the original project and added several traffic mitigation measures to the project. This project will not increase the severity of the current traffic situation. The project will provide an additional $650,000 per year in ad valorem taxes for the City and County. In addition, environmental reviews and assessments reveal no evidence of recognized environmental conditions in connection with the property. He asked for Council's support.

Mr. Chris Day, engineer with Civil Design Concepts, explained the original project and after hearing community input how the project was revised. Removing the commercial components reduced traffic associated with the project by 40% in the morning peak hours and by 70% in the afternoon peak hours. The road improvements associated with this project are not designed to solve the current traffic problems, but designed to mitigate traffic associated with this project. He then briefly outlined the road improvements. The project also includes 450 feet of off-site sidewalk on Mills Gap Road across the railroad tracks to connect to the recently installed Palisades sidewalk on Mills Gap Road. Sidewalk/pedestrian crossing is subject to design standards of the railroad operator. The developer has committed to put in all the NC DOT traffic improvements on the front end of the project so that they would be in place prior to the building permit being pulled in 2018. Regarding the sidewalk that crosses the railroad, he has had numerous conversations with the railroad, and even though the railroad has said that they have no issue with allowing the developer to do that crossing, it is currently only a two-lane road that crosses the railroad tracks. Since one of the NC DOT Transportation Improvement Projects will widen that area, the developer wants to make sure that project is coordinated with the NC DOT plans and railroad. He asked that all work within the railroad right-of-way be coordinated with the NC DOT for proper design, installation and timing of that work.

Mr. Rusty Pulliam, developer of the proposed project, also explained why he felt this parcel is not a viable industrial site. Everything behind the parcel is zoned residential. The building has been vacant for 9 years and the current value is $148,000. It is located 3.5 miles from I-26 but it is hard to get a tractor-trailer in and out of the site. He acknowledged that the neighborhood meetings were very beneficial in coming up with a revised plan, and stressed that this is the highest and best use of the property. He cited the need for housing stock and said he is setting a precedent of offering 15% affordable units for at least 15 years. He felt they have crafted the right project for this location and asked for Council's support.

Mr. Fred Caligiuri, managing partner for Mills Gap LLC, said that he bought the property in December of 2012 and paid $1.3 Million (which was lower than the asking price since they closed it quicker). The listing price now is $2.5 Million. The property is now under contract for sale now and conditioned upon this rezoning.

In response to Councilman Haynes, Mr. Caligiuri said that typically values for apartment use is in the range of $8-10,000 per unit.

When Councilman Haynes was concerned that other developers would want to buy industrial land and request it to be rezoned because residential zoning would increase the value of the property. City Attorney Currin stated that Council would consider each zoning case on its own merit.

Mayor Manheimer opened the public hearing at 6:53 p.m.

The following individuals spoke in support of the conditional zoning for various reasons, some being, but are not limited to: affordable housing and housing stock is needed; needed housing for those that work in south Asheville; not a viable parcel for industrial use; additional tax base for the City; when it was an industrial plant, 300 employees would leave the plant at the same time in the evenings causing an extensive traffic back-up; will produce jobs during construction; and road improvements by this developer will help traffic:

Pastor Spencer Hardaway, Rock Hill Mission Baptist Church
Michael Woods, Executive Director of the Western Carolina Rescue Ministry
Carr Swicegood, resident on Cane Creek Road
Gloria Williams, resident on Mills Gap Road
Jim Andrews
Pat Deck, resident in Givens Estate
Scott Dedman, Executive Director of Mountain Housing Opportunities
One of the 400 residents who signed letter expressing concern
Ben Teague, Executive Director of Economic Development Coalition and Senior Vice-President of the Chamber of Commerce
John Spake, resident on Mills Gap Road
Scott Rogers, Executive Director of Asheville-Buncombe County Christian Ministry
Kenneth Williams, resident on Mills Gap Road

Mr. Vijay Kapoor, south Asheville resident & Business Community Organization, reviewed a PowerPoint, stating that their efforts throughout this process was to objectively analyze the proposal and ensure that the voices of South Asheville residents were heard. Over 400 individuals signed a letter expressing concern about this project at some time in the process (note: some residents' minds may have changed as the proposal itself changed; and many of these same residents emailed Planning & Zoning and City Council members about their concerns). They set up a group – South Asheville Resident & Business Community Organization – and a webpage that updated residents on the proposed project. On May 18, 2016, we held a residents-only town hall meeting to discuss the project. Based on feedback we received from the town hall meeting as well as conversations we have had with residents, it seems that most residents fall into the following three categories:

Group 1 - Not until Sweeten Creek Road is widened

- Some residents oppose the project because they do not believe that the current road infrastructure can support another apartment complex
  - Traffic routinely backs up at this intersection, particularly during the PM rush
- They point to the fact that South Asheville is in the midst of an apartment boom, with the full effects of that future traffic not yet felt, and that the Sweeten Creek Road and Mills Gap Road intersection is already over capacity
- They also note that a lot of undeveloped land along Sweeten Creek and Mills Gap Road can be developed by right with several parcels already for sale
- Most residents in this group do not appear to be opposed to apartments at that site *per se*, but do not believe that this is the right time for this project

Sweeten Creek Road Widening Timetable -Project #U-2801A

- Summer 2016 – External Scoping Meeting
  - Meeting purpose is to discuss purpose and need statement for project; public is not invited. City Transportation Department staff member will attend
- Fall 2016 – Public Meeting
- 2019 - Environmental Assessment (EA) Approval
- 2020 – Finding of No Significant Impact (FONSI) Approval

  - A FONSI is issued when environmental analysis and interagency review during the EA process find a project to have no significant impact on the quality of the environment
- 2020 – Right of Way Acquisition
- 2022 – Construction (letting of contract)
- *2024 – Assuming two years to complete construction*

Group 2 - Use site as Park or Community Center

- Another group of residents shares similar concerns to the first group, but would like to see the City acquire this parcel and place either a community center or a park on it
- They note that while the City overall has 54 parks and 11 community centers, South Asheville only has 2 parks and 1 community center

Group 3 - Permit Project, but Add Two Additional Conditions to Address Traffic

- While not excited about more development, a third group of residents feels that this site will not sit vacant and that a residential apartment complex would have a lower impact on traffic than other likely uses
  - Developers not affiliated with this project have told us that this site could be used for a shopping center or other retail/commercial uses which would create more traffic
- These residents would like to keep this corridor mostly residential given all the commercial activity on Hendersonville Road
- This group, however, has concerns that the developer's proposed improvements as agreed to at P&Z do not fully mitigate the increased traffic from the site and want the following two changes to the conditions approved at P&Z:
  - 1. Extend new right-hand turn lane on Mills Gap Road to have over 200 feet of storage, rather than initially proposed 100 feet
  - 2. Complete traffic improvements at beginning of project

- This group's rationale for its position is as follows:
  - The traffic improvements, particularly the addition of a new right hand turn lane on Mills Gap Road, should improve traffic flow at the intersection. We have little hope that NCDOT would make this improvement on its own
  - Given that this site will not sit vacant, an apartment complex which will not come on-line until 2020, would have a lower impact on traffic than other likely uses
    - Assuming that the NCDOT timeline holds, Sweeten Creek widening would be complete around 2024. The apartment complex would be complete in 2020, meaning that there would be approximately 4 years between the opening of the complex and the completion of the widening
  - The pedestrian amenities – particularly the signal heads/crosswalks and the extension of the sidewalk along Mills Gap Road across the railroad tracks – would likely not happen any time soon if NCDOT would have to make these improvements

In conclusion, he thanked Council Members, Planning & Zoning members, and City Staff for the significant assistance and time that they dedicated to this difficult issue. Regardless of the outcome, residents of South Asheville should know that their concerns were taken very seriously and that Council Members and City Staff went out of their way to listen. This process highlights the need for residents, the City, the County and NCDOT to address this intersection and infrastructure and comprehensive planning generally in the South Asheville area. This will become particularly important as planning for the Sweeten Creek Road widening project begins. A group of communities along the Sweeten Creek corridor has already organized into a group called the Sweeten Creek Association of Neighborhoods (SCAN)

The following individuals spoke in opposition of the conditional zoning for various reasons, some being, but are not limited to: opposition to 4-story buildings because it blocks mountain views; traffic and flooding concerns; and request project be delayed until action completion of Sweeten Creek Road widening project:

Marlene Johnson, resident in Crowfields on Hendersonville Road
David Herbert, south Asheville resident

Mayor Manheimer closed the public hearing at 7:40 p.m.

In response to Councilman Haynes, Mr. Kapoor said that of the 400 people who signed a letter expressing concern about the project, he guessed approximately half have now changed their minds as the proposal changed and they understood the project more.

Councilman Young said that he recalled the tremendous opposition when this project was first presented; however, the applicant has met with the community in order to rectify some of their concerns and to mitigate some of their issues. This being an industrial parcel, it would seem that job creation would be a benefit; however, considering we need housing stock this area seems to be appropriate for residential. In addition, he felt this area is doing well in job creation itself.

Councilman Bothwell and Councilman Haynes both had concerns, but their concerns have been satisfied.

Councilwoman Mayfield felt this area is transitioning from industrial to residential. She felt this process is a great example of how an open-minded developer and open-minded community can make positive changes in development. She felt we all need to be watching the NC DOT projects to make sure they build what the City and the residents want.

Councilman Bothwell asked that the northeast corner of the property has mature trees and he hoped as many of them could be saved.

Mayor Manheimer agreed with Councilwoman Mayfield and hoped the City will be able to continue this zoning tool to help manage the growth of Asheville.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Young moved to approve the conditional zoning request from Industrial (IND) to Highway Business Conditional Zone (HB CZ) for the construction of a 272-unit multi-family development located at the intersection of Sweeten Creek Road and Mills Gap Road (with the revised conditions agreed upon by the developer and Group 3); and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans because the project (1) will provide necessary rental housing through the adaptive reuse of property for residential infill development, and (2) the developer will mitigate traffic congestion through infrastructure enhancements that will be completed before the issuance of the certificate of occupancy. This motion was seconded by Councilwoman Mayfield and carried unanimously.

ORDINANCE BOOK NO. 30 – PAGE 372

Closed Session

At 7:50 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132

of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about potential matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:22 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 16-160 - RESOLUTION AUTHORIZING THE CITY MANAGER TO REJECT ALL PROPOSALS FOR THE MANAGEMENT OF THE DAILY OPERATION OF THE ASHEVILLE TRANSIT SYSTEM

RESOLUTION NO. 16-161 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXTEND THE MASS TRANSIT MANAGEMENT AGREEMENT WITH FIRST TRANSIT INC. ON A MONTH-TO-MONTH BASIS TO MANAGE THE OPERATION OF THE ASHEVILLE REDEFINES TRANSIT SYSTEM

Assistant City Attorney Cathy Ball said that this is the consideration of (1) a resolution authorizing the City Manager to reject all proposals for the management of the Asheville Transit System based on inadequacies and inconsistencies in the Request for Proposal (RFP) process; and (2) a resolution authorizing the City Manager to extend the current contract with First Transit on a month-to-month basis as needed to revise the RFP process.

Since North Carolina law prohibits municipalities from engaging in collective bargaining, the City of Asheville must hire a management company to operate the transit system. The management company is a party to a 13(c) Labor Agreement with the Amalgamated Transit Union Local 128 covering all hourly employees. A collective bargaining agreement between Transit Management of Asheville, a subsidiary of First Transit, Inc., and the ATU Local 128 is in place until January 31, 2017.

The three-year contract with First Transit expired on December 31, 2015. This contract was extended for six months and will expire on June 30, 2016. During the extension staff released a RFP with the intent to modify the conditions in the current management contract. A summary has been provided to City Council of the RFP Process. Both firms were deemed to have met requirements necessary to move forward for interviews by the evaluation committee. Based on interviews, the evaluation committee recommended First Transit. Subsequent updates were made at the Multimodal Transportation Advisory Committee (MMTC) and Transit Committee. The MMTC recommended selection of First Transit but revisited the topic at their next meeting and had concerns about its original vote. The Transit Committee recommended selection of McDonald Transit.

Concerns were raised about the RFP process. In response, the City Manager's Office and City Attorney's Office reviewed the RFP and selection process in consultation with the Federal Transit Administration (FTA). Specifically, the RFP process was unclear on what basis the award would be made and should be made based on the criteria specifically listed in RFP. Additionally, the interview scores should not have been completed separately but should have been combined with the proposal scores. In summary, the process utilized was not specifically stated in the RFP. This conclusion leads us to recommend rejection of all proposals. Additionally,

based on consultation with the FTA, we believe the most appropriate process to follow going forward is to redo the RFP process.

Transit management contract expenses are included in the FY 2016-17 budget.

Staff recommends Council consider (1) a resolution authorizing the City Manager to reject all proposals for the management of the Asheville Transit System based on inadequacies and inconsistencies in the Request for Proposal (RFP) process; and (2) a resolution authorizing the City Manager to extend the current contract with First Transit on a month-to-month basis as needed to revise the RFP process.

In response to Ms. Diane Allen, City Manager Jackson explained that his office, with assistance of the City Attorney's Office will take direct involvement in this process. They will clear about the criteria and stick to that criteria. They will complete the process as quickly as possible, but at least a minimum of 4-6 months. The first thing they need to do is prioritize getting it right in order to take away any opportunities for legal objections to the award when it comes back to Council.

Assistant City Manager Ball said that a revised RFP will be sent out as a result of the guidance received by the FTA. It will be revised to be in compliance. We will have to be very clear about how we will go about awarding it.

City Manager Jackson said that all stakeholders will see communication giving our understanding of how the process should be run, based upon concurrence of the FTA. With that they will be able to describe how the process will be structured and should have an expectation of steps and a timeline.

Amy Cantrell, representing Just Economics, stated that they want a management company that operates in the best interest of riders, drivers and the City of Asheville. She hoped there would be some way to include the input of folks that have on-the-ground experience into the process.

Councilman Bothwell moved to adopt Resolution No. 16-160 authorizing the City Manager to reject all proposals for the management of the Asheville Transit System received from the RFP process. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 105

Councilman Bothwell moved to adopt Resolution No. 16-161, authorizing the City Manager to extend the current contract with First Transit on a month-to-month basis as needed to revise the RFP process. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 106

B. RESOLUTION NO. 16-159 - RESOLUTION APPOINTING A MEMBER TO THE WNC REGIONAL AIR QUALITY AGENCY

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Loyd Kirk, as a member of the WNC Regional Air Quality Agency, expires on July 1, 2016.

The following individuals applied for a vacancy: Robert Lane and Joel Storrow. On June 14, 2016, City Council asked the City Clerk to arrange interviews for both candidates.

After speaking highly of both candidates, Robert Lane received 3 votes and Joel Storrow received 4 votes. Therefore, Joel Storrow was appointed to serve as a member of the WNC Regional Air Quality Agency, to serve a six-year term, term to expire July 1, 2022, or until his successor has been appointed.

RESOLUTION BOOK NO. 38 – PAGE 104

C. RESOLUTION NO. 16-162 - RESOLUTION APPOINTMENT MEMBERS TO THE ACCESSORY DWELLING UNIT TASK FORCE

Vice-Mayor Wisler said that there will be approximately eight at-large Task Force seats to be filled by members of the community. The City intends to distribute those seats evenly among:

- Concerned neighbors who are impacted by the ADU short-term rentals
- Members of the community who own, manage or benefit from such rentals
- Renters
- Neutral but interested individuals

There will be four other seats filled by representatives from the following stakeholder groups:

- Asheville Short-Term Rental Advocates
- Asheville Neighborhood Advisory Committee
- Land of the Sky Association of Realtors
- Asheville Affordable Housing Advisory Committee

The following individuals applied for one of the eight at-large seats on the ADU Task Force: Nan Chase, Sarah Nie, John Farquhar, David Raphael Smith, Lisa Nanney, Brenda L. Crawford, Kama Ward, Jackson Tierney, Wendy Dean, Andrew Pardue, Alan Escovitz, Marian Patten, George Kroncke, Jane Mathews, Brandee Boggs, David Rodgers, Robert Michel, Maggie Smith, Carter Webb, Greta Bush, Terry Guthrie, Jennifer Woodward, Rachel Larson, Philip Lenowitz, Barber Melton, Israel Hill, Patrick Conant, Amy Kemp, Chip Craig, Kelly Prime, Randall Barnett and Nick King.

It was the recommendation of the Governance Committee, and consensus of Council to appoint Jane Mathews, David Rodgers, John Farquhar, Jackson Tierney, Israel Hill, Kelly Prime, Wendy Dean and Carter Webb.

In addition, it was the recommendation of the Governance Committee and consensus of Council to appoint (1) Kama Ward to represent the Asheville Short-Term Rental Advocates; (2) Greta Bush to represent the Asheville Neighborhood Advisory Committee; (3) Randall Barnett to represent the Land of the Sky Association of Realtors; and Barber Melton to represent the Asheville Affordable Housing Advisory Committee.

RESOLUTION BOOK NO. 38 - PAGE 107

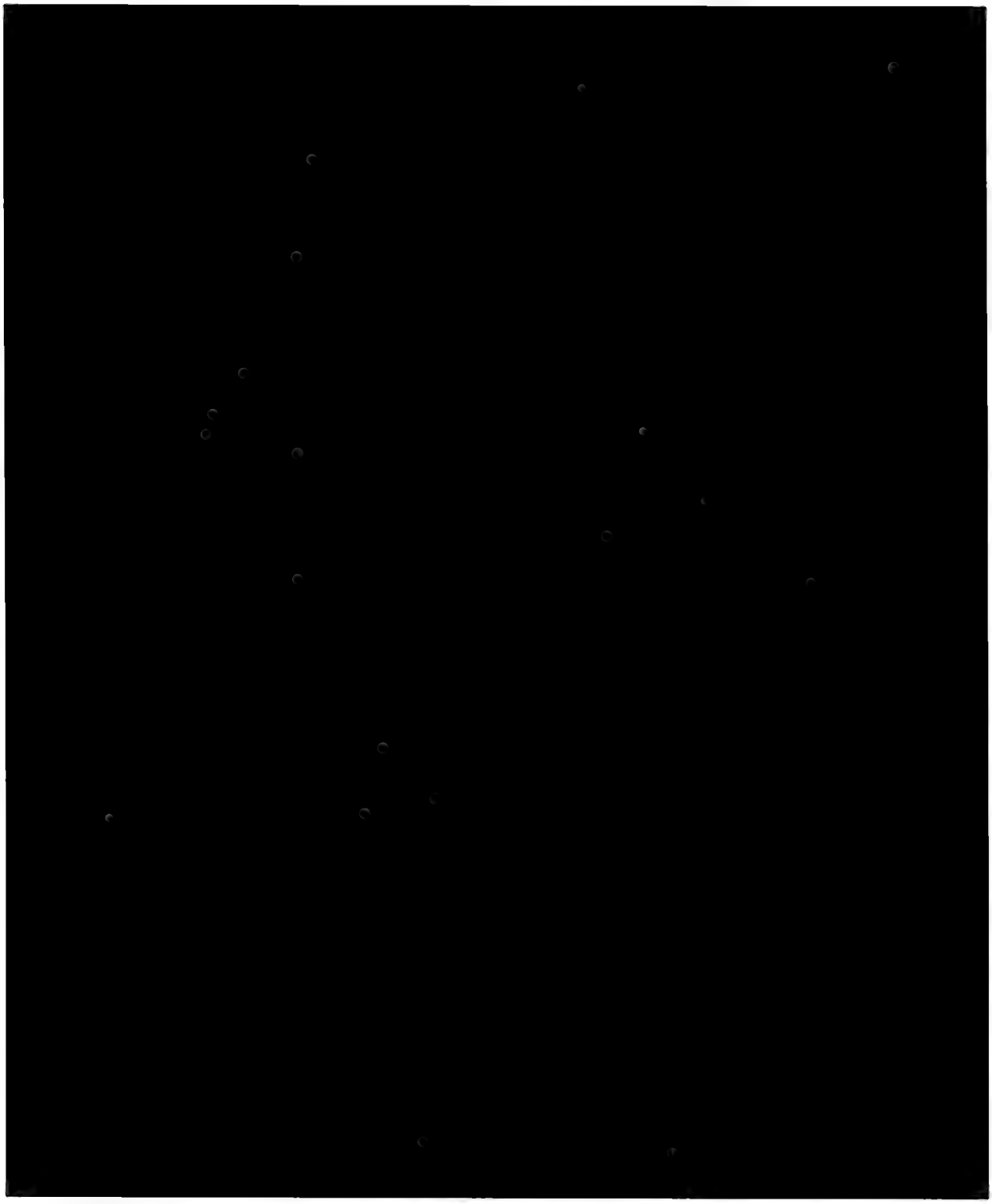
VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:41 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR



BUNCOMBE COUNTY

CITY OF ASHEVILLE

CITY COUNCIL

MINUTES

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X
Y
Z

Tuesday – July 5, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Mayor Manheimer said that regarding the officer-involved shooting this weekend, the City will place on their website homepage information regarding the on-going investigation, to include the Police Department Use of Force Police, the phone number of the State Bureau of Investigation to report information, and any City-issued press releases. This information will be available no later than tomorrow.

I. PROCLAMATIONS:

Mayor Manheimer read the following resolution: "WHEREAS, the I-26 and I-240 corridors are critical to local and regional residents, visitors, interstate travelers, and regional commerce; and WHEREAS, Alternatives 4 and 4B were the alternatives most strongly supported by the residents of Asheville and endorsed by City Council; WHEREAS, the selection of Alternate 4B selection will put the interstate on a new location from the Patton Avenue interchange across the French Broad River, just north of the Captain Jeff Bowen bridges, and connect with U.S. 19/23/70; and WHEREAS, the selection of Alternate 4B will return Patton Ave to a surface street, allowing the opportunity to create a new gateway into downtown and a truly urban, multi-modal boulevard with new, infill development – all of which will help Asheville grow sustainably and create opportunities for economic investment and development; and WHEREAS, this alternative has the least amount of impact on the Burton Street community and would provide the opportunity for a new connection from Hillcrest directly to Patton Ave; and WHEREAS, this decision will help ensure the project provides benefits to the residents of Asheville in addition to those travelling through our city; and WHEREAS, there are still improvements needed to make this project context and neighborhood sensitive and to ensure it aligns with the City of Asheville's strategic vision and goals, including making the footprint as small as possible, minimizing the noise and visual impacts on all Asheville neighborhoods and historic resources, designing new bridges that will contribute to Asheville's scenic beauty, including more bike/pedestrian facilities, and maintaining accessibility to and the scenic nature of the French Broad River as an amenity for residents and visitors. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT: The City of Asheville is grateful to the North Carolina Department of Transportation and other state and federal agencies for responding to public input and selecting the Alternate 4B option in section B of the I-26 Connector project; and the City of Asheville looks forward to continuing the positive working relationship between the city's working group and NCDOT to address the remaining issues, and looks forward to positive decisions emerging from those discussions that will continue to improve the project for the residents of Asheville."

Mr. David Brown, Board of Transportation member representing Division 13, and Mr. Jay Swain, Division Engineer for Division 13, thanked City Council for this acknowledgement and will look forward to continuing to work with City staff and City Council.

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Vice-Mayor Wisler moved for the adoption of Resolution No. 16-163. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 108

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JUNE 28, 2016

B. RESOLUTION NO. 16-164 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND A GENERAL SERVICES CONTRACT WITH BREKFORD INC. FOR UP TO AN ADDITIONAL TWO YEARS FOR PARKING CITATION MANAGEMENT SERVICES

Summary: The consideration of a resolution authorizing the City Manager to amend a general services contract with Brekford, Inc. to extend the contract term for up to an additional two years and increase the contract amount by $140,000, with the contract amount not to exceed $70,000 per fiscal year, for parking citation management services.

In 2013, Brekford Corporation was selected to provide parking citation management services. The contract was authorized following a Request for Proposals (RFP) and interviews with multiple service providers. Brekford Corporation was chosen as the best platform to achieve the business goals. The contract with Brekford Inc. was for $200,000, not to exceed three years, and expires on June 30, 2016. (See Resolution No. 13-62) Brekford Corporation provides numerous administrative functions previously accomplished in-house, including:

- Cloud based data and application that is not hosted by the City of Asheville,
- Offender look-ups from most U.S. states, territories, and District of Columbia plus most Canadian provinces,
- Credit/debit card and check payment processing sending money directly to City accounts,
- Collection actions,
- State of art citation writers with pictures and real time transmission of citations,
- On-line citation appeals system,
- Integration with the City's Financial system,
- Continual upgrading of citation writing and management platforms, e.g. integrating hand held computerized ticket writers with Passport Parking; our pay-by-cell system.

Brekford Corporation also provides the following consumer friendly functions:

- On-line payment of citations via credit/debit cards,
- On-line appeals.

Current performance of the contractor met or exceeded expectations. Information Technology and Transportation staff both believe the best platform for continuing parking system improvements, underway and envisioned, would be to extend the Brekford Corporation contract for an additional two years.

Pros:

- Continues with a well-tested and integrated citation management system that provides reliable service to staff and citizens alike.
- Continues a relationship with a firm that already has the technology and programs to expand parking operations in new areas, e.g. residential permit parking, if so directed by Council.

- Integrated with City's Financial system.
- Provides continuity in collection efforts for unpaid parking citations.

Con:

- Expenditures of up to $70,000.00 per fiscal year.

The necessary funds are already budgeted in Parking Services' Operating Budget for FY 2016-17.

City staff recommends that City Council approve a resolution authorizing the City Manager to amend a general services contract with Brekford Inc., to extend the contract term for up to an additional two years and increase the contract amount by $140,000 (not to exceed $70,000 per fiscal year), for parking citation management services.

RESOLUTION BOOK NO. 38 - PAGE 109

C. RESOLUTION NO. 16-165 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH CAVANAUGH & ASSOCIATES , P.A., FOR THE NON-REVENUE WATER PROGRAM PHASE II

Summary: The consideration of a resolution authorizing the City Manager to execute a professional engineering services supplemental agreement with Cavanaugh & Associates, P.A., for the Non-revenue Water (NRW) Program Phase II for the not-to-exceed amount of $321,728.50.

The Water Resources Department (WRD) has been working with Will Jernigan at Cavanaugh & Associates, P.A., (Cavanaugh) since 2013 to provide feedback and guidance on reducing the WRD's Non-revenue Water (NRW). Mr. Jernigan is recognized nationally as a leader in Revenue Recovery and Water Auditing and has taught workshops, written technical papers, and helped to pioneer many of the standards adopted by the American Water Works Association (AWWA). More specifically to this project, Mr. Jernigan and other Cavanaugh staff have been the contracted engineers for the Pressure Optimization, Vault Renewals, and NRW Advanced Analytics Project Phase I. To date, Phase I has resulted in a 10% reduction in the department's NRW.

To further continue the effort to reduce NRW, the WRD desires to contract with Cavanaugh for the Non-Revenue Water Program Phase II. This will include three parts for: (1) a Pressure Optimization Analysis, (2) Vault Renewals, and (3) NRW Advanced Analytics. The Pressure Optimization Analysis Phase II for $143,050.00 will focus on implementing optimization recommendations from Cavanaugh's 2015 analysis for the Haw Creek pressure zone and updating the Hydraulic Model. The Vault Renewals Phase II for $100,325.00 will assist with data collection, design, bid package preparation, bid and construction administration for 10 additional vaults and associated piping/metering/appurtenances for large customer water service connections, including: Billy Graham Training Center, Gerber Road, Omni Grove Park Inn, Old Federal Building, Town of Biltmore Forest, Racquet Club Road, Haywood Park Hotel, Woodfin Water District, Southeastern Container, and Southern Concrete. The vaults identified for replacement are either too dangerous to enter and/or obsolete. The NRW Advanced Analytics Phase II for $78,353.50 will include updating the WRD's Water Audit, calculating the current water loss, and provide recommendations to continue to reduce the department's NRW.

Through a Request for Qualifications (RFQ) process for engineering services, the City of Asheville (City) selected nine engineering firms to provide on-call professional services for General Projects. As one of the selected firms, a Master Agreement for On-Call Professional Services for General Projects was executed between Cavanaugh and the City on April 21, 2015.If

approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement.

Pros:

- Continuation of this project will aid the department in reducing its non-revenue water rate, lower pressures in the Haw Creek area and help reduce background water leakage in the part of the system, update the Hydraulic Model, and replace unsafe and/or obsolete meter vaults.

Cons:

- The project will take approximately one year for completion, so project results will not be immediate.
- If the project is not continued into Phase II, then Haw Creek will continue to experience higher background water loss associated with high system pressure and large, unsafe/obsolete meter vaults will not be replaced.

The funding needed for this agreement will be funded from the Water Resources Fiscal Year 2016/17 Operating and Capital Improvement Projects (CIP) Funds.

Phase II	Fund	Budget	Amount Needed
Pressure Optimization Analysis	CIP	$ 143,050.00	$ 143,050.00
Vault Renewals*	CIP	500,000.00	100,325.00
NRW Advanced Analytics	Operating	78,353.50	78,353.50
	Total Needed for Cavanaugh Contract		$ 321,728.50

*The remaining budget in the Vault Renewals Capital Improvements Project will be used for the construction portion of the project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a professional engineering services supplemental agreement with Cavanaugh & Associates, P.A., for the Non-revenue Water (NRW) Program Phase II for the not-to-exceed amount of $321,728.50.

RESOLUTION BOOK NO. 38 - PAGE 110

D. MOTION (1) CANCELLING THE AUGUST 23, 2016, PUBLIC HEARING TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO ESTABLISH REQUIREMENTS FOR UTILITY SUBSTATIONS; AND (2) SETTING A PUBLIC HEARING TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO ESTABLISH REQUIREMENTS FOR UTILITY SUBSTATIONS ON AUGUST 9, 2016

E. GENERAL OBLIGATION BOND REFERENDUM

Summary: The consideration of adoption of resolutions authorizing staff to proceed with the necessary action to conduct a general obligation bond referendum on November 8, 2016.

The referendum includes $32,000,000 of transportation bonds, $17,000,000 of park improvement bonds, and $25,000,000 of housing bonds. The statutory requirements for the legal process include applying to the Local Government Commission for approval, holding a public hearing on the proposed bond orders, setting of the special referendum, and certification of the results.

The current action is the first of four City Council actions. This first action will specifically authorize: (1) Publication of a notice of intent to apply to the Local Government Commission; (2) Application to the Local Government Commission, and (3) Certain statements of facts concerning the proposed bonds.

Next Steps:

- On July 26, 2016, the bond orders will be introduced, and the City Council will be asked to set a public hearing on the bond orders for August 9, 2016.
- On August 9, the City Council will be asked to hold a public hearing on each of the bond orders, approve the bond orders (including the form and language of the ballot), and set a special bond referendum.
- After November 8, the City Council will be asked to adopt a resolution certifying and declaring the results of the special bond referendum. This action will occur after the Buncombe County Board of Elections certifies the results of the vote.

This action furthers the City Council's strategic themes set forth in January, 2016, by providing funding to address transportation infrastructure needs, ensuring a high quality of life to the residents of the City of Asheville and addressing the City's affordable housing challenge.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year.
- General Fund Budget is balanced with no fund balance appropriation for ongoing operating expenses and all essential City services are continued.

Con:

- None.

A general obligation bond commits the full faith and credit of the City of Asheville to repayment of the bonded debt. Additional tax levy may be required to fund the debt service over the life of the bonds.

Staff recommends that Council adopt the resolutions authorizing staff to proceed with the necessary action to conduct a general obligation bond referendum on November 8, 2016.

Mr. Sidney Bach requested information on the estimated minimum and maximum property tax increases anticipated in order to service the debt; questioned the timeline for filing the application to the Local Government Commission; and questioned the use of public funds to assist private investment and investor-developers.

Director of Finance and Management Services Barbara Whitehorn said that outside bond counsel has set the timelines; however, she would verify the dates with them.

Mayor Manheimer also noted that this information has been furnished to City Council at their worksessions and as the process proceeds they will broadly broadcast that information.

RESOLUTION NO. 16-166 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE DIRECTING THE PUBLICATION OF NOTICE AND INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS

WHEREAS, the City Council (the "*City Council*") of the City of Asheville, North Carolina (the "*City*") is considering the issuance of general obligation bonds of the City which shall be for the following purposes and in the following maximum amounts:

$32,000,000 of bonds to provide funds to pay the capital costs of constructing, reconstructing, enlarging, extending and improving certain streets, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design; acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads, intersections, pedestrian and bicycle paths; acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers; acquiring, constructing, extending and improving greenways, providing related landscaping, retaining walls, storm drainage and any other necessary improvements; and the acquisition of land and rights-of-way in land required therefor;

$25,000,000 of bonds to pay the capital costs of acquiring, constructing, developing, equipping and furnishing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income, and construction of infrastructure improvements related thereto and the acquisition of land and rights-of-way required therefor; and

$17,000,000 of bonds to provide funds to pay the capital costs of infrastructure improvements for various parks and recreation facilities of the City, including the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving, installing or providing storm drainage, grade and surface improvements, construction, reconstruction and improvements of recreation fields; construction, reconstruction and improvements of restroom facilities; sidewalks, bike paths and pedestrian trails; paving, resurfacing, grading or improving parking lots, roads and intersections, providing public open space, landscaping and lighting, and acquiring any necessary equipment, land, interests in land and rights-of-way therefor.

NOW, THEREFORE, BE IT RESOLVED by the City Council that the City Clerk is hereby directed to cause a copy of the "NOTICE OF INTENTION TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL OF BONDS" to be published in a newspaper of general circulation in the City on or about July 7, 2016.

RESOLUTION BOOK NO. 38 - PAGE 111

RESOLUTION NO. 16-167 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, AUTHORIZING THE CHIEF FINANCIAL OFFICER TO APPLY TO THE LOCAL GOVERNMENT COMMISSION FOR APPROVAL FO THE CITY'S PROPOSED GENERAL OBLIGATION BOND FINANCINGS AND TO SUBMIT SUCH APPLICATION TO THE LOCAL GOVERNMENT COMMISSION

WHEREAS, the City Council (the "*City Council*") of the City of Asheville, North Carolina (the "*City*") proposes to set a public hearing on the following Bond Orders entitled:

> "BOND ORDER AUTHORIZING THE ISSUANCE OF $32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;"
>
> "BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION HOUSING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;" and
>
> "BOND ORDER AUTHORIZING THE ISSUANCE OF $17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;"

WHEREAS, it is necessary, as a condition to the consideration and adoption of the Bond Orders, to submit an Application to the Local Government Commission for Approval of the Bonds, all in the manner required by The Local Government Bond Act.

NOW, THEREFORE, be it resolved by the City Council that the Chief Financial Officer of the City is hereby directed to file with the Local Government Commission an application for its approval of the General Obligation Transportation Bonds, General Obligation Housing Bonds and General Obligation Parks and Recreation Bonds hereinbefore described, on a form prescribed by said Commission, and (1) to request in such application that said Commission approve the City's use of Parker Poe Adams & Bernstein LLP of Charlotte, North Carolina, as bond counsel for the City and (2) to state in such application such facts and to attach thereto such exhibits in regard to such General Obligation Transportation Bonds, General Obligation Housing Bonds and General Obligation Parks and Recreation Bonds and to the City and its financial condition, as may be required by said Commission.

BE IT FURTHER RESOLVED that this Resolution shall become effective on the date of its adoption.

RESOLUTION BOOK NO. 38- PAGE 113

RESOLUTION NO. 16-168 - RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ASHEVILLE, NORTH CAROLINA, MAKING CERTAIN STATEMENTS OF FACT CONCERNING PROPOSED BOND ISSUE

WHEREAS, the City Council (the "*City Council*") of the City of Asheville, North Carolina (the "*City*") is considering the issuance of bonds of the City which shall be for the following purposes and in the following maximum amount:

> $32,000,000 of bonds to provide funds to pay the capital costs of constructing, reconstructing, enlarging, extending and improving certain streets, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design; acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads, intersections, pedestrian and bicycle paths; acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic

controls, signals and markers; acquiring, constructing, extending and improving greenways, providing related landscaping, retaining walls, storm drainage and any other necessary improvements; and the acquisition of land and rights-of-way in land required therefor;

$25,000,000 of bonds to pay the capital costs of acquiring, constructing, developing, equipping and furnishing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income, and construction of infrastructure improvements related thereto and the acquisition of land and rights-of-way required therefor; and

$17,000,000 of bonds to provide funds to pay the capital costs of infrastructure improvements for various parks and recreation facilities of the City, including the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving, installing or providing storm drainage, grade and surface improvements, construction, reconstruction and improvements of recreation fields; construction, reconstruction and improvements of restroom facilities; sidewalks, bike paths and pedestrian trails; paving, resurfacing, grading or improving parking lots, roads and intersections, providing public open space, landscaping and lighting, and acquiring any necessary equipment, land, interests in land and rights-of-way therefor.

WHEREAS, certain findings of fact by the City Council must be presented to enable the Local Government Commission of the State of North Carolina to make certain determinations as set forth in Section 159-52 the North Carolina General Statutes, as amended.

NOW, THEREFORE, BE IT RESOLVED that the City Council, meeting in open session on the 5th day of July, 2016, has made the following factual findings in regard to this matter:

A. *Facts Regarding Necessity of Proposed Financing.* The proposed bonds are necessary and expedient to pay (1) the capital costs of constructing, reconstructing, enlarging, extending and improving certain streets, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design; acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads, intersections, pedestrian and bicycle paths; acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers; acquiring, constructing, extending and improving greenways, providing related landscaping, retaining walls, storm drainage and any other necessary improvements; and the acquisition of land and rights-of-way in land required therefor, (2) the capital costs of acquiring, constructing, developing, equipping and furnishing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income, and construction of infrastructure improvements related thereto and the acquisition of land and rights-of-way required

therefor and (3) the capital costs of infrastructure improvements for various parks and recreation facilities of the City, including the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving, installing or providing storm drainage, grade and surface improvements, construction, reconstruction and improvements of recreation fields; construction, reconstruction and improvements of restroom facilities; sidewalks, bike paths and pedestrian trails; paving, resurfacing, grading or improving parking lots, roads and intersections, providing public open space, landscaping and lighting, and acquiring any necessary equipment, land, interests in land and rights-of-way therefor.

B. *Facts Supporting the Amount of Bonds Proposed.* The sums estimated for these bonds are adequate and not excessive for the proposed purposes. Estimates for the proposed construction and improvements have been carefully analyzed and determined by persons knowledgeable about the construction and improvements.

C. *Past Debt Management Procedures and Policies.* The City's debt management procedures and policies are excellent and have been carried out in compliance with law. The City employs a Chief Financial Officer to oversee compliance with applicable laws relating to debt management. The City Council requires annual audits of City finances. In connection with these audits, compliance with laws is reviewed. The City is not in default in any of its debt service obligations. The City Attorney reviews all debt-related documents for compliance with laws.

D. *Past Budgetary and Fiscal Management Policies.* The City's budgetary and fiscal management policies have been carried out in compliance with laws. Annual budgets are closely reviewed by the City Council before final approval of budget ordinances. Budget amendments changing a function total or between functions are presented to the City Council at regular City Council meetings. The Chief Financial Officer presents financial information to the City Council which shows budget to actual comparisons annually and otherwise as the City Manager deems necessary or as a member of the City Council may request.

E. *Increase in Taxes; Retirement of Debt.* The increase in taxes, if any, necessary to service the proposed debt will not be excessive. The schedule for issuance anticipates issuing all of the bonds in more than one series during the seven years following the adoption of the bond orders.

RESOLUTION BOOK NO. 38- PAGE 114

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

After Mayor Manheimer specifically read the titles of the three bond resolutions, Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS: None

IV. PUBLIC HEARINGS: None

V. UNFINISHED BUSINESS: None

VI. NEW BUSINESS: None

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 5:14 p.m.

Magdalen Bullock
CITY CLERK

Edwin C. Manheimer
MAYOR

Tuesday – July 26, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Councilwoman Mayfield asked that Consent Agenda "I" be voted on separately due to a conflict of interest.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 5, 2016

B. MOTION ADOPTING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR THE CONDITIONAL USE PERMIT FOR 1401 TUNNEL ROAD FOR THE VETERANS' HOUSING PROJECT

Summary: This public hearing was held on June 28, 2016.

C. RESOLUTION NO. 16-169 - RESOLUTION ACCEPTING HOSPITAL DRIVE AS A CITY MAINTAINED STREET

Summary: The consideration of a resolution to accept Hospital Drive as a city-maintained street.

Hospital Drive was constructed in June 2011. Since that time, the City of Asheville has consistently maintained Hospital Drive, including snow removal. On June 3, 2016, the property owner/developer of Hospital Drive sent the City an email, offering to dedicate Hospital Drive to the City for public use and requesting the City to accept Hospital Drive as a City street.

Hospital Drive from US 25 (McDowell Street) to SR 3214 (Biltmore Avenue) is a developer-constructed street that has an average width of 76 feet with 24-inch curb and gutter, a length of 0.14 mile, and a variable right-of-way width of 101 to 102 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

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- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides a much needed connection between McDowell Street and Biltmore Avenue.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept Hospital Drive as a City street.

RESOLUTION BOOK NO. 38 - PAGE 117

D. RESOLUTION NO. 16-170 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE LEAF DOWNTOWN AVL

RESOLUTION NO. 16-171 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE GOOMBAY FESTIVAL

Summary: The consideration of resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at LEAF Downtown AVL and the Goombay Festival.

- LEAF Community Arts has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at LEAF Downtown AVL and allow for consumption at this event.

  LEAF Downtown AVL will be held on Saturday, July 30, 2016 from 12:00 p.m. to 10:30 p.m., and Sunday, July 31, 2016 from 10:00 a.m. to 7:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- YMI Cultural Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Goombay Festival and allow for consumption at this event.

  The Goombay Festival will be held on Friday, September 9, 2016 from 5:00 p.m. to 10:00 p.m., Saturday, September 10, 2016 from 10:00 a.m. to 10:00 p.m., and Sunday, September 11, 2016 from 1:00 p.m. to 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for LEAF Community Arts and YMI Cultural Center

Con:

- Potential for public safety issues

There is no fiscal impact.

Staff recommends City Council adopt resolutions authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at LEAF Downtown AVL and the Goombay Festival.

RESOLUTION NO. 16-170 - RESOLUTION BOOK NO. 38 - PAGE 119

RESOLUTION NO. 16-171 - RESOLUTION BOOK NO. 38 - PAGE 122

E. RESOLUTION NO. 16-172 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE NATIONAL POLLUTION PREVENTION DISCHARGE SYSTEM PHASE II RENEWAL APPLICATION

Summary: The consideration of a resolution authorizing the City Manager to sign the National Pollution Prevention Discharge System (NPDES) Phase II Renewal Application and any other documents necessary in order to comply with the Environmental Protection Agency (EPA) Federal Non-Funded Mandate.

In 1998, EPA adopted a rule known as the NPDES Stormwater Phase II rule. This rule applies to all municipalities with a population less than 100,000 that own or operate a Municipal Separate Storm Sewer System. The City currently is a Phase II compliant city and must renew this permit. The permit is renewed every 5 years.

The NPDES Phase II requirements include continuing to implement the following: Public Education and Outreach, Public Participation and Involvement, Illicit Discharge Detection and Elimination, Construction Site Runoff Control, Post Construction Runoff Control and Pollution Prevention and Good Housekeeping measures.

Pros:

- The City will satisfy all current State and Federal minimum requirements for participation in the NPDES Phase II program
- The City is already a Phase II city and will continue to promote water quality

Con:

- The NPDES program is a non-funded federal mandate to the City.

This program is currently funded under the stormwater utility, no additional impact is expected by the renewal.

City staff recommends that City Council adopt a resolution authorizing the City Manager to sign the National Pollution Discharge Elimination System (NPDES) Phase II Renewal Permit Application and any other paperwork necessary to comply with the EPA Federal Non-Funded Mandate.

RESOLUTION BOOK NO. 38 - PAGE 125

F. RESOLUTION NO. 16-173 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR GRANT FUNDS THROUGH THE N.C. GOVERNOR'S CRIME COMMISSION'S STATE APPROPRIATION COMMITTEE FOR 2016-17 BODY-WORN VIDEO CAMERAS

Summary: The consideration of a resolution authorizing the City to apply for funds through the NC Governor's Crime Commission's State Appropriation Committee—Local Solicitation for a state-issued matching grant in the amount of $100,000.00.

The City of Asheville Police Department (Police Department) requests authorization to apply for the NC Governor's Crime Commission's State Appropriation Committee's 2016-17 Body-Worn Video Cameras - Local Solicitation. If the grant is approved, the Police Department will be allocated $100,000.00 based upon the state-issued matching grant ($1 state for every $2 local) through a Memorandum of Understanding. The Finance Committee considered the item and recommended City Council approval during its June 28 meeting.

Existing Police Department funds would be utilized to purchase 120 BWC systems ($223,474.20), while grant funds would be used to purchase an additional 60 Body-Worn Taser Axon Flex Camera Systems along with accessories through TASER's Officer Safety Program for a total cost of $100,000.00 as a part of the Police Department's Body-Worn Camera program which is intended to achieve the following:

1) enhance the police-community partnership guided by integrity, fairness, respect, and professionalism;
2) produce a "civilizing effect" for both the police officers and citizens;
3) enhance the police-community partnership by decreasing citizen complaints on police officers, to include decreasing the use-of-force complaints;
4) decreasing the number of assaults against police officers; and
5) Augment criminal and internal investigations through audiovisual evidence that corroborates the factual basis of an incident.

Pros:

- Body Worn Cameras should produce a "civilizing effect" that enhances the police-community partnership with decreased citizen complaints on the police; decreased use-of-force complaints; and decreased assaults on police officers.
- Enhanced criminal and internal investigations

Cons:

- Ongoing City funding to sustain the Body-Worn Camera program for future police operations. This includes cost of the Law Enforcement Technology Specialist to manage the program and the cost of maintenance and replacement.
- Five-year service and purchase agreement must be renewed to enable continued use and data storage.
- Ongoing tasks and costs associated with managing devices and data, storing data, providing audio and video for court discovery, and following retention schedules.

If awarded, the City will incur an expense based on the matching grant requirements ($1 state for every $2 local). The total expense for the purchase of the 180 camera systems is $323,474.20. Thus, the COA portion will be $223,474.20 with a grant award of $100,000.00. The five-year service and purchase agreement must be renewed to enable continued use and data storage. As noted above, the general fund impact in FY 2016-17 will be $223,474.20. This amount is already included in the Police Department's adopted FY 2016-17 budget. At the end of the grant, the general fund impact would be approximately $225,000.00 per year to cover additional accessories, safety plan and licenses for 4 additional years. The chart below outlines the general fund impact over the remainder of the proposed Body Worn Video Program implementation.

	Camera Systems, accessories and licenses		Grant	General Fund
Year #01 (FY 2017)	120	$ 223,474.20		$ 223,474.20
*Grant (FY 2017)	60		$ 100,000.00	$ 100,000.00
Year #02 (FY 2018)		$ 215,532.45		$ 215,532.45

Year # 03 (FY 2019)		$ 221,244.00		$ 221,244.00
Year # 04 (FY 2020)		$ 221,244.00		$ 221,244.00
Year # 05 (FY 2021)		$ 221,244.00		$ 221,244.00
Total	180	$ 1,102,738,.65	$ 100,000.00	$ 1,202,738.65

Staff recommends City Council to adopt the resolution authorizing the City Manager to apply for grant funds through the NC Governor's Crime Commission's State Appropriation Committee for the 2016-17 Body-Worn Video Cameras - Local Solicitation in the amount of $100,000.00.

When Councilman Young asked what is needed to get the entire 180 cameras if the grant is not awarded, Police Chief Tammy Hooper explained that the final 60 would be in the Fiscal Year 2017-18 budget. She said that staff will also look for other grant opportunities. The City might know whether they receive the grant or not in the October timeframe.

RESOLUTION BOOK NO. 38 - PAGE 126

G. ORDINANCE NO. 4514 - BUDGET AMENDMENT FOR EMERGENCY SOLUTIONS GRANT

Summary: The consideration of a budget amendment, in the amount of $30,372, from the State Division of Aging and Adult Services, Housing and Homeless Unit, for the Emergency Solutions Grant.

The State of North Carolina awarded 2015-16 funds to the City of Asheville in order to fund local agencies to provide emergency shelter and rapid rehousing services for homeless individuals and families, as well as administrative support for the City of Asheville. Due to high outcomes in FY14-15, additional Rapid Re-housing money and administration support was awarded.

The City of Asheville was granted an additional $30,372 in the FY16 cycle for the following activities:

	Emergency Response	Housing Stabilization	Administration	Total
Organization				
Homeward Bound		$ 28,372		$ 28,372
City of Asheville			$ 2,000	$ 2,000
TOTAL AWARD		$ 28,372	$ 2,000	$ 30,372

The award of funds was limited to Homeward Bound and the City of Asheville, as the other ESG recipients do not perform Rapid Re-housing or Administration activities. All of the State's requirements have been met by the agencies being recommended for the additional grant funds.

Pros:

- The Amendment was inadvertently omitted in the June 28, 2016 City Council approval.
- Approval of the Amendment allows additional homeless households to move to permanent housing in 2016.

Con:

- None noted.

The Emergency Solutions Grant is fully funded from the State of North Carolina Division of Aging and Adults Services, Housing and Homeless Unit.

Staff recommends approval of the budget amendment in the amount of $30,372 in Emergency Solutions Grant funds from the State Division of Aging and Adult Services (DAAS), Housing and Homeless Unit.

ORDINANCE BOOK NO. 30 - PAGE 378

H. ORDINANCE NO. 4515 - ORDINANCE RE-ADOPTING THE CITY OF ASHEVILLE WATER RESOURCES DEPARTMENT POLICY MANUAL

Summary: The consideration of an ordinance authorizing the re-adoption of the City of Asheville Water Resources Department's Policy Manual.

The Water Resources Department Policy Manual (herein "Manual") was last updated and adopted by City Council on December 14, 2010. The Manual must be periodically revised to align with federal and state regulations and to remain relevant with present business practices. Along with grammatical revisions, the substantive revisions to the Manual include, but are not limited to: addition of a table of contents which allows for future revisions to be made by individual sections and better navigation of the document; revisions that align with the Water Design and Construction Manual; revisions that align with federal, state, & local regulations; and revisions that align with present business practices.

Pros:

- Re-adoption of the Manual will ensure that it aligns with federal and state regulations and remains relevant with present business practices.
- Changes provide better document navigation and clearer interpretation.
- Changes align with the Water Design and Construction Manual.
- Changes allow for future revisions to be made by individual sections independently.

Cons:

- Failure to re-adopt the Manual may cause confusion about interpretation of the policies.
- Failure to re-adopt could cause policies to be noncompliant with federal, state, and local regulations and present business practices.

Staff recommends City Council adopt an ordinance authorizing the re-adoption of the City of Asheville Water Resources Department's Policy Manual.

ORDINANCE BOOK NO. 30 - PAGE 380

I. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MULTI-YEAR GENERAL SERVICES AGREEMENT WITH MILLS RIVER PARTNERSHIP INC. TO PARTIALLY FUND PROJECTS DIRECTED RELATED TO WATER QUALITY PROTECTION AND/OR IMPROVEMENT IN THE MILLS RIVER WATERSHED

This item was removed from the Consent Agenda due to a conflict of interest with Councilwoman Mayfield.

J. RESOLUTION NO. 16-175 - RESOLUTION AUTHORIZING THE CITY

MANAGER TO APPLY FOR AND RECEIVE FUNDS FROM THE N.C. DEPT. OF TRANSPORTATION BICYCLE AND PEDESTRIAN PLANNING GRANT TO CONDUCT A GREENWAY FEASIBILITY STUDY IN EAST ASHEVILLE: SWANNANOA RIVER CORRIDOR GREENWAY - PHASE I

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for a grant from the N.C. Dept. of Transportation (NCDOT) for bike and pedestrian planning projects; and if the application is successful, to accept grants and sign necessary agreements with the MPO, or state agencies to receive the funds.

The NCDOT Bicycle and Pedestrian Planning grants are small grants to assist with bike and pedestrian planning projects. They typically award 3-4 grants of $100,000 or less per year for projects that need additional financial assistance. If awarded, the City of Asheville would receive the funds in early August. We requested $100,000 to match the $37,000 we currently have for the project. Our matching funds are provided to the City via the Asheville Parks and Greenways Foundation and the Friends of Connect Buncombe.

The East Asheville Greenway is a segment of the Swannanoa River Greenway Corridor. It is a 2.2 mile project that parallels the Swannanoa River Rd and the Swannanoa River from the intersection of S. Tunnel Rd. (Lowe's) to the Azalea Park. This project is identified as a priority project in the recently adopted AIM Plan. This feasibility is supported by the Asheville Greenway Committee and was identified by them as a priority project in 2014.

Once finished, this feasibility study will poise this project for engineering and final design work.

Pros:

- This project will be 100% funded by donations from private entities and granted funds
- This will be the first greenway study on the east side of town.

Con:

- Staff support will be needed to conduct this study

No additional City funds required. These funds, if awarded, would be added to the $37,000 mentioned earlier in the staff report to produce a feasibility study for the first segment of the Swannanoa River Greenway Corridor, known as the East Asheville Greenway.

City staff recommends City Council approve a resolution authorizing the City Manager apply for and receive funds from the NCDOT for a greenway feasibility program.

RESOLUTION BOOK NO. 38 - PAGE 128

K. RESOLUTION NO. 16-176 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXERCISE THE SECOND-YEAR OPTION OF A CONTRACT WITH SAGE SECURITY SOLUTIONS LLC FOR SECURITY PROTECTION SERVICES AT VARIOUS CITY-OWNED FACILITIES

Summary: The consideration of a resolution authorizing the City Manager to: (1) exercise the second-year option to renew the contract in the amount of $40,923.55 with Sage Security Solutions, LLC for security protection services at various facilities owned by the City of Asheville (City) for the second year in the cumulative amount of $122,815.55; and (2) to exercise the option to renew the contract for one (1) additional twelve-month period based on the contactor's satisfactory performance and available budget.

The General Services Department (Department) contracts for maintenance and repair of security protection systems within City facilities. The City entered into a one-year contract with Sage Security Solutions, LLC for FY 2014-2015 for security protection service and new equipment in the amount of $43,222.22, and amended the contract for FY 2015-2016 in the amount of $38,670.70 with an option to renew for one year. By electing to exercise the second year in the amount of $40,923.55, increases the cumulative amount of the contract to $122,815.55, an amount which requires City Council consideration and approval.

Pro: • Supports the efficient delivery of core facility maintenance services.

Con: • None

The $40,923.55 funding required to support this security systems protection contract is budgeted in the Fiscal Year 2016-2017 Department operating budget as part of the Facilities Maintenance division budget.

Staff recommends that City Council adopt a resolution authorizing the City Manager to: (1) 1) exercise the second-year option to renew the contract in the amount of $40,923.55 with Sage Security Solutions, LLC for security protection services at various facilities owned by the City of Asheville (City) for the second year in the cumulative amount of $122,815.55; and (2) 2) to exercise the option to renew the contract for one (1) additional twelve-month period based on the contactor's satisfactory performance and available budget.

RESOLUTION BOOK NO. 38 - PAGE 129

L. RESOLUTION NO. 16-177 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE NEGOTIATIONS AND EXECUTE A CONTRACT WITH HYDROCYCLE ENGINEERING FOR THE PROFESSIONAL SERVICES WITH A WATERSHED ASSESSMENT OF THE WELLINGTON STREET AREA

Summary: The consideration of a resolution authorizing the City Manager to complete negotiations and sign a contract with HydroCycle Engineering for the completion of the watershed assessment for the Wellington Street drainage area not to exceed $47,000.

During heavy rainfall events the neighborhood located in the Wellington Street area experience flooding issues due to overland flow. Citizens of this neighborhood, expressed concerns to council in June, in which Council asked Staff to perform a watershed assessment of the area to identify possible solutions to these issues.

The area is primarily a residential area made up of single family homes and the public street infrastructure. Also located in this drainage area is a city school. The drainage infrastructure in this area is a mixture of material types and sizes, of which appear to be undersized for the drainage area upstream of the public roadway.

This watershed assessment will be under $50,000, this will allow the City Manager to sign an exemption from the Mini-Brook Act. If professional services are over the $50,000, a Request for Qualifications and review process would be required for the selection of the design team. City staff has asked HydroCycle Engineering, who was a sub-consultant for the recent City Wide Drainage Assessment, to provide a scope of services for this project. This design team is made up of local engineers who are very familiar with the area and the rain events which our area has been experiencing.

Pros:

- Identify opportunities to solve drainage issues impacting a neighborhood through public private partnerships.

- The project will evaluate green infrastructure and will look to provide localized flood mitigation.
- Utilize the stormwater utility fee for construction related projects

Con:

- The project was not originally identified in this current budget year.

The City's Stormwater Utility will be responsible for the cost for the professional services contract. The total contract for professional services will be less than $50,000. Funding for this contract is included in the adopted FY 2016-17 Stormwater Fund budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to complete negotiations and execute a contract with HydroCycle Engineering for the professional services associated with the watershed assessment for the Wellington Street area. The total cost of the design services for this project is $47,000.

RESOLUTION BOOK NO. 38 - PAGE 130

M. RESOLUTION NO. 16-178 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH CAROLINA CORNERSTONE CONSTRUCTION INC. FOR THE 14 RIVERSIDE DRIVE RENOVATION PROJECT

ORDINANCE NO. 4516 - BUDGET AMENDMENT FOR 14 RIVERSIDE DRIVE

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a construction contract with Carolina Cornerstone Construction Inc. in the amount of $724,980 with a 15% contingency of $108,900 any associated change orders for said contract up to the budgeted amount, for the project known as 14 Riverside Drive Renovation project, City of Asheville project number #RAD-15-16-001; and (2) a budget amendment in the amount of $312,939 from debt proceeds to fully fund the contract and other project costs.

The structure at 14 Riverside Drive was built ca. 1930 and is listed on the National Register of Historic Places as a contributing building to the Riverside Industrial Historic District. It was donated to the City, and has not been occupied for many years.

This renovation project fulfills the next step of vision for this building; that being for the facility to serve as a highly visible publicly owned, arts and culture information portal for the greater River Arts District; providing information about the district for visitors on shopping, studios, galleries, recreation opportunities, events, and restaurants. It is also intended to be a destination in its own right, with plans for a public-private-partnership lease, and to serve as flexible space for a gallery, office, studio, retail, or performance space that would be rented to private sector partners.

The project, will include the selective demolition and renovation of the 1745 square foot historic structure and related site improvements, including:

- The construction of a 1300 square foot deck that will wrap around the building on the north and west elevations.
- The interior/common space is designed for flexibility. A large overhead garage style door will open to flow to the deck at the west elevation, facing the river.
- Public facilities including restrooms, and drinking fountain; as well as 13 parking spaces, and sidewalk.
- All improvements will meet current NC Building Code requirements.

- Additionally, the contract will, to the extent reasonable, use "green demolition". Care will be exercised in extracting of older fixtures or equipment for re-use.

The project was advertised on June 6, 2016. Bids were opened on July 6, 2016, with the following results:

Bidder	Base bid
Abbot Construction	$817,099
Carolina Cornerstone	$726,026
H&M Constructors	$898,000

Pros:

- Confirms investment in community revitalization of historic structures in Asheville.
- Replaces an otherwise unusable structure for public purposes.
- Provides public restrooms, interior programmable space for public and artists use, and open space interaction with the city's natural resources.

Con:

- Project management, contract administration, and other staff and budget resources will be consumed that could be used on other City priorities.

Based on revised estimates, the project budget needs to be increased by $312,939 to a new budget of $933,620. This project is funded with a mixture of Tourism Product Development Fund grant funding ($415,000) and debt proceeds. The budget amendment of $312,939 will be fully funded with additional debt proceeds. With the additional debt being financed over a twenty-year amortization period, the estimated increase in annual debt service will be approximately $32,000.

City staff recommends that City Council adopt a resolution awarding the contract to Carolina Cornerstone construction Inc, for the amount of $724,980.00 plus contingency and approve a budget amendment of $312,939 in order to fully fund the construction project.

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ORDINANCE BOOK NO. 30 - PAGE 381

N. RESOLUTION NO. 16-179 - RESOLUTION AUTHORIZING THE CITY MANAGER TO AMEND THE CONTRACT WITH DR. J. PAUL MARTIN (D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA) FOR PHYSICIAN SERVICES

Summary: The consideration of a contract amendment extending the current physician services for the Employee Health Center on a month-to-month basis for a period not to exceed six months and a value not to exceed $60,000.

In July of 2015, Council authorized a twelve-month contract for physician services at the Employee Health Center to be provided by Dr. J. Paul Martin, MD, DBA Asheville Addiction Consultants, PA. The services were to be performed on an hourly basis at a rate of $190.00 per hour. The maximum contract value was $120,000 over twelve months.

A Request for Proposals (RFP) is being issued the week of July 18 to solicit offerings from physicians or physician practices to provide professional services at the Employee Health Center. The current timeline indicates the procurement should be ready for Council review by September 27 with implementation of the new service agreement in October.

While the procurement is in process, it is necessary for physician services to continue at the Employee Health Center. The existing service provider is available to provide physician

services at the current service level and at the current hourly rate. The contract terms indicate the agreement may be terminated with thirty days prior written notice, which has the effect of a month-to-month agreement. The proposed contract amendment would allow up to six months in case of any delays in the implementation of a new service agreement.

Pros:

- Maintains the current service level at the current hourly rate;
- Provides time for the orderly procurement of a physician or physician practice to provide long-term professional services; and
- Allows cancellation of existing services to coincide with implementation of new contract.

Cons:

- None identified.

Funding for physician services is included in the approved FY17 Health Insurance Fund budget, and the proposed expenditures are within the existing budget.

City staff recommends that City Council authorize the City Manager to execute an amendment extending the current physician services contract for a period not to exceed six months and a value not to exceed $60,000.

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O. RESOLUTION NO. 16-180 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT, BY DONATION, EASEMENTS OF REAL PROPERTY FOR THE STORMWATER IMPROVEMENTS ALONG PATTON AVENUE, PEARL STREET AND HILLIARD AVENUE

Summary: The consideration of a resolution authorizing the City Manager to accept, by donation, easements of real property for the stormwater improvements located along Patton Avenue, Pearl Street and Hilliard Avenue.

The City of Asheville's Stormwater Division has been working with Delray at Patton Avenue, LLC, on a public private partnership for stormwater improvements. City Council approved the public private partnership on March 22, 2016.

This work includes installing a new storm drainage system, beginning on Patton Avenue to the intersection with Pearl Street, traveling down Pearl Street where it will cross through what is now private property to Hilliard Avenue, where it will end at the connection with an existing storm drainage system on Hilliard Avenue. The original plan was to install the drainage system within the existing public right of way. As the design team has continued their efforts while working closely with City Staff, they have found that the most constructible and cost effective solution is to install a portion of the drainage system across private property, requiring additional stormwater easements. The easements are to be donated by the private partner to the City. As part of the public private agreement, Delray at Patton Place is required to obtain the necessary stormwater easements which will be granted directly to the City and meet the usual City requirements for such easements. Three easements will be granted to the City: an easement from Claude DeBruhl to the City for an area consisting of approximately 2,657 SF; an easement from Claude and William DeBruhl to the City for an area consisting of approximately 2,416 SF; and an easement from Cope Street Complex, LLC to the City for an area consisting of approximately 4,640 SF.

Pros:

- The necessary easements are to be acquired by the development partner and granted to the City at no cost.

- If approved, the construction team would be able to expedite the construction of the new pipe, minimizing future damage to properties.
- Pearl Avenue currently has minimum storm drainage infrastructure and this project will allow new drainage infrastructure to be installed.
- This project will maximize city's stormwater funding to allow for more infrastructures to be installed through this public private partnership.
- This project would complement previously identified stormwater infrastructure needs.

Cons:

- None noted, this public-private stormwater improvement project has already been approved by the Council and the acceptance of these easements will facilitate this process.

No fiscal impact, as Delray at Patton Avenue expects to grant the easement at no cost to the City.

City staff recommends that the City Council approve a resolution authorizing the City Manager to accept, by donation, easements of real property for the stormwater improvements located along Patton Avenue, Pearl Street and Hilliard Avenue.

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P. RESOLUTION NO. 16-181- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH H&M CONSTRUCTORS TO PROVIDE DESIGN SERVICES FOR THE PARKS MAINTENANCE FACILITIES RELOCATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to enter into a design-build contract with H&M Constructors for the design phase of the Parks Maintenance Relocation project, and to execute any change orders within the budget, in the amount of $151,840 plus a contingency of $30,368 for a total of $182,208.

In support of the reuse of property owned by the City of Asheville (City) for affordable housing initiatives, the Parks Maintenance facilities and operations currently at 338 Hilliard Ave will be relocated. The City-owned property at 75 Shelburne Road, the "Old Armory Site" previously owned by the National Guard, was selected as a workable location for the Parks Maintenance operations.

The site currently houses or serves a number of other City functions including Facility Maintenance, Public Works, and various APD functions. The intent of this site selection was to consolidate City functions at the Armory, and to provide a cost effective intermediate location for Parks Maintenance. A long-term strategic assessment will be determined after the Facilities Asset Master Plan is performed.

Additional facilities and site work are required to accommodate Parks Maintenance functions. The plan includes a 6,000 square foot, pre-engineered building that will provide workspace for equipment maintenance and storage, offices, workshops, and other support functions needed for the staff to perform their day to day tasks. The design, which will meet all City and North Carolina building and zoning codes, will take into consideration the best use of space and resources for all the staff at the site, and will work to maximize logistical flow given the site's layout and topography.

In support of the City's commitment to sustainable practices, the building will be designed and constructed based on industry standard practices for energy efficiency. Additionally, as this

will be a new City-owned building greater than 5,000 square feet, it will be designed, contracted and built to achieve the LEED™ 'Gold Certification' level. This standard is consistent with City Council resolution 07-91, adopting Leadership in Energy and Environmental Design (LEED™) Standards. On 3/15/16, the City Manager approved the use and design build method for this project in accordance with the design build criteria and requirements adopted in City Council resolution 15-45 approved by council on 2/23/16.

A request for qualifications (RFQ) was issued for a design-build delivery method on April 12th, and reissued on May 5th with H&M Constructors submitting a statement of qualifications.

Pros:

- Clears the City-owned property at Hilliard Ave for planned development for affordable housing.
- Provides new energy efficient facilities for employees to work and operate.

Con:

- None

The funds required for this design project are budgeted in the Capital Improvement Program for FY 2016-17.

City staff recommends that City Council adopt a resolution awarding the contract to H&M constructors, in an amount not to exceed $182,208.00, for the Parks Maintenance Relocation project.

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Q. RESOLUTION NO. 16-182 - RESOLUTION AMENDING THE 2016 CITY COUNCIL MEETING SCHEDULE

Summary: The Asheville City Council (1) will schedule a formal meeting on September 6, 2016, beginning at 5:00 p.m. in the Council Chamber, located on the 2nd Floor of City Hall; and (2) cancel the September 13, 2016, formal meeting.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilwoman Mayfield and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

I. RESOLUTION NO. 16-174 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A MULTI-YEAR GENERAL SERVICES AGREEMENT WITH MILLS RIVER PARTNERSHIP INC. TO PARTIALLY FUND PROJECTS DIRECTED RELATED TO WATER QUALITY PROTECTION AND/OR IMPROVEMENT IN THE MILLS RIVER WATERSHED

Councilwoman Mayfield recused herself from participating in this matter due to a conflict of interest.

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Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement for the entire agreement with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of $180,000.00 over three (3) fiscal years contingent upon funding each year.

On November 12, 2013, City Council authorized a three year agreement between the City of Asheville Water Resources Department (Department) and the Mills River Partnership (MRP) for a not-to-exceed amount of $180,000 ($60,000 per fiscal year) to provide financial support of projects intended to protect and/or improve water quality in the Mills River Watershed. The Department desires to continue to partner with the MRP to help fund water quality projects in the Mills River Watershed. Staff requests Council consideration of a new three year agreement with MRP.

The City of Asheville (City) has an ongoing interest in watershed management. Water quality in the upper watershed continues to be excellent and overall water quality indices have improved during the past 10 years. The strategy now is to focus on efforts to protect and improve water quality. Funding initiatives are to be considered with an understanding of their long-term impact on water quality.

The proposed agreement is reflective of the commitment of the City and Department to financially support projects that are directly related to water quality protection and/or improvement. These activities include selection and installation of Best Management Practices to control contamination of the river from storm runoff, and educational materials and activities. The suggested level of participation is an amount up to $60,000 per fiscal year (approximately $0.01 per CCF system-wide) for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

The level of recommended funding is up to $60,000 per fiscal year for a maximum of three fiscal years with the understanding that funding is project-specific and subject to the appropriation of funds.

Pros:

- Opportunity to partner with the Mills River Partnership to strategically address areas of concern in the Mills River watershed.
- Funding from the City could make some water quality projects feasible for farmers and local landowners.
- Funding from the City could support public education efforts related to water quality protection.
- Projects in the watershed could improve source water and drinking water quality.
- The Department supports efforts to maximize benefits to water quality.

Con:

- If the City does not participate in the funding of specific water quality projects, these projects may not occur and there could be potential negative impacts on water quality.

Any expenditure in the Mills River watershed is subject to review by Department staff. The full amount needed for the three year agreement is currently allocated within the Department's Operating Fund for Fiscal Year 2016-17. The total not-to-exceed contract amount of $180,000 will be encumbered upon City Council approval, even though the MRP will only be allowed to request a not-to-exceed amount of $60,000 per fiscal year for the next three years.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a multi-year general services agreement for the entire agreement with the Mills River Partnership, Inc., for the Mills River Watershed Best Management Practices project for a not-to-exceed amount of $180,000 over three (3) fiscal years contingent upon funding each year.

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-174. This motion was seconded by Councilman Bothwell and carried unanimously on a 6-0 vote, with Councilwoman Mayfield recused from voting.

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III. PRESENTATIONS & REPORTS:

A. UPDATE ON HOMESTAY PERMITTING PROGRAM

Director of Development Services Jason Nortz said that this report is an update on the Homestay Permitting Process enacted via a wording amendment that was adopted on November 17, 2015. The data in this report spans a time frame from November 18, 2015 to July 1, 2016.

Due to strong demand for homestay lodging, City Council passed a text amendment to Section 7-16-1(c)(9) to modify the requirements for a Homestay. Some of the changes to the requirements are as follows:

- The removal of a 500-foot separation requirement (between homestays)
- The removal of the minimum home size requirement of 2,500 sf.
- The removal of the need for additional off-street parking
- The removal of the requirement to provide a morning meal
- Only one homestay shall be permitted per lot
- Provisions requiring appropriate insurance
- Provisions for a required annual inspection
- Requirement that a maximum of no more than two (2) bedrooms be used for the homestay.
- Expansion of the zoning districts where homestays may be permitted as a use by right or use by right subject to special standards.

With these and other smaller changes, a Homestay shall:

- Be operated by a full time resident of the property
- The full time resident must be present when guests are present
- Meet all applicable life safety codes
- Exist as the only homestay on the parcel
- Provide all proper insurance policies
- Pay all applicable taxes.

Applications for approval of a Homestay are submitted to and reviewed by the Development Services Department (DSD).

The DSD began receiving applications for Homestay permits under the new provisions on November 18, 2015. Through July 1, 2016, there have been 93 applications submitted for the Homestay permits. The properties subject to these applications have been primarily focused within a few neighborhoods. He showed Council a map of the homestay applications.

When the March update was made, the majority of the properties for which a Homestay use was desired were located generally in the area known as "North Asheville". As the map above shows, Homestay permits have been trending to areas west and east of downtown Asheville as well as north. The table below (figure two) contains further information related to Homestay permitting thus far.

Number of Applications Submitted	**93** ⇧
Number of Permits Issued	**81** ⇧
Average Total Home Size	**1,987 sf** ⇩
Average Homestay Area Size	**274 sf** ⇩
Average Percentage of Total Home Size	**15%** ⇔
Average # of Bedrooms	**1.5** ⇔
Average Age of Structure	**65 years** ⇩
Homestays Providing Off-Street Parking	**76%** ⇧

Homestay Data Through 7.1.2016. Arrows Indicate Change From March 2016 Report.

Along with amending the requirements for homestays, the City hired a fulltime staff member for enforcement and increased the fines for violations. At the onset of the new regulations, there were also several ongoing enforcement cases that now had the opportunity to convert to legal Homestay uses through the permitting process. Prior to the adoption of the Homestay amendment, there were over 50 existing short-term rental violations. Roughly 22 percent have come into compliance through the Homestay permitting process. Since the adoption of the changes to the Homestay Ordinance, the City has opened 68 cases that have resulted in active enforcement for violation of the Homestay Ordinance or operation of a short-term rental where it is prohibited by zoning district.

Since the March homestay update was presented, city staff has focused on proactive enforcement which is based upon official observation in addition to complaints. Of the 68 total enforcement cases that have occurred since November, 49% of them have been proactively initiated through City staff investigations. The attached exhibit 4 shows the count of the resolution and status of those opened enforcement cases.

Through the administration of the revised permitting program, staff has encountered many different scenarios through homestay applications and enforcement. Included among these concerns are:

- Adaptation of rental listing websites by actions such as the removal of all location identification information from advertisements;
- Possible false representation of residency;
- Floorplans not representing legally permitted building work;
- Accurately identifying livable space and unit separation; and
- Continuing press and recognition of the value of the short-term rental market in Asheville.

Staff will continue to explore ways to more proactively enforce short-term rental violations as well as look at other ways to enhance the efficiency of the program. The next 4 month update will be in November.

When Councilwoman Mayfield asked how staff is working to address their concerns, Mr. Nortz said that City Council has approved additional resources for homestay permitting and enforcement in the form of 1 ½ full time employee position and associated supplies such as vehicles and computers. In addition, staff is looking at third-party vendors for pro-enforcement.

B. UPDATE ON MAYOR'S DEVELOPMENT TASK FORCE

Director of Development Services Jason Nortz said that in 2009 the City of Asheville created the Development Services Department (Department). The primary purpose of the Department was to create a one stop-shop to help streamline the permit process, improve communication, and create more accountability. In the summer of 2014 the Mayor established the Development Task Force (Task Force). The primary purpose of the Task Force was to identify the most significant barriers to the development process and to make recommendations for improving sound growth and development in the City of Asheville.

Beginning in September of 2014, the City hosted a task force designed to review and discuss challenges associated with developing in the City of Asheville. The group of 23 stakeholders met once a month for four months and identified numerous issues commonly experienced during the development process. In March of 2015 staff from the Development Services Department (DSD) presented the outcomes of that process to City Council.

He reported that there have been numerous accomplishments since staff last provided City Council with an update in March of 2015. The most notable accomplishment which has helped guide staff and establish a level of accountability has been the formation of the Development Customer Advisory Group (DCAG) in September of 2015. The primary purpose of the DCAG is to discuss strategies for implementation of the Task Force recommendations. The DCAG is comprised of 12 stakeholders that meet with DSD staff once a month to review progress, provide input and make recommendations for moving forward. Included as a goal of the DCAG was to provide the Planning and Economic Development Committee with status updates every 6 months. It's worth noting that two of the stakeholders that were on the Task Force are also part of the DCAG.

In addition to the list of recommendations provided by the Task Force the DCAG provided staff with a list of key areas for improvement based on their experiences with the development process. Key areas identified included:

- Fast track process for professionals
- "Can do" attitude
- Better defined processes/checklists
- More online submittals
- Improved communication

The work of the DCAG helps to focus current and future actions, helps identify what resources are needed and works with staff to establish realistic timelines for implementation. He provided Council with a spread sheet which identifies the Task Force recommendations and level of priority. Areas identified as "high" priority included:

1. Simplifying/expediting the submittal and review process
    - Offering formalized early assistance
    - Expanding options for on-line submittals
    - Looking at opportunities for expedited submittals and reviews

2. Improving communication between departments, and between customers and staff
    - Improve permitting system to communicate project status
    - Develop consistency meetings between departments
    - Explore options for sharing/posting valuable information

3. Improving the delivery of our service
    - Implement an electronic lobby queuing system

- Improve permitting system to simplify permit numbers
- Expand hours of operation

Staff has been primarily focused on addressing the "high" priority tasks within the last year. Emphasis has been placed on these efforts due to their overall impact on the efficiency and effectiveness of the services we provide. The following notable accomplishments, which align with the high priority tasks identified above, have been completed in the last year:

1. Expanded hours of operation to a 5 day work week
2. Implemented a formalized Early Assistance Program
3. Implemented a lobby queuing system
4. Numerous Accela Phase II improvements
    a. Created master permit #
    b. Added 5 more permits available for online application (14 total permits)
    c. Automated warning delivered to applicant 2 weeks prior to permit expiration
5. Created a Drop-Off Line to reduce lobby wait times
6. Communication improvements
    a. Formed the Development Customer Advisory Group
    b. Hired office assistant for purposes of answering calls/voice mails/scheduling inspections
    c. Created Planner of the Day phone line for specific land use related questions
    d. Regularly work with Community and Public Engagement Division on press releases to update our customers
7. Improved payment process/online payment option

In addition to tackling the high priority items numerous lower level priority tasks have been completed and are provided in the attached Status Report. Progress is still needed and DSD will continue to work on addressing the recommendations of the Task Force. Efforts will continue to be placed on higher priority items such as:

1. Electronic document review/digital submittals
2. Website upgrades
3. Improved communication/processes with outside agencies (MSD, Air Quality, etc...)
4. Increased consistency on city processes, requirements and deadlines
5. Fee study
6. Online fee estimating tool

This report is being provided as an informational update.

In response to Councilman Smith, City Manager Jackson said that he will provide Council with an update regarding more coordination and communication tools available for neighborhoods to participate in the processes.

In response to Councilman Bothwell, Mr. Nortz said that costs are not increased because even though the building was only open for days for the public, staff worked five days. City Manager Jackson said that there were carbon savings with the 4-day workweek. The real benefit of expanding to five days is to even out the work flow. With the continued pressure of activity and turn-over, maintaining staffing will continue to be the priority to adequately turn around the reviews and to conduct inspections.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER LAND USE INCENTIVE GRANTS FOR SMITH MILL PLACE (BIOTAT LLC)

RESOLUTION NO. 16-183 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR SMITH MILL PLACE (BIOTAT LLC)

Assistant Community & Economic Development Director Jeff Staudinger said that this is a public hearing to consider approving a land use incentive grant for Smith Mill Place (Biotat LLC). This public hearing was advertised on July 15, 2016.

The developer of Smith Mill Place, Biotat LLC, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015.

Biotat LLC, represented by Ward Griffin, seeks to develop a 3.71 acre site, located at 29 Oak Hill Road. The developer estimates a total development cost of $6.95 million. The project consists of 72 residential rental apartments (36 one-bedroom units, and 36 three-bedroom apartments) in three, three story buildings.

The project meets the following Eligibility Requirements:

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing - The proposed project will provide 36 units affordable to households at 60% or less of median income, and the developer has committed to more than the minimum affordability period of 15 years (see Long-Term Affordability, below). The project qualifies for 60 points.

Workforce Rental Housing - The proposed project will provide 36 units (the remainder of the units) for households earning 100% of less of median income (this has been verified with the developer, who indicated 120% of median income in the application), for a period of 20 years. The project qualifies for 15 points.

Superior locational efficiency - The proposed project is within .25 mile of an existing bus-stop served by one-half hour ART transit frequency. The project qualifies for 10 points.

Long term affordability - The proposed project will be committed to serving households at the designated rental rates for a period of 20 years. This qualifies the project for 10 points.

Staff has scored the project with 95 points, and the developer agrees with that scoring. The project qualifies for a Nine and One-Half Year (9.5) Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined.

Pros:

- The proposed project will provide affordable rental housing to 60 households earning 60% or less of area median income, for a period of at least 20 years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

Estimated value of Land Use Incentive: The current assessed value of the property is $243,100. The developer's estimate of completed project taxable value is $6,949,313. The current annual city tax, based on current assessed value, is $1,154.73. The annual estimated city tax post completion, based on the developer's estimate of value is $33,009.24. Therefore, the estimated annual Land Use Incentive Grant would be $31,854.51, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 9.5 years, the estimated Grant would be $302,617.86. The subsidy per affordable and workforce unit would be $4,203. The subsidy amount per affordable and workforce unit/year would be $210.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $162,000. The value of each 10% of the fee rebate would be $16,200. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 95 point level, the fee rebate would be $153,900, which is $2,138 per unit. Therefore, the total LUIG grant per unit is estimated at $6,341.

Staff recommends that Council approve the request of Biotat, LLC for a 9.5 year Land Use Incentive Grant.

Mayor Manheimer opened the public hearing at 5:31 p.m. and when no one spoke, she closed the public hearing at 5:31 p.m.

Councilman Smith thanked those involved in helping the Land Use Incentive Grant Program work better for the community and for builders.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-183. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER APPROVING A SIGN PACKAGE FOR INGLE'S MARKETS INC. FOR THE PROPERTY LOCATED AT 863 BREVARD ROAD

Principal Planner Shannon Tuch said that this is the consideration of approving a sign package for a newly reconstructed Ingle's grocery store and various ancillary use(s) located at 863 Brevard Road. This public hearing was advertised on July 15 and 22, 2016.

The subject property consists of a single parcel, 8.06 acres in size, located at 863 Brevard Road, across Brevard Rd. from the entrance to the Asheville Outlets. The parcel is

zoned Regional Business (RB) and is surrounded by a mix of uses and zoning but which is predominately commercial with some low density residential. The site is mostly flat with very good visibility from the main corridor. There is some significant topography at the rear (west end) of the property where retaining walls and graded slopes transition up to the residential neighborhood behind the site.

The applicant, Ingles Markets Inc. is requesting special consideration for a comprehensive signage plan for the new store and gas facilities as allowed per *Unified Development Ordinance* (UDO) Sec. 7-13-10. *Signage Plan.* The signage plan request is associated with the Level II approval for the construction of a new 70,000 square foot Ingle's store with gas facilities to be built where an older store had previously stood. The Level II project was approved in September of 2015 and construction work is nearing completion.

The UDO classifies the Ingles development on Brevard Rd. as a multi-tenant development and all multi-tenant developments are afforded a single free-standing development or joint identification sign and individual, attached signage for each individual business within the development. In lieu of these basic allowances, this signage plan seeks to have two separate free-standing signs along with a variety of attached signage on both the grocery store and the gas/convenience store buildings.

The following tables provide information on each of the signs that has been requested as well as what is normally allowed and to what extent the request exceeds the normal standard.

Attached Signs - Brevard Rd. Ingles (grocery store building)

SIGNS REQUESTED	PROPOSED SIZE	WHAT IS ALLOWED	AMOUNT EXCEEDED
Sign #1 – "Beer & Wine"	22 s.f.	One attached tenant sign at a rate of 1 s.f. per 1 linear foot of building face for each separate business, not to exceed 200 s.f. The main store is a single tenant and has 324 linear feet which would support a single 200 s.f. sign.	Total square footage of front elevation signage is 403 s.f. when dead space is excluded and exceeds allowance by 203 s.f.
Sign #2 – "Rx Drive-Thru"	14 s.f.		
Sign #3 – "American Owned"	45 s.f.		
Sign #4 – "ingles"	257 s.f.		
Sign #5 – "Fresh Foods"	37 s.f.		
Sign #6 – Starbuck's Logo Sign	20 s.f.		
Sign #7 – "Café"	8 s.f.		

Attached Signs – Brevard Rd. Gas Express

SIGNS REQUESTED (GAS CENTER)	PROPOSED SIZE	WHAT IS ALLOWED	AMOUNT EXCEEDED
Front Elevation			
Sign #1 - "Gas Express" on canopy	33 s.f.	One attached tenant sign at a rate of 1 s.f. per	Total square footage of front elevation signage is

Sign #2 – gas price panels on canopy Sign #3 – "Gas Express" on kiosk	39 s.f. 13.6 s.f.	1 linear foot of building face for each separate business, not to exceed 200 s.f. The gas station is a single tenant and the canopy has 154 linear feet which would support a single 154 s.f. sign **note: dead space between signs is normally included*	85.6 s.f. and falls within allowance when dead space is excluded; however, the total number of signs exceed the single sign normally allowed.
Side Elevations Sign #1 - "ingles" on right side canopy Sign #2 - "ingles" on left side canopy	21.5 s.f. 21.5 s.f.	One secondary tenant id sign at a rate of 1 s.f. per 3 linear feet. Side elevations are 24 linear feet and would allow a single 8 s.f. sign	Only one secondary sign permitted (2 proposed) Each canopy sign exceeds allowance by 13.5 feet and two signs are proposed where only one would normally be permitted

Free-standing Monument Signs - Brevard Rd. Ingles & Gas Express

SIGNS REQUESTED	PROPOSED SIZE	WHAT IS ALLOWED	AMOUNT EXCEEDED
Sign #1 - "Gas Express" monument Sign #2 – "ingles" monument sign	95.5 s.f. 15' tall 200 s.f. 25' tall	One free-standing joint identification sign (aka "multi-tenant sign") at a maximum of 200 s.f. and 25 feet tall	Only one free-standing identification sign is allowed (2 proposed). Either sign falls within the allowance but combined they exceed by 100 s.f.

Past Proposals – Four separate signage plan requests, plus one amendment, have been made by Ingles Markets, Inc. in the past with varying success. A summary of those requests are as follows:

Address	Date	Description	Result
1865 Hendersonville Rd. (Skyland Ingles)	9/25/07	Main Store: 7 attached signs; 178 s.f. free-standing sign Gas Express: 3 attached signs; 144 s.f. free-standing sign	Approved unanimously (Reduced Gas Express sign to 125 s.f.)
85 Tunnel Rd. (Tunnel Rd. Ingles)	9/25/07	Main Store: 6 attached signs (no Starbucks); 178 s.f. free-standing sign Gas Express: 3 attached signs; 144 s.f. free-standing sign	Approved unanimously (Reduced Gas Express sign to 125 s.f.)

85 Tunnel Rd. (Tunnel Rd. Ingles)	11/23/07	Adds 16 s.f. Starbucks sign to package	Approved
1141 Tunnel Rd. (Oteen Ingles)	6/23/09	Adds 16 s.f. attached Starbucks sign	Denied, motion fails 3:3
153 Smokey Park Highway (Smoky Park Ingles)	2/22/11	Main Store: 6 attached signs; 180 s.f. free-standing sign Gas Express: 3 attached signs; 112 s.f. free-standing sign	Approved 5:2 (combined with CZ request)

In review of staff notes and meeting minutes, the support expressed included the need for more flexibility within the code for large retailers with large store fronts but was balanced by concerns for over-branding, unnecessary advertising, lack of creativity and the potential for setting an undesirable precedent.

Required Reviews – Per UDO Sec. 7-13-10(4) a request for a signage plan is scheduled for council consideration without review by other bodies. As described in the UDO, the city council shall take the following matters into consideration when reviewing a proposed signage plan:

a. *The extent to which the proposed signage plan deviates from the sign allowances otherwise applicable in this article.*
b. *The rationale provided by the applicant for the deviations.*
c. *The extent to which the signage plan promotes city goals for way-finding, pedestrian-orientation, and business identification.*
d. *The degree to which the signage plan creatively and effectively addresses the issues and constraints unique to the site with regard to signage.*

In addition to the above, UDO Sec. 7-13-10(1) states the purpose of allowing the consideration of a separate signage plan, which is as follows:

The purpose behind this section is to permit creativity in sign design and placement to address site issues and constraints associated with topography, pedestrian-orientation, way-finding and other conditions unique to the subject development.

The applicant has submitted a cover letter outlining their reasons for the request and how they feel that they satisfy these standards.

The Asheville City Development Plan 2025 does not directly address business signage, however, the goal for attractive and effective business identification is related to Land Use and Transportation goals for attractive streetscapes and to Economic Development goals that support business growth and development.

As with the city's comprehensive plan, the Asheville City Council's Vision Goals do not directly address business signage, however, the goal for a Thriving Local Economy and a Well-Planned and Livable Community both have elements related to this request such as supporting local business and allowing for creativity and flexibility in business identification.

Considerations:
Overall:

- The overall project design is suburban in nature and site is located on an urban highway (NC 191).
- Site is flat and has good visibility from the corridor.
- Grocery store is 320 feet from Brevard Rd.; Gas station is 70 feet from Brevard Rd. Both structures are located on the same parcel.

- Proposed signage plan incorporates elements of both single-tenant and multi-tenant sign allowances and exceeds what would be allowed under either scenario.
- This site has two tenants – the ingles grocery market and the ingles gas express. Starbuck's and Chop Stix are not classified as separate tenants.
- The state of NC (Department of Agriculture) requires gas stations to post gas prices.

Attached signs:

- Larger signs are designed to be visible from the road. Faster speeds require larger letters for readability.
- Much signage is trademarked, which allows for faster recognition without requiring reading.
- Smaller signs (on main store) would not be legible from Brevard Rd. and advertise services and products.
- Proposed signage plan incorporates elements of both single-tenant and multi-tenant sign allowances and exceeds both.
- Space between letters on the large attached "ingles" sign could be reduced to reduce overall size.
- "Beer & Wine" attached sign is new and not previously included in sign package requests.

Free-standing signs:

- Multi-tenant free-standing signs are larger than single tenant free-standing signs (200 s.f. versus 125 s.f.) in order to accommodate signage for multiple tenants; Free-standing signs could be combined to reduce sign structures.
- Both free-standing signs include changeable copy panels and are duplicative in purpose.
- Monument signs have mass (square footage) not included in the sign area calculations.

Based on the nature of the activities occurring on the property, the surrounding site context on the commercial corridor, and other technical and non-technical considerations outlined by the applicant, consideration of some special allowances may be warranted; however, the extent of the request may exceed what is reasonable or necessary and could be improved. Staff recommends that the applicant take more time to consider the minimum necessary to accomplish their goals and employ more creative techniques for identification that minimizes advertising/ branding. As an alternative, Council may choose to approve the plan with or without specific conditions.

When Vice-Mayor Wisler asked if this Ingle's sign package request is pretty consistent with their other sign package requests, Ms. Tuch said that this request is similar; however, this is incrementally a little larger and more than some of the past Ingle's requests.

Councilman Bothwell will vote against this as he has others in the past. We have a sign ordinance to regulate signs and everyone should adhere to it. He didn't think that anyone would turn in at the Ingle's monument sign and miss the store.

When Councilwoman Mayfield asked if Council regularly makes sign ordinance exceptions for other businesses, Ms. Tuch said that the Ingle's applications have been a little unique as there have been more of them. There is no other signage plan applicant that has submitted more than one request. There have been a instances of larger campus-like environments, e.g., hospital, airport, etc. Staff doesn't get a lot of signage plan requests - maybe 5-6 since adopted in 2008 or 2009.

Councilman Smith understands that Ingle's is a valuable community partner, but it's hard to justify this because if another grocery provider comes in and requests a similar exception it puts Council in a difficult position. He would prefer staff work with Ingle's to figure out how in the

future the can come into compliance and not have to go through this every time another store wants signage.

When Councilwoman Mayfield asked if other grocery stores come in and ask for exceptions, Ms. Tuch said that it is fairly common for people to ask for exceptions at the Board of Adjustment, but those exceptions are based on physical constraints and hardships that make regular compliance impractical. This process allows consideration beyond physical hardships.

A representative on behalf of Ingles, but employed by Rainbow Sign Company, felt that Ingle's is not asking Council to do something for them that Council wouldn't do for someone else. He said that there are challenges when you have a store Ingle's size and what they offer the citizens and tourists of this area. He pointed out how Ingle's complies with the 2036 Council Vision. He stressed that with the amount of traffic on Brevard Road, they need a sign that can be recognized at a glance. They are trying to do effective communication. He asked Council for their support.

Mr. Preston Kendall, representing Ingle's Markets, said that this store sits off the road and there are conditions in place that if you are heading south on Brevard Road there is motel and you can't see Ingles until you are past the motel. He explained how the other signs are directional signs. He felt that when the ordinance was written, no one was building a 72,000 sq. ft. grocery store. He said that this signage is small compared to what would be allowed if this were a strip shopping center. He then explained the need of each sign, noting it's about visibility and what people can see from the roadway.

Mayor Manheimer opened the public hearing at 6:03 p.m. and when no one spoke, she closed the public hearing at 6:03 p.m.

Since Vice-Mayor Wisler felt that this request is excessive, she moved to continue the sign plan request for Ingles Markets Inc. located at 863 Brevard Road until September 6, 2016, in order for Ingle's to work with City staff and try to come into closer compliance with the sign ordinance. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Haynes voting "no."

Mayor Manheimer noted that if Ingle's comes into compliance with the sign ordinance, they will not have to come back to Council.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. GENERAL OBLIGATION BOND REFERENDUM

BENCHMARK STUDY RESULTS

Mr. Tige Watts, representing Campaign Research and Strategy, provided Council with the benchmark study results. He reviewed the background and methodology, noting that 403 telephone surveys were conducted with registered voters between the evenings of June 29 and July 1, 2016. The representative sample was randomly selected with respect to voter registration records of the County and are reflective of the turnout from the November 2012 election. The margin of error for this study is 4.9% at a confidence interval of 95%. He then reviewed all the questions posed, and in summary, at this snapshot in time, there is clear indication there is support for all three bond issues. He said that he believed this is one of the strongest baseline for bond packages in quite some time.

Director of Finance and Management Services Barbara Whitehorn said that this is consideration of adoption of resolutions authorizing staff to proceed with the necessary action to conduct a general obligation bond referendum on November 8, 2016.

Adoption of resolutions to conduct a $74,000,000 general obligation bond referendum on November 8, 2016. The referendum includes $32,000,000 of transportation bonds, $17,000,000 of park improvement bonds, and $25,000,000 of housing bonds. The statutory requirements for the legal process include applying to the Local Government Commission (LGC) for approval, holding a public hearing on the proposed bond orders, setting of the special referendum, and certification of the results. The LCG application was timely submitted on July 18, 2016.

The current action is the second of four City Council actions. This second action will specifically authorize:

- Introduction of the bond orders:
  $32,000,000 transportation bonds
  $17,000,000 park improvement bonds
  $25,000,000 housing bonds
- Adoption of a resolution regarding bond orders authorizing the issuance of above mentioned bonds and setting public hearings on the bond orders.

Next Steps:

- On August 9, the City Council will be asked to hold a public hearing on each of the bond orders, approve the bond orders (including the form and language of the ballot), and set a special bond referendum.

- After November 8, the City Council will be asked to adopt a resolution certifying and declaring the results of the special bond referendum. This action will occur after the Buncombe County Board of Elections certifies the results of the vote.

Pros:

- Provides funding for transportation, parks and housing needs as identified in City master plans and Council strategic goals.
- Ensures City's compliance with North Carolina General Statutes.

Con:

- None.

A general obligation bond commits the full faith and credit of the City of Asheville to repayment of the bonded debt. Additional tax levy may be required to fund the debt service over the life of the bonds.

Staff recommends that Council adopt the resolutions authorizing staff to proceed with the necessary action to conduct a general obligation bond referendum on November 8, 2016.

Mayor Manheimer then introduced the following thee bond orders and the resolution of the City of Asheville, North Carolina, regarding Bond Orders authorizing the issuance of $32,000,000 General Obligation Transportation Bonds, $25,000,000 General Obligation Housing Bonds and $17,000,000 General Obligation Parks and Recreation Bonds, and setting a public hearing thereon and directing publication of a notice of said public hearing.

BOND ORDER AUTHORIZING THE ISSUANCE OF $32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Asheville, North Carolina (the "*City Council*") has ascertained and hereby determines that it is necessary to pay the capital costs of constructing, reconstructing, enlarging, extending and improving certain streets, including streets and roads constituting a part of the State highway system or otherwise the responsibility of the State and including the cost of related studies, streetscape and pedestrian improvements, relocation of utilities, plans and design; acquiring, constructing, reconstructing, widening, extending, paving, resurfacing, grading or improving streets, roads, intersections, pedestrian and bicycle paths; acquiring, constructing, reconstructing or improving sidewalks, curbs, gutters, drains, bridges, overpasses, underpasses and grade crossings and providing related landscaping, lighting and traffic controls, signals and markers; acquiring, constructing, extending and improving greenways, providing related landscaping, retaining walls, storm drainage and any other necessary improvements; and the acquisition of land and rights-of-way in land required therefor; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the General Obligation Transportation Bonds hereinafter described as required by the Local Government Bond Act, and the City Clerk has notified the City Council that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville, North Carolina, as follows:

Section 1. In order to raise the money required for the purposes described above, in addition to any funds which may be made available for such purpose from any other source, General Obligation Transportation Bonds of the City are hereby authorized and shall be issued pursuant to the Local Government Finance Act of North Carolina. The maximum aggregate principal amount of such General Obligation Transportation Bonds authorized by this order shall be $32,000,000.

Section 2. A tax sufficient to pay the principal of and interest on said General Obligation Transportation Bonds when due shall be annually levied and collected.

Section 3. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 4. This bond order shall take effect when approved by the voters of the City at a referendum scheduled for November 8, 2016.

BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION HOUSING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Asheville, North Carolina (the "*City Council*") has ascertained and hereby determines that it is necessary to pay the capital costs of acquiring, constructing, developing, equipping and furnishing housing projects for the benefit of persons of low income, or moderate income, or low and moderate income, including without limitation loans, grants, interest supplements and other programs of financial assistance to persons of low income, or moderate income, or low and moderate income, and developers of housing for persons of low income, or moderate income, or low and moderate income, and construction of infrastructure improvements related thereto, and the relocation of City facilities to make land available for the construction of housing for persons of low income, or moderate income, or low and moderate income, and the acquisition of land and rights-of-way required therefor; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the General Obligation Housing Bonds hereinafter described as required by the Local Government Bond Act, and the

City Clerk has notified the City Council that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville, North Carolina, as follows:

Section 1. In order to raise the money required for the purposes described above, in addition to any funds which may be made available for such purpose from any other source, General Obligation Housing Bonds of the City are hereby authorized and shall be issued pursuant to the Local Government Finance Act of North Carolina. The maximum aggregate principal amount of such General Obligation Housing Bonds authorized by this order shall be $25,000,000.

Section 2. A tax sufficient to pay the principal of and interest on said General Obligation Housing Bonds when due shall be annually levied and collected.

Section 3. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 4. This bond order shall take effect when approved by the voters of the City at a referendum scheduled for November 8, 2016.

BOND ORDER AUTHORIZING THE ISSUANCE OF $17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

WHEREAS, the City Council of the City of Asheville, North Carolina (the "*City Council*") has ascertained and hereby determines that it is necessary to pay the capital costs of infrastructure improvements for various parks and recreation facilities of the City, including the cost of related studies, plans and design, acquiring, constructing, reconstructing, improving, installing or providing storm drainage, grade and surface improvements, construction, reconstruction and improvements of recreation fields; construction, reconstruction and improvements of restroom facilities; sidewalks, bike paths and pedestrian trails; paving, resurfacing, grading or improving parking lots, roads and intersections, providing public open space, landscaping and lighting, and acquiring any necessary equipment, land, interests in land and rights-of-way therefor; and

WHEREAS, an application has been filed with the Secretary of the Local Government Commission of North Carolina requesting Commission approval of the General Obligation Parks and Recreation Bonds hereinafter described as required by the Local Government Bond Act, and the City Clerk has notified the City Council that the application has been accepted for submission to the Local Government Commission.

NOW, THEREFORE, BE IT ORDERED by the City Council of the City of Asheville, North Carolina, as follows:

Section 1. In order to raise the money required for the purposes described above, in addition to any funds which may be made available for such purpose from any other source, General Obligation Parks and Recreation Bonds of the City are hereby authorized and shall be issued pursuant to the Local Government Finance Act of North Carolina. The maximum aggregate principal amount of such General Obligation Parks and Recreation Bonds authorized by this order shall be $17,000,000.

Section 2. A tax sufficient to pay the principal of and interest on said General Obligation Parks and Recreation Bonds when due shall be annually levied and collected.

Section 3. A sworn statement of the City's debt has been filed with the City Clerk and is open to public inspection.

Section 4. This bond order shall take effect when approved by the voters of the City at a referendum scheduled for November 8, 2016.

RESOLUTION NO. 16-184 - RESOLUTION OF THE CITY OF ASHEVILLE, NORTH CAROLINA REGARDING BOND ORDERS AUTHORIZING THE ISSUANCE OF $32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS, $25,000,000 GENERAL OBLIGATION HOUSING BONDS AND $17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS, SETTING A PUBLIC HEARING THEREON AND DIRECTING PUBLICATION OF A NOTICE OF SAID PUBLIC HEARING

WHEREAS, bond orders entitled:

"BOND ORDER AUTHORIZING THE ISSUANCE OF $32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;"

"BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION HOUSING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;" and

"BOND ORDER AUTHORIZING THE ISSUANCE OF $17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA;"

have been introduced at a meeting of the City Council (the "*City Council*") of the City of Asheville, North Carolina this 26th day of July, 2016; and

WHEREAS, the City Council desires to provide for the holding of a public hearing thereon on August 9, 2016 and the submission of a statement of debt in connection therewith as required by The Local Government Bond Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE, , NORTH CAROLINA that the public hearing on said bond orders shall be held on the 9th day of August, 2016 at 5:00 p.m. in the Council Chamber, 2nd Floor of City Hall, 70 Court Plaza, Asheville, North Carolina.

BE IT FURTHER RESOLVED that the City Clerk is hereby directed to cause a copy of said bond orders to be published with a notice of such hearing in the form prescribed by law in a newspaper of general circulation in the City on or before the 3rd day of August, 2016.

BE IT FURTHER RESOLVED that the Chief Financial Officer is hereby directed to file prior to publication of the bond orders with the notice of such public hearing, a statement setting forth the debt incurred or to be incurred, the net debt of the City, the assessed value of property subject to taxation by the City and the percentage that net debt of the City bears to the assessed value of property subject to taxation.

BE IT FURTHER RESOLVED that this Resolution shall become effective on the date of its adoption.

Councilwoman Mayfield moved for the adoption of Resolution No. 16-184. This motion was seconded by Councilman Smith.

Councilman Smith said that it's good to see these survey results because it lets Council know they are on the right track with a lot of City Council priorities and that Asheville is ready to accelerate progress in all of the bond areas and are willing to invest in it. Should the bonds pass we will get a lot more done a lot faster than we would have otherwise, and establish a bond program for the City of Asheville that may endure for years to come. Regarding the transportation bond order, he understood that the projects have to be capital and projects already talked about and planned for. Regarding the Transit Center and recognizing the needs of the Transit Center, it would be a capital expenditure but we are not at the point in planning where it could be a whole project in a bond package. He suggested we include the planning for the Transit Center in this transportation bond order. Or, alternatively, he suggested Council initiate that process outside of the bond through the capital improvements process and that be parallel to the bond process.

City Manager Jackson didn't know if we have the ability to use a transportation allocation to do the site analysis and renovation plans. Ms. Whitehorn responded that we don't have a lot of solid information about the transportation bond yet; however, she did know what the LGC won't allow us to use bond funds to fund things like a feasibility study or preliminary planning, unless it's part of a larger package. And, they are fairly limited in what kind of planning they will allow.

In response to Councilman Bothwell, Ms. Whitehorn said that when we write the bond question, the question is written in such a way that it leaves the option open for Council to add or remove particular projects. Council could conceivably add that in, but you would have to cut something else out because the total amount cannot change.

Mayor Manheimer noted that Council doesn't have to make that decision at this time. All Council is deciding at this time is whether to advance the planning process for a Transit Center. Council will then need to determine before the August 9 public hearing whether or not the planning monies would come out of the bond package or from a separate capital improvement plan.

Mayor Manheimer said that even though there is flexibility once the bonds are approved, there are expectations from the community. Currently we are making presentations that give lists of roads that will be repaved, sidewalks that will be built, and are developing an interactive tool that people can actually take a tour of the bond and see where this money will be spent. Because we do have community trust that we will spend the money on what we say we will spend the money on, it's important that we stick to that plan. There are other big ticket items not in this bond that will need some creative planning.

Councilman Young said that regardless of whether the bond order passes or not, it's clear that the Transit Center is very important for the future.

Mr. Fred English did not support the bond issue due to the increase in property taxes.

Mr. Sidney Bach felt that Council has not disclosed what it will really cost the taxpayers for financing these bond orders.

City Manager Jackson noted that Asheville has a AAA bond rating because the City's finances are in good health.

The motion made by Councilwoman Mayfield and was seconded by Councilman Smith carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 137

B. BOARDS & COMMISSIONS

Regarding the Sustainability Advisory Committee, the following individuals applied for the vacancy: Rich Lee, Kendra Sherrod, Brad Rouse April Brown, Emily Boyd, Amanda Fairley, Bridget Herring and Michael Whitmire. It was the consensus of Council to interview Emily Boyd, Bridget Herring and Brad Rouse.

RESOLUTION NO. 16-185 - RESOLUTION APPOINTING A MEMBER TO THE AFRICAN AMERICAN HERITAGE COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Viola Spells as a member of the African American Heritage Commission expired on July 1, 2016.

The following individuals applied for the vacancy: S. Antanette Mosley and Michael Zuckerman.

It was the consensus of the Boards & Commissions Committee to appoint Ms. Mosley.

Vice-Mayor Wisler moved to appoint S. Antanette Mosley to serve as a member of the African American Heritage Commission, to serve a three-year term, term to expire July 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 138

RESOLUTION NO. 16-186 - RESOLUTION APPOINTING MEMBERS TO THE CITIZENS-POLICE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that on May 17, 2016, City Council amended the composition to (1) convert the Asheville-Buncombe Community Relations Council seat to a seat dedicated to a resident of property owned by the Housing Authority; and (2) convert the two current ad hoc member seats to at-large seats appointed by City Council with three-year terms.

The following individuals applied for the one at-large seats: Lisa Thomson, Larry Layton and Shana McDowell.

It was the consensus of the Boards & Commissions Committee to appoint Shana McDowell.

Vice-Mayor Wisler moved to appoint Shana McDowell to serve as an at-large member of the Citizens-Police Advisory Committee, to serve a three-year term, term to expire June 30, 2019, or until her successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 139

RESOLUTION NO. 16-187 - RESOLUTION APPOINTMENT MEMBERS TO THE COMPREHENSIVE PLAN ADVISORY COMMITTEE

Vice-Mayor Wisler said that the Comprehensive Plan Advisory Team will represent a broad diversity of interests on topics relevant to the Comprehensive Plan and will have representation, at minimum, from the following committees/organizations (in no particular order), plus three at-large members:

- Planning and Zoning Committee;
- African American Heritage Committee;
- City of Asheville Recreation Board;

- Asheville Downtown Commission;
- Historic Resources Commission of Asheville & Buncombe County (HRC);
- Public Art and Cultural Commission (PACC);
- Buncombe County liaison;
- Downtown Commission;
- Sustainability Advisory Committee on Energy and the Environment (SACEE);
- Asheville Multi-modal Transportation Commission;
- Asheville Affordable Housing Advisory Committee;
- Neighborhood Advisory Committee; and
- Asheville Area Chamber of Commerce.

The following individuals applied for one of the three at-large seats on the Comprehensive Plan Advisory Committee: Cate Ryba, Laura Evans, Kevin Teater, Suzanne Devane, Barber Melton Marjorie McGuirk, Robert Carroll, Rachel Murdaugh, Mike Marcus, Jane Mathews, Sabrah n'haRaven, Linda Giltz, Blake Esselstyn, Steven Rasmussen, Michael Sule, Toya Hauf, Joe Archibald, Elizabeth Sterling, Michael Whitmire, Steven Sizemore, Bob Oast, Robert Maddox, Marni Graves and Ryan Israel.

It was the consensus of the Boards & Commissions Committee to appoint Steven Sizemore, Linda Giltz and Blake Esselstyn.

After discussing the many well-qualified individuals, Vice-Mayor Wisler moved to appoint Steven Sizemore, Linda Giltz and Blake Esselstyn to serve as the at-large members to the Comprehensive Plan Advisory Committee. This motion was seconded by Councilman Smith and carried unanimously.

Vice-Mayor Wisler said that these meetings will be open to the public and that staff will be reaching out to the public for input as well.

RESOLUTION BOOK NO. 38 - PAGE 140

RESOLUTION NO. 16-188 - RESOLUTION APPOINTING MEMBERS TO THE MULTIMODAL TRANSPORTATION COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Bruce Emory (demonstrated transit interests), James Grode (demonstrated greenway interests), Terri March (demonstrated bike & ped interests), Philip Lenowitz (representative of the Neighborhood Advisory Committee; and Kristy Carter (representative of the Planning & Zoning Commission) expire on July 1, 2016.

The following individuals have applied for a vacancy: Meredith Gregory, Eric Workman, Richard Rozzelle, Keaton Edwards, Seth Connelly, Michael Speciale, Devin Clancy, Adam Charnack, Kevin Teater, David Nutter and Billie Lofland.

It was the consensus of the Boards & Commissions Committee, at the suggestion of the Multimodal Transportation Commission, to reappoint Bruce Emory, Terri March, Philip Lenowitz and Kristy Carter.

It was also the consensus of the Boards & Commissions Committee, at the recommendation of the (1) Greenway Committee to appoint David Nutter; and (2) the Multimodal Transportation Commission, to appoint Billie Lofland.

Vice-Mayor Wisler moved to (1) reappoint Bruce Emory (demonstrated transit interests), Terri March (demonstrated bike & ped interests), Philip Lenowitz (representative of the Neighborhood Advisory Committee; and Kristy Carter (representative of the Planning & Zoning

Commission) to each serve a three-year term respectively, terms to expire July 1, 2019, or until their successors have been appointed; (2) appoint David Nutter (demonstrated greenway interests) to serve a three-year term, term to expire July 1, 2019, or until his successor has been appointed; and (3) appoint Billie Lofland (demonstrated bike and interests) to serve a three-year term, term to expire July 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 141

RESOLUTION NO. 16-189 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of DeWayne Barton (representing 28806 or 28728 zip code); and Teddy Jordan (at-large member) expire on July 1, 2016.

The following individuals applied for a vacancy: Pat Deck and Carter Webb.

It was the consensus of the Boards & Commissions Committee, and recommendation from the Neighborhood Advisory Commission, to appoint Pat Deck. Since no applicants applied for the 28806 or 28728 vacancy, it will be re-advertised.

Vice-Mayor Wisler moved to appoint Pat Deck (at-large member) to serve a three-year term, term to expire July 1, 2019, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 142

RESOLUTION NO. 16-190 - RESOLUTION APPOINTING A MEMBER TO THE TREE COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that there currently exists a vacancy (left by the passing of Justin Price) until December 31, 2017.

The following individuals applied for the vacancy: John Brigham and Diane Hillgrove.

It was the consensus of the Boards & Commissions Committee to appoint Diane Hillgrove.

Vice-Mayor Wisler moved to appoint Diane Hillgrove to serve as a member of the Tree Commission, to serve the unexpired term of Mr. Price, term to expire December 31, 2017, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 143

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Donna Dreyling and Mr. Dan Bridges spoke to Council about the disrespect by residents and tourists toward handicapped parking ticket volunteers. They requested the City issue them uniforms or at least shirts for official recognition of their positions.

Mr. Mike Wasmer asked that Council delay the public hearing on August 9, 2016, to establish utility substation regulations in order for the South French Broad neighborhood to understand such a complex issue. Mayor Manheimer said that she understands the concerns raised and that she will be meeting with Duke Energy Progress ("Duke") representatives next

week. After that meeting, a decision will be reached to either delay the public hearing or try to reach a compromise by the August 9 public hearing date. She noted that the City doesn't have authority to tell Duke where it can buy land and site substations; however, the City does have some input is on the buffering. We are running the risk that Duke may make application before we get an ordinance in place. Councilman Bothwell hoped that Duke would consider building a substation that is indistinguishable from a residential home similar to their substation in Charlotte, North Carolina.

Ms. Lia Kaz was appalled about the lack of response to House Bill 972, which makes it illegal for citizens to view police footage. She said we need more accountability between citizens and the police.

Ms. Dee Williams, technical advisor of Black Lives Matter in Asheville, felt that Council should have made more of an effort to personally talk to Jerry Williams' mother. She offered her assistance to help the City change policies and procedures.

Mr. Ray Mapp spoke about domestic terrorism.

A lady felt now is a pivotal time to address the issue of race in Asheville. She also felt there needs to be a bigger push to discuss this and for Council to explore community policing, with therapy for police in their stressful positions.

A member of the Tree Commission's newly formed Subcommittee on Tree Preservation. She spoke about the idea of a public education campaign designed to create awareness of the precious resource of trees. Mayor Manheimer asked that she e-mail her information to Vice-Mayor Wisler, Chair of the City Council Planning & Economic Development Committee, for consideration.

A west Asheville resident was concerned about racial justice issues in Asheville.

Mayor Manheimer said that a member of the Racial Justice Coalition called her and said they came up with an idea of wanting to be involved with the City immediately to look at policies such as the Police Department's use of force policy and their vehicle chase policy. They are also interested in looking at a de-escalation policy, what kind of implicit bias training the City offers to its officers, and what kind of citizen complaint process the City uses. They presented these concepts to the City's Public Safety Committee on July 25, and Police Chief Tammy Hooper responded that she was quite willing to work with the Racial Justice Coalition in this effort. Even though the Coalition is working quickly, they want to be thoughtful about who to include in this process and has not finalized who they will bring to the table to have this important community dialogue. She said that we, as a Council, are struggling and we hear the community and we want to be responsive and inclusive and thoughtful and we are looking for a way to try to constructively move forward.

Closed Session

At 7:33 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: The City of Asheville v. Stewart et al. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:31 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Young and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:31 p.m.

Magdalen Bowerson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – August 9, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and Deputy City Clerk Jaime Matthews

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JULY 26, 2016

B. RESOLUTION NO. 16-191 - RESOLUTION AUTHORIZING THE CITY MANAGER EXECUTE A ONE-YEAR CONTRACT EXTENSION WITH RIVERTOP CONTRACTING INC. FOR THE DOWNTOWN CLEANING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a one year extension in the amount of $250,026 plus a contingency of 15% ($37,504) with Rivertop Contracting Inc. for the project known as Downtown Cleaning, City of Asheville Project #DC-16-01, and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $300,000.

Rivertop Contracting started working the current contract on October 1, 2015, and will complete work on September 30th, 2016. The proposed extension will take effect on October 1, 2016 and run through September 30, 2017.

The contractor will work in the Central Business District with their primary duty being pressure washing City owned sidewalks. The contractor is also responsible for the non-chemical removal of weeds from City owned sidewalks, tree grates and curblines.

Pros:

- Will result in the most heavily used areas of the CBD being pressure washed completely 4 times in the life of the contract and the lesser used areas being pressure washed completely 2 times in the life of the contract.
- Will result in undesirable vegetation being removed from City sidewalks, curblines and tree grates

Con:

- Project management and contract administration will consume staff time.

$300,000 was budgeted for Downtown Cleaning in the general fund. This amount was approved by City Council and included in the Fiscal Year 2016-2017 budget.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a one year extension of the current Downtown Cleaning contract in the amount of $250,026 PLUS a contingency of 15% ($37,504) with Rivertop Contracting, Inc. for the project known as Downtown Cleaning, City of Asheville Project #DC-16-01 and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $300,000

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C. RESOLUTION NO. 16-192 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACQUIRE AND ACCEPT AN EASEMENT NEEDED TO INSTALL TWO SIGNAL POLES FOR A TRAFFIC LIGHT AT VICTORIA ROAD AND FERNIHURST DRIVE

Summary: The consideration of a resolution authorizing the City Manager to acquire and accept an easement needed to install two signal poles for a traffic light at Victoria Road and Fernihurst Drive.

Asheville's traffic engineer has been working with AB Tech Community College to install a traffic light at Victoria Road and Fernihurst Drive. The project requires that two signal poles with guy wires be installed on property owned by Buncombe County. Although the land is owned by Buncombe County, the property is currently being used by the Asheville City Schools to operate Asheville High School. The signal poles would be installed near the rear property line of the parcel. The City is requesting a 700 square foot or 0.016 acres of permanent easement to install and maintain two wood poles that will have guy wires. The parcel's PIN is 9648-32-7199 and its physical address is 419 McDowell Street. Authorization from Buncombe County to grant the easement to the City was approved on August 2, 2016.

Pros:

- The installation of public infrastructure at the intersection of Victoria Road and Fernihurst Drive will facilitate the smooth flow of traffic at this well- traveled intersection.
- AB Tech Community College has plans at a later date to use this street as primary access to the college.

Con:

- The City would be responsible for ongoing maintenance of improvements.

None noted, as the easement will be granted to the City for this purpose at no cost to the City.

City staff recommends that the City Council approve a resolution authorizing the City Manager to accept by donation an easement needed to install two signal poles for a traffic light at Victoria Road and Fernihurst Drive.

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D. RESOLUTION NO. 16-193 - RESOLUTION THE MAYOR TO ADOPT THE BUNCOMBE-MADISON REGIONAL HAZARD MITIGATION PLAN

Summary: The consideration of a resolution to adopt the Buncombe Madison Regional Hazard Mitigation Plan.

In an effort to reduce the Nation's mounting natural disaster losses, the U.S. Congress passed the Disaster Mitigation Act of 2000 (DMA 2000) in order to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act. Section 322 of DMA 2000 emphasizes

the need for state, local, and Tribal government entities to closely coordinate on mitigation planning activities and makes the development of a hazard mitigation plan a specific eligibility requirement for any local or Tribal government applying for federal mitigation grant funds. Therefore, the Federal Emergency Management Agency (FEMA) requires that local governments have an approved Hazard Mitigation plan in place to remain eligible for disaster recovery funding and both pre- and post-disaster hazard mitigation funding. Approved plans must be updated, approved, and adopted every five years. The current plan was approved in 2011 and expires in early Fall of this year.

During the most recent update cycle the North Carolina Division of Emergency Management advocated the transition to regional hazard mitigation planning. The jurisdictions in the Buncombe and Madison Region joined together to create the Buncombe Madison Regional Hazard Mitigation Plan (Plan). This allowed resources to be shared amongst the participating jurisdictions and combining the existing county plans into one multi-jurisdictional plan. Planning efforts began in late 2013.

The Plan was prepared in coordination with FEMA Region IV and the North Carolina Division of Emergency Management (NCDEM) to ensure that it meets all applicable FEMA and state requirements for hazard mitigation plans and was funded through a mitigation planning grant administered by Madison County Emergency Management. FEMA plan approval was granted in late 2015. Upon local adoption, the regional plan will be in effect until 2021.

This matter was heard before the Public Safety Committee on July 25, 2016, and was supported for approval.

Pros:

- An approved hazard mitigation plan establishes the broad community vision and guiding principles for reducing hazard risk, and further proposes specific mitigation actions to eliminate or reduce identified vulnerabilities.
- Communities with an adopted and federally approved hazard mitigation plan thereby become pre-positioned and more likely to receive available mitigation funds before and after the next disaster.

Con:

- None

City staff recommends the City Council adopt a resolution to adopt the Buncombe Madison Regional Hazard Mitigation Plan.

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E. RESOLUTION NO. 16-194 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PATTON CONSTRUCTION GROUP, INC. FOR THE CONCRETE MAINTENANCE AND ADA IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $184,900 with Patton Construction Group Inc. for the project known as Concrete Maintenance and ADA Improvements Fiscal Year 2017, City of Asheville Project #ST-16-17-001, and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $200,000.

This contract is our annual Concrete Maintenance Contract. This year the maintenance work will be concentrated around several Asheville City schools. The project was advertised on July 7, 2016, and bids were opened on July 28, 2016, with the following results:

Patton Construction Group, Arden, NC	$184,900
J & E Concrete Construction, LLC, Harmony, NC	$198,611
Appalachian Paving and Concrete, Swannanoa, NC	$199,193
Armen Construction, Charlotte, NC	$217,656

Below is list of the proposed project sites to be completed under the maintenance contract:

School	Street
Asheville High	Victoria Road
Claxton Elementary	Hillside, Annandale, Merrimon
Isaac Dickson Elementary	Hill Street
Hall Fletcher Elementary	Ridgelawn and Garden Circle
Oakley Elementary	Liberty and School Road E

Pros:

- Will correct a number of sidewalk issues near City of Asheville schools.
- Addresses pedestrian safety by providing the required sidewalk maintenance.

Con:

- Project management and contract administration will consume staff time.

$200,000 was budgeted for concrete repair and maintenance in the general fund. This amount was approved by City Council and included in the Fiscal Year 2016-2017 budget.

City staff recommends City Council adopt the resolution awarding the contract to Patton Construction Group, Inc. and authorizing the City Manager to execute a contract in the amount of $184,900 with Patton Construction Group, Inc. for the project known as Concrete Maintenance and ADA Improvements FY 17 and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount of $200,000.

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F. RESOLUTION NO. 16-195 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE TO FUND AND CONTINUE THE ASHEVILLE POLICE DEPARTMENT HOUSING POLICE UNIT

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the Housing Authority City of Asheville (HACA) which amends and extends the previous Asheville Housing Unit Police Intergovernmental Memorandum of Agreement. (Agreement") which expired 2015.

In December 2012, the City of Asheville (City) and HACA entered into an agreement which provides additional sworn police resources as a way to supplement regular patrols and community policing within HACA developments. The agreement, which expired and whose terms continued to be implemented by both parties, provides for a 9 member APD Public Housing Unit (Housing Unit). Through the proposed extension of the agreement, he APD will continue to:

- be responsible for criminal enforcement, crime prevention, community policing and enforcement of HACA regulations in public housing; and
- partner with the HACA and its residents to foster an atmosphere focusing on community policing to create a safe environment and improve the quality of life in public housing, while simultaneously reducing crime; and

- a continued partner with HACA in funding the Housing Unit.

The HACA will reimburse the City for expenses related to four officers' salary and benefits. This will enable the continued operation of the 9 member unit responsible for providing law enforcement services the 11 public housing communities.

Pros:

- Establish a dedicated number of sworn officers to provide direct law enforcement services to the eleven (11) public housing developments in the City.
- Foster an atmosphere focusing on community policing to create a safe environment and improve the quality of life in public housing.
- Improve lines of communication and cooperation between the residents, staff and the police in public housing.

Cons

- The City is responsible for the initial expenses related to 4 officers, until reimbursed by the HACA.

Funding for four (4) Housing Unit officers salary and benefits, would be through the HACA at an annual cost of approximately $260,000. The City would be required to fund five (5) additional sworn personnel (4 officers and 1 Sergeant) to fully staff the APD Public Housing Unit at an annual cost of approximately $330,000. The revenue and expenses associated with this program are already included in the Police Department's FY 2016-17 budget.

Staff recommends that City Council approve the resolution authorizing the City Manager to enter into an agreement with the Housing Authority City of Asheville to fund and continue operating the APD Public Housing Unit.

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G. RESOLUTION NO. 16-199 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE CLIPS BEER & FILM TOUR

RESOLUTION NO. 16-200 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BREWGRASS FESTIVAL

RESOLUTION NO. 16-201 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT RIVERMUSIC

Summary: The consideration of resolutions authorizing the City Manager to approve making provisions for the possession and consumption of malt beverages and/or unfortified wine at Clips Beer & Film Tour, Brewgrass Festival and RiverMusic.

- Asheville on Bikes has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Clips Beer & Film Tour and allow for consumption at this event.

  Clips Beer & Film Tour will be held on Friday, August 26, 2016, from 6:30 p.m. to 10:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Asheville Brewers Alliance has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Brewgrass Festival and allow for consumption at this event.

  The Brewgrass Festival will be held on Saturday, September 17, 2016, from 1:00 p.m. – 7:00 p.m. within the boundaries of Memorial Stadium including a fenced extension of the premises as per the area limits referenced on the accompanying site map.

- Riverlink has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at RiverMusic and allow for consumption at this event.

  RiverMusic will be held on Friday, September 9, and Friday, October 7, 2016, from 5:00 p.m. to 10:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

These actions have no direct connection with the City Council 2036 Vision.

Pro:

- Allows fundraising opportunities for Asheville on Bikes, Asheville Brewers Alliance and Riverlink

Con:

- Potential for public safety issues.

Staff recommends City Council adopt resolutions authorizing the City Manager to approving making provisions for the possession and consumption of malt beverages and/or unfortified wine at Clips Beer & Film Tour, Brewgrass Festival and RiverMusic.

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RESOLUTION NO. 16-200 - RESOLUTION BOOK NO. 38 - PAGE 158
RESOLUTION NO. 16-201 - RESOLUTION BOOK NO. 38 - PAGE 161

H. RESOLUTION NO. 16-196 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE CENTER FOR CRAFT, CREATIVITY & DESIGN IN ORDER TO FUND AN ARTSPACE MARKET AND FEASIBILITY ANALYSIS

Summary: The consideration of a resolution approving $25,000 for the Center for Craft, Creativity & Design to fund an Artspace Market and Feasibility Analysis.

The Center for Craft, Creativity & Design has requested $25,000 from the City of Asheville to support a market analysis regarding artist housing and creative spaces uses for the Center's facilities, to be conducted by Artspace.

Artspace is a national-non-profit organization that has successfully developed artist live/work space throughout the country. Artspace has proposed providing consulting services (Artspace Feasibility Assessment), to The Center for Craft, Creativity & Design (CCCD) to determine the feasibility of artist live/work housing here, and perhaps the development of other dedicated arts services space. According to CCCD Executive Director Stephanie Moore, "The Artspace due diligence process begins with a two-part assessment that works with community and creative sector leaders to 1) identify suitable parcels, and 2) measure the market capacity of the creative sector, including artists and creative sector businesses. The process results in relevant and actionable data to inform and develop arts-based development pro-formas using national best practices. The process includes in-depth community education and stakeholder engagement."

According to Moore, "The Artspace Feasibility Assessment includes an Arts Market Survey, which will provide similar data as the previously proposed AAAC Cultural Resources Asset Inventory, a project that was contingent on funding from the National Endowment for the Arts (NEA). In April 2016, the community was informed that the Cultural Resources Asset Inventory did not receive NEA funding."

The proposed cost of the study is $98,325. Partner commitments to funding include $10,000 from State Senator Terry Van Duyn and $10,000 from the Duke Energy Foundation pending City and County financial support. The Community Foundation of Western North Carolina has invited a $25,000 grant request. Should the City agree to the $25,000 funding request, CCCD would move forward with the first phase, at a cost of $44,850, and continue fundraising to achieve the full two-part study.

The Part 1: Preliminary Feasibility Study & Visit entails a fact-finding process that includes meetings with artists, city officials, funders and community stakeholders. The scope of work includes a three-day visit from Artspace staff to facilitate meetings, give presentations and collect information about potential arts-based development projects, including a preliminary assessment of multiple sites. Customized scope-of-work includes an extended tour of 5-7 potential project sites for new construction or building reuse. The visit would also include a separate meeting with City of Asheville Planning Department staff to review site details, zoning information, etc. The Part 1 Deliverables will be a Preliminary Feasibility Report and a Preliminary Site Matrix Evaluation.

The Part 2 Arts Market Study, at a cost of $53,475, would provide a clear picture of the demand for arts spaces in an area. Artspace recommends that Asheville commission a comprehensive survey, which includes 1) survey of individual artists and creative and 2) arts/cultural organizations and creative businesses.

The Housing and Community Development Committee heard this request at their meeting on July 19, 2016, and voted to recommend its approval to Council.

Pros:

- Provides an economic development analysis of the current CCCD space;
- Creates an assessment of various spaces for their potential use as affordable housing and art facilities;
- Energizes partnerships for the continued assessment and development of infrastructure necessary for the enhancement of the creative economy;
- Provides new perspectives on the issues of gentrification.

Cons:

- The potential for Artspace participation in a local affordable housing project may be small. Their material states, "In an average year we make 15 to 20 feasibility visits to cities around the country; of these, two to four typically lead to projects."
- Funding for affordable housing, particularly for the 9% LIHTC program is extremely competitive. Although allowable under federal law, dedicated artist housing using that resource may be perceived as not meeting the broadest community need.

The $25,000 will be funded from the Affordable Housing allocation within the CIP.

The Housing and Community Development Committee recommends City Council approve the $25,000 request of the Center for Crafts, Creativity & Design to fund an Artspace Market and Feasibility Analysis.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

A. GENERAL OBLIGATION BOND REFERENDUM

Director of Finance Barbara Whitehorn said that this is the consideration of (1) holding a public hearing on Bond Order authorizing issuance of $32,000,000 of General Obligation Transportation Bonds of the City of Asheville, North Carolina; (2) holding a public hearing on Bond Order authorizing issuance of $25,000,000 of General Obligation Housing Bonds of the City of Asheville, North Carolina; (3) holding a public hearing on Bond Order authorizing the issuance of $17,000,000 of General Obligation Parks and Recreation Bonds of the City of Asheville, North Carolina; (4) adopting the Transportation Bond Order without change or amendment and direct the Clerk to publish a notice of adoption; (5) adopt the Housing Bond Order without change or amendment and direct the Clerk to publish a notice of adoption; (6) adopt the Parks and Recreation Bond Order without change or amendment and direct the Clerk to publish a notice of adoption; and (7) adopt a resolution setting a special bond referendum and directing the publication of notice of a special bond referendum and notification of the Buncombe County Board of Elections.

Ms. Whitehorn said that this is the consideration of adopting a $74,000,000 general obligation bond referendum on November 8, 2016. The referendum includes $32,000,000 of transportation bonds, $17,000,000 of park and recreation bonds, and $25,000,000 of housing bonds. The statutory requirements for the legal process include applying to the Local Government Commission (LGC) for approval, holding a public hearing on the proposed bond orders, setting of the special referendum, and certification of the results. The LCG application was timely submitted with a date of July 18, 2016.

The current action is the third of four City Council actions. This third action is comprised of the following:

1) Public Hearings
   - Hold public hearing on bond order authorizing the issuance of $32,000,000 of General Obligation Transportation Bonds of the City of Asheville, North Carolina
   - Hold public hearing on bond order authorizing the issuance of $25,000,000 of General Obligation Housing Bonds of the City of Asheville, North Carolina
   - Hold public hearing on bond order authorizing the issuance of $17,000,000 of General Obligation Parks and Recreation Bonds of the City of Asheville, North Carolina

2) Adoption of Bond Orders
   - Adopt the Transportation Bond Order without change or amendment and direct the Clerk to publish a notice of adoption
   - Adopt the Housing Bond Order without change or amendment and direct the Clerk to publish a notice of adoption
   - Adopt the Parks and Recreation Bond Order without change or amendment and direct the Clerk to publish a notice of adoption

3) Adoption of Resolution Setting Special Referendum
   - Adoption by the City Council of a resolution setting a special bond referendum and directing the publication of notice of a special bond referendum and notification of the Buncombe County Board of Elections

After November 8, the City Council will be asked to adopt a resolution certifying and declaring the results of the special bond referendum. This action will occur after the Buncombe County Board of Elections certifies the results of the vote.

This action furthers the City Council's strategic themes set forth in January, 2016, by providing funding to address transportation infrastructure needs, ensuring a high quality of life to the residents of the City of Asheville and addressing the City's affordable housing challenge.

Pros:
- Provides funding for transportation, parks and housing needs as identified in City master plans and Council strategic goals.
- Ensures City's compliance with North Carolina General Statutes.

Con:
- None.

A general obligation bond commits the full faith and credit of the City of Asheville to repayment of the bonded debt. Additional tax levy may be required to fund the debt service over the life of the bonds.

Staff recommends that Council conduct the public hearings and adopt the resolution allowing staff to proceed with the necessary action to conduct a general obligation bond referendum on November 8, 2016.

Deputy City Clerk Matthews then reported to the City Council that the bond orders entitled, **"BOND ORDER AUTHORIZING THE ISSUANCE OF $32,000,000 OF GENERAL OBLIGATION TRANSPORTATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA," "BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 OF GENERAL OBLIGATION HOUSING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA,"** and **"BOND ORDER AUTHORIZING THE ISSUANCE OF $17,000,000 OF GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA,"** which were introduced at a meeting of the City Council on July 26, 2016, were published on July 29, 2016, with notice that the City Council would hold a public hearing thereon on August 9, 2016, at 5:00 p.m. She also reported that there had been filed in her office a statement of debt complying with provisions of the Local Government Bond Act, and such statement as filed showed the net indebtedness of the City to be 0.77% of the assessed valuation of property in said City subject to taxation.

PUBLIC HEARING ON BOND ORDER AUTHORIZING THE ISSUANCE OF $32,000,000 OF GENERAL OBLIGATION TRANSPORTATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Manheimer said that as part of Council's discussion, they talked about the need to possibly include a new transit center or renovate the existing transit center facility in the bond process. Bond counsel advised City Council that they cannot due to the wording of the bond question and the process already followed. However, if Council wanted to allocate some funding, (staff suggests approximately $1,000,000), to make some renovations to the transit center, we can do that within our Capital Improvement Plan budget at a different time.

Mayor Manheimer opened the public hearing at 5:06 p.m. and announced that the City Council would hear anyone who wished to be heard on the questions of validity of the General

Obligation Transportation Bond Order and the advisability of issuing the General Obligation Transportation Bonds.

Mr. Sidney Bach felt that these public hearings are merely window dressings as he felt Council has already determined to foist a poorly-planned, unnecessary pie-in-the-sky $74 Million financial burden upon the City and its residents for years to come. In addition, all the tax increases will be passed along to renters as rent increases, thus creating more unaffordable housing for those already paying high rents. The entire bond package does not include any funds for fire, police, emergency personnel or equipment, or public schools and wondered where Council's priorities lay.

Ms. Betty Council, an African American community activist, said that if the bonds pass she strongly recommended that since over 13+ percent of Asheville's population is African American that Council allot 13-20% of the funds be focused on the African American communities in the three areas of the bonds.

After the City Council heard all persons who requested to be heard in connection with the foregoing questions, Mayor Manheimer closed the public hearing at 5:11 p.m.

Mayor Manheimer noted that there was a public safety bond package Council considered but Council decided it was not appropriate to move forward with that as a bond package. Public safety is a priority of the City and almost every year half of the City's general fund budget is allocated to public safety. Council does keep that as a priority.

Mayor Manheimer also noted that it is her understanding that cities cannot use General Obligation Bonds for teachers and schools. In terms of the fiscal impact of the total bond package, the implication equates to 4.1-cents in property taxes. For example, for a home valued at $275,000 it would mean an annual tax implication of $110 per year, if it was necessary to raise taxes to meet the debt service for these bonds. If Council sees growth in revenues or property values it may not be necessary to raise additional taxes to pay for these bonds.

Councilman Bothwell said that if you are a renter and the unit you are renting happens to be worth $275,000, it could increase your rent by $10/month.

Councilwoman Mayfield moved to adopt the Transportation Bond Order without change or amendment and direct the City Clerk to publish notice of adoption of the Bond Order entitled "Bond Order authorizing the issuance of $32,000,000 of General Obligation Transportation Bonds of the City of Asheville, North Carolina" as introduced at the meeting of the City Council held on July 26, 2016. This motion was seconded by Councilman Bothwell and carried unanimously.

PUBLIC HEARING ON BOND ORDER AUTHORIZING THE ISSUANCE OF $25,000,000 OF GENERAL OBLIGATION HOUSING BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Manheimer opened the public hearing at 5:14 p.m. and announced that the City Council would hear anyone who wished to be heard on the questions of validity of the General Obligation Housing Bond Order and the advisability of issuing the General Obligation Housing Bonds.

Mr. Greg Borom, with Children First/Communities in School of Buncombe County, spoke in favor of the Housing Bonds. He was pleased that Council continues to focus on making housing affordable to more families in our community. They asked that Council share data around how the proposed bond will forward Council's goals on racial equity and housing and economic mobility. They also supported the City looking at ways to direct funding towards deeply affordable and extremely affordable housing per HUD's definitions. Around the goals of home ownership, they asked that the City look at ways when the money is available that we can

address closing the racial wealth gap on homeownership lines in the City. Finally, they also support the Housing Trust Fund flexibility.

Mr. Timothy Sadler spoke in favor of the Housing Bonds. He hoped Council will look at creative ways to encourage homeownership, particularly as it pertains to racial equity in our community.

After the City Council heard all persons who requested to be heard in connection with the foregoing questions, Mayor Manheimer closed the public hearing at 5:19 p.m.

Councilman Smith was excited about these bond packages. Council has heard from the community what issues they are facing in their neighborhoods and their lives. Council has been doing its level best to meet those needs. What these bond questions will allow is for the people of Asheville to decide whether to accelerate towards those aspirations that they have communicated to Council. If they choose to do so, Council will stand with them.

Councilman Smith moved to adopt the Housing Bond Order without change or amendment and direct the City Clerk to publish notice of adoption of the Bond Order entitled "Bond Order authorizing the issuance of $25,000,000 of General Obligation Housing Bonds of the City of Asheville, North Carolina" as introduced at the meeting of the City Council held on July 26, 2016. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

PUBLIC HEARING ON BOND ORDER AUTHORIZING THE ISSUANCE OF $17,000,000 OF GENERAL OBLIGATION PARKS AND RECREATION BONDS OF THE CITY OF ASHEVILLE, NORTH CAROLINA

Mayor Manheimer opened the public hearing at 5:20 p.m. and announced that the City Council would hear anyone who wished to be heard on the questions of validity of the General Obligation Parks and Recreation Bond Order and the advisability of issuing the General Obligation Parks and Recreation Bonds.

Mayor Manheimer opened the public hearing at 5:20 p.m. and announced that the City Council would hear anyone who wished to be heard on the questions of validity of the General Obligation Parks and Recreation Bond Order and the advisability of issuing the General Obligation Parks and Recreation Bonds. When no one stepped forward to be heard in connection with the foregoing questions, Mayor Manheimer closed the public hearing at 5:20 p.m.

Mayor Manheimer said that from the polling data, people within the African American community in Asheville, 80% supported the Parks and Recreation Bond Order.

Councilman Bothwell said that there are arguments on both sides of any of the bond orders, but the point of presenting it to the people to vote is to let us have a debate about this from now until the referendum. We will let the people in the community decide whether they want to take on this obligation and make these improvements or not.

Councilman Bothwell moved to adopt the Parks and Recreation Bond Order without change or amendment and direct the City Clerk to publish notice of adoption of the Bond Order entitled "Bond Order authorizing the issuance of $17,000,000 of General Obligation Parks and Recreation Bonds of the City of Asheville, North Carolina" as introduced at the meeting of the City Council held on July 26, 2016. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION NO. 16-197 - RESOLUTION SETTING A SPECIAL BOND REFERENDUM AND DIRECTING PUBLICATION OF NOTICE OF A SPECIAL BOND REFERENDUM AND NOTIFICATION OF THE BUNCOMBE COUNTY BOARD OF ELECTIONS

Mayor Manheimer opened the public hearing at 5:23 p.m. on setting a special bond referendum and directing publication of notice of a special bond referendum and notification of the Buncombe County Board of Elections. When no one spoke, she closed the public hearing at 5:23 p.m.

Vice-Mayor Wisler moved for the adoption of Resolution No. 16-197, Resolution setting a special bond referendum and directing publication of notice of a special bond referendum and notification of the Buncombe County Board of Elections. This motion was seconded by Councilman Smith and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Councilman Bothwell moved to continue the public hearing until September 6, 2016. This motion was seconded by Councilman Young and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 16-198 - RESOLUTION APPOINTING A MEMBER TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Lawrence Pittman, as a member of the Sustainability Advisory Committee on Energy & the Environment, thus leaving an unexpired term until December 31, 2018.

The following individuals applied for the vacancy: Rich Lee, Kendra Sherrod, Brad Rouse, April Brown, Emily Boyd, Amanda Fairley, Bridget Herring and Michael Whitmire. On July 26, 2016, City Council instructed the City Clerk to arrange interviews for Brad Rouse, Emily Boyd and Bridget Herring.

After Council spoke highly of all candidates, Brad Rouse received 1 vote, Emily Boyd received 2 votes, and Bridget Herring received 4 votes. Therefore, Bridget Herring was appointed to serve as a member of the Sustainability Advisory Committee on Energy & the Environment, to serve the unexpired term of Mr. Pittman, term to expire December 31, 2018, or until her successor has been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Terri March spoke about the Open Streets Event, which is a healthy family fun event, on September 18, 2016.

A resident of east Asheville asked Council to sign a letter that honors the International Day for Natural Disaster Reduction on October 12, 2016. To ensure our economic prosperity, to protect our health and children, and to ensure our security and safety, we need to act now to protect forests adequately. He asked that the European Commission on Bioenergy incorporate their concerns into its policy.

Mr. Chris Peterson spoke in opposition of the bond orders due to the financial impact on Asheville taxpayers.

Mr. Timothy Sadler spoke about Hemp X Asheville on August 19-20, 2016, at Highland Brewing Company.

Councilman Smith was pleased with the successful LEAF event on August 6 in downtown Asheville.

Councilman Bothwell said that he makes less than $29,000 per year and our taxes are an amazing bargain. That is why he is willing to continue to support City efforts.

Councilwoman Mayfield said the bond packages are very exciting and now it's up to the community to make their decision about whether they want to support the investments.

Councilwoman Mayfield said that the I-26 Connector meetings are continuing and are productive. Also, she noted that on August 12, there will be the monthly meeting of the Energy Innovation Task Force.

Closed Session

At 5:40 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including litigation involving the following parties: State of North Carolina and the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 6:35 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:35 p.m.

Magdalen Bledsoe
CITY CLERK

MAYOR

Tuesday – September 6, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson was pleased to introduce (1) Senior Firefighter Trey Young as being recognized as the WNC Career Firefighter of the Year; and (2) Streets Division Manager Chad Bandy for being the recipient of the American Public Works Association H.W. Kueffner Municipal Service Award.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. PROCLAMATION HONORING KAREN CRAGNOLIN'S SERVICE TO THE COMMUNITY

Mayor Manheimer read the proclamation honoring former Executive Director of RiverLink Karen Cragnolin for her over 30 years of service to the community.

II. CONSENT AGENDA:

At the request of Councilman Haynes, Consent Agenda Items "C" and "E" were removed from the Consent Agenda for discussion and/or individual votes.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON AUGUST 9, 2016; AND PAGE AMENDMENT TO THE JULY 26, 2016, MINUTES TO CORRECT A TYPOGRAPHICAL ERROR

B. RESOLUTION NO. 16-202- RESOLUTION ACCEPTING NANCY STREET AS A CITY-MAINTAINED STREET

Summary: The consideration of a resolution to accept an extension of Nancy Street as a City street.

Following the terms of a Housing Trust Fund Loan Agreement dated July 9, 2015, between the City of Asheville and Beaucatcher Commons, LLC, an extension of Nancy Street was brought up to current City of Asheville standards to assist in the development of affordable housing for the benefit of low-and-moderate income households. The developer provided funds for the materials and the City's Public Works Department constructed the improvements. On August 2, 2016, Mr. Jeff Staudinger requested via e-mail message that we move forward with the

process to accept an extension of Nancy Street as a City street since the improvements have been completed.

Nancy Street from a point 0.06 mile west of Townview Drive to Townview Drive is a city-constructed street (in partnership with the developer) that has an average width of 16 feet with grass shoulders, a length of 0.06 mile, and a right-of-way width of 30 feet.

Transportation Department staff, Fire Department staff, Planning Department staff, and Public Works Department staff inspected the subject street and determined that it was constructed according to current standards as indicated in the City of Asheville's Standard Specifications and Details Manual.

Following City Council's approval of this resolution, the subject street will be added to the official Powell Bill List.

Pros:

- The City of Asheville will receive Powell Bill Funds from the North Carolina Department of Transportation (NCDOT) to help maintain the street.
- The street provides access to residential communities.

Con:

- Powell Bill Funds will not cover 100% of the total cost to maintain the street.

There will be no initial financial impact to the City, although the responsibility of maintenance will belong to the Public Works Department. The City will receive Powell Bill Funds in the future to help maintain the street.

Staff recommends that City Council accept an extension of Nancy Street as a City street.

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C. RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE TO STAFF AND CONTINUE THE DRUG ENFORCEMENT AGENCY ASHEVILLE DUTY POST TASK FORCE

This item was removed from the Consent Agenda for discussion and/or an individual vote.

D. RESOLUTION NO. 16-204 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE FARM TO TABLE DINNER EVENT

RESOLUTION NO. 16-205 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT THE BOUNTIFUL CITIES ANNIVERSARY PARTY

RESOLUTION NO. 16-206 - RESOLUTION AUTHORIZING THE POSSESSION AND/OR CONSUMPTION OF ALCOHOLIC BEVERAGES AND/OR UNFORTIFIED WINE AT OKTOBERFEST

Summary: The consideration of resolutions authorizing the City Manager to approve making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Farm to Table Dinner, the Anniversary Party and Oktoberfest.

- Appalachian Sustainable Agriculture Project has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve

beer and/or unfortified wine at the Farm to Table Dinner and allow for consumption at this event.

The Farm to Table Dinner will be held on Thursday, September 8, 2016 from 6:00 p.m. – 9:00 p.m. within the boundaries of Boston Way as per the area limits referenced on the accompanying site map.

- Bountiful Cities has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Anniversary Party and allow for consumption at this event.

  The Anniversary Party will be held on Saturday, September 24, 2016 from 4:00 p.m. – 10:00 p.m. within the boundaries of Walnut Street as per the area limits referenced on the accompanying site map.

- Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Oktoberfest and allow for consumption at this event.

  Oktoberfest will be held on Saturday, October 8, 2016 from 1:00 p.m. – 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Appalachian Sustainable Agriculture Project, Bountiful Cities, and the Asheville Downtown Association

Con:

- Potential for public safety issues

There is no fiscal impact

Staff recommends City Council adopt resolutions authorizing the City Manager to approve making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Farm to Table Dinner, Anniversary Party and Oktoberfest.

RESOLUTION NO. 16-204 - RESOLUTION BOOK NO. 38 - PAGE 167
RESOLUTION NO. 16-205 - RESOLUTION BOOK NO. 38 - PAGE 170
RESOLUTION NO. 16-206 - RESOLUTION BOOK NO. 38 - PAGE 173

E. RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PINNACLE LANDSCAPES LLC FOR THE 2016 MEDIAN MAINTENANCE PROJECT

This item was removed from the Consent Agenda for discussion and/or an individual vote.

F. RESOLUTION NO. 16-208 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONTRACT WITH THE N.C. DEPT. OF TRANSPORTATION TO FUND THE METROPOLITAN PLANNING PROGRAM, SECTION 5303 OF THE FEDERAL TRANSIT ADMINISTRATION

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation (NCDOT) to fund the Metropolitan Planning Program, Section 5303 of the Federal Transit Administration (FTA).

The FTA Section 5303 Metropolitan Planning Program is part of the annual Unified Planning Work Program (UPWP) of the French Broad River Metropolitan Planning Organization (FBRMPO), which outlines transportation planning tasks to be performed by the FBRMPO. The Metropolitan Planning Program is designated to pay exclusively for transit planning activities, such as grant administration and reporting activities, short range and long range transit planning, transportation improvement program preparation, Title VI and DBE programs, and planning and operational analyses. The funds are used to supplement the Transit Projects Coordinator position (90% of the grant) and a portion of the Transportation Manager position (the remaining 10%) for time spent on transit planning.

This funding makes possible to have dedicated staff developing and engaging in complex processes such as the transit master plan implementation, route changes, and to develop programs required by the Federal Transit Administration for recipient and sub-recipients to ensure compliance with federal regulations.

FY 2016-17 funding totals $75,000. The subject grant will provide 80% of the anticipated funding ($60,000), the North Carolina Department of Transportation will provide 10% ($7,500), and the City will provide the remaining 10% ($7,500). The grant funding and the City's local match in the amount of $7,500 are currently budgeted in the Transportation Department's approved operating budget for the current fiscal year.

Pros:

- Supplements funding for two existing positions.
- Enables the City of Asheville to use $67,500 in Federal and State funds for transit planning activities.

Con:

- A 10% local match in the amount of $7,500 is required.

The total grant funding for Fiscal Year 2016-17 is $75,000. The City is required to provide a 10% local match in the amount of $7,500. The anticipated grant funding and the City's local match in the amount of $7,500 are currently budgeted in the Transportation Department's operating budget.

City staff recommends that City Council adopt a resolution authorizing the City Manager to enter into an agreement with the North Carolina Department of Transportation to fund the transit planning program, Section 5303 Metropolitan Planning Grant of the Federal Transit Administration for FY 2016-17.

RESOLUTION BOOK NO. 38 - PAGE 177

G. ORDINANCE NO. 4517- BUDGET AMENDMENT TO FUND THE DEVELOPMENT, DEPLOYMENT AND MAINTENANCE OF A WEB-BASED APPLICATION TO ASSIST SMALL BUSINESS OWNERS AND PROSPECTORS WITH THE ZONING AND PERMITTING PROCESS

Summary: The consideration of a budget amendment in the City's Grant Fund in the amount of $50,000 from the United States Small Business Administration (SBA) to fund the development, deployment and maintenance of a web-based application to assist small business owners and prospectors with the zoning and permitting process.

On July 13, 2015 City Council authorized staff to register for the Startup in a Day Competition - Start Small Model. Based upon this registration, the City was awarded a $50,000 prize for the purposes of developing an online tool or application that lets most entrepreneurs identify and begin the application process within one day for all requirements to launch a business in our respective communities. After evaluating the City's permitting and review process

and available options, staff has chosen a third party configurable service to implement this project. In order to accurately account for the use of the funds, staff recommends the establishment of a project in the Grant Projects Fund, and a budget amendment to appropriate the revenue and provide authorization for the expenses in that fund.

Pros:

- Provides budget authorization for the expenditure of SBA awarded funds previously approved for application by City Council.
- Promotes the establishment of a user friendly system to assist Asheville entrepreneurs in obtaining permits to open small businesses.

Con:

- None

As the award is a prize and not a grant, no contribution of matching city resources is required.

Staff recommends that the City Council accept a budget amendment in the City's Grant Projects Fund in the amount of $50,000 from SBA's Startup in a Day to fund the implementation of a web-based application which will assist small business owners and prospectors with the zoning and permitting process.

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H. RESOLUTION NO. 16-209 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT THE 2015-16 U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT 2015-16 CONTINUUM OF CARE COMPETITION GRANTS ON BEHALF OF THE ASHEVILLE-BUNCOMBE CONTINUUM OF CARE

ORDINANCE NO. 4518 - BUDGET AMENDMENT TO ADJUST FOR THE TRANSFER OF THE HOMELESS MANAGEMENT INFORMATION SYSTEM GRANT

Summary: The consideration of (1) a resolution to authorize the acceptance of the 2015-16 Department of Housing and Urban Development 2015-16 Continuum of Care (CoC) Competition Grants on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501); and (2) a budget amendment in the amount of $51,392 to adjust for the transfer of the Homeless Management Information System grant to the City of Asheville mid-year in last year's grant cycle.

The City of Asheville serves as the Continuum of Care Lead for the Asheville-Buncombe Continuum of Care (CoC). Each CoC Lead is responsible for submitting the community's Collaborative Application to be considered for grant funding from the CoC Competition. For 2015-16, the City was awarded a $67,500 project grant necessary to operate the Homeless Management Information System (HMIS) and $35,892 for CoC Lead Planning costs. The Homeless Initiative Advisory Committee recommended the acceptance of these grants to the Housing and Community Development Committee at their meeting on August 16, 2016, upon review of the 2015-16 CoC Grant Applications by their Finance Sub-Committee.

The Budget Amendment for $51,392 is to adjust for the transfer of the HMIS grant mid-year in last year's grant cycle.

Pro:

- These HUD CoC Grants will provide funding for the costs of operating HMIS for the entire Continuum of Care and a full time City staff position tasked with database administration and CoC planning.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development Division staff will administer the program. Matching funds for the CoC Planning Project will come from Buncombe County's allocation supporting the Homeless Initiative. No general funds are requested to support this program.

The Housing and Community Development Committee recommends City Council adopt (1) a resolution authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the 2015-16 Continuum of Care Competition Grant funds; and 2) a budget amendment in the amount of $51,392 to adjust for the transfer of the HMIS grant to the City of Asheville mid-year in last year's grant cycle.

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ORDINANCE BOOK NO. 30 - PAGE 385

I. RESOLUTION NO. 16-210 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE FISCAL YEAR 2016-17 CONTINUUM OF CARE GRANT AND TO ACCEPT ANY SUBSEQUENT AWARD FOR PROJECT FUNDING

Summary: The consideration of a resolution to approve submitting the Fiscal Year 2016-17 Department of Housing and Urban Development Continuum of Care (CoC) Collaborative Grant Application for the annual CoC Competition on behalf of the Asheville-Buncombe Continuum of Care (CoC NC-501) and accepting any funds subsequently awarded, and authorizing the City Manager to sign awarded U.S. Dept. of Housing & Urban Development (HUD) contracts.

The City of Asheville serves as the Continuum of Care (CoC) Lead for the Asheville-Buncombe CoC. Each CoC Lead is responsible for submitting the community's collaborative application for project grant funding from the CoC Competition. For Fiscal Year 2016-17, the Asheville-Buncombe CoC is eligible to apply for $1,170,396 in renewal funding. The renewal projects currently assist in housing more than 147 formerly chronically homeless individuals, including case management. HUD CoC funding also provides financial support necessary to operate the Homeless Management Information System (HMIS). An additional $58,547 is available for a new Permanent Supportive Housing bonus project and $35,128 is available for CoC Lead Planning costs. The Planning grant assists the Community and Economic Development Department in staff costs for CoC responsibilities related to homelessness.

The Homeless Initiative Advisory Committee (HIAC) appointed an ad-hoc Finance Subcommittee, compromised of individuals and agencies who did not apply for CoC funds, to review the Continuum of Care projects and application process and make recommendations to the HIAC with an order of project priority. The Finance Sub-Committee's recommendations were approved unanimously by the HIAC. The HIAC recommended the following projects and order of priority to the Housing and Community Development Committee at their August 16, 2016 meeting for the 2016-17 CoC Collaborative Grant Application.

Tier 1	GIW/ Funding	Project Type	Score/Rank
Shelter Plus Care Asheville-Buncombe: Smoky Mountain Center, LME	$ 315,748	Permanent Supportive Housing	1
Pathways to Permanent Housing Extreme Needs: Homeward Bound of	$ 218,798	Permanent Supportive Housing	2

WNC			
Homeless Management Information System: City of Asheville	$67,500	Homeless Management Information System	3
Pathways to Permanent Housing Extreme Needs 5: Homeward Bound of WNC	$ 152,304	Permanent Supportive Housing	4
Pathways to Permanent Housing Extreme Needs 2: Homeward Bound of WNC	$ 56,244	Permanent Supportive Housing	5
Bridge to Recovery: Homeward Bound of WNC	$ 287,027	Permanent Supportive Housing	6

Tier 2	**GIW/Funding**	**Type**	
Pathways to Permanent Housing Extreme Needs 3: Homeward Bound of WNC	$ 73, 311	Permanent Supportive Housing	7
Housing Support for Domestic Violence Survivors: Helpmate, Inc.	$58,547	Rapid Rehousing: Bonus Project	8

No rank required	**Funding**	**Type**	
CoC Planning Project: City of Asheville	$ 35,128	Planning Grant	n/a

NC-501 Annual Renewal Demand (ARD) is determined by HUD: $1,170,932
Project Applications must be ranked as part of the Collaborative Application into Tier 1 or Tier 2. The Tier percentages are pre-determined by HUD annually:

- Tier 1: is 93% of NC-501's ARD ($1,088,967)
- Tier 2: is the difference between Tier 1 and NC-501's ARD ($81,965) plus the amount available for the CoCs permanent housing bonus (5% of NC 501's ARD =$58,547)
- CoC Planning Project ($35,128) – No rank required

Pro:

- Continuum of Care funding is a key funding resource for permanent supportive housing for homeless individuals and families, as well as operating the Homeless Management Information System, which is necessary for NC-501 to receive this vital funding.

Con:

- Program funding does not meet the full demand for the housing subsidy needed to assist all the low-income homeless households in the community secure permanent housing.

Program funding is entirely from the US Department of Housing and Urban Development. Existing community development division staff will administer the program. Matching funds for

the CoC Planning Project will come from Buncombe County's allocation to the City supporting the Homeless Initiative. No general funds are requested to support this program.

The Housing and Community Development Committee recommends to City Council (1) the order of project priority and submission of the Fiscal Year 2016-17 CoC Collaborative Grant Application; and (2) the adoption of a resolution approving the submission of the 2016-17 Continuum of Care Collaborative Grant Application and authorizing the City Manager to sign all necessary documents with the U.S. Department of Housing and Urban Development to accept the funds subsequently awarded.

RESOLUTION BOOK NO. 38 - PAGE 179

J. RESOLUTION NO. 16-211 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH GUARD-ONE PROTECTIVE SERVICES TO PROVIDE SECURITY GUARD SERVICES AT ASHEVILLE CITY HALL AND THE CITY OF ASHEVILLE PUBLIC WORKS BUILDING/ PERMIT CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with Guard-One Protective Services (Guard-One) to provide security guard services at Asheville City Hall (City Hall) and the City of Asheville Public Works Building / Permit Center (Permit Center).

Since 2011, the City has utilized contracted security guard services at City Hall. After five years of service provision by one contractor, in April 2016, the City solicited bids for security guard services at City Hall and received bids from the firms listed below. Upon bid review, the incumbent security firm, Guard-One scored was identified as the most qualified and responsive firm with the most experience providing guard services to public entity facilities that provide a high volume of citizen access. Since receiving bids, the City implemented security guard service at the Permit Center. Following staff review of the bidders, it was determined that Guard-One is the best qualified firm to provide said services at both City locations.

Security Guard Service Bids		
Bidder	**Bid Amount**	**Bid Rank**
Guard-One Protective Services; Alpharetta, GA	$16.95 per hour / guard	1
P&G Security Guard, Inc; Salisbury, NC	$16.25 per hour / guard	2
Absolute Contracting Services, Inc; Dunn, NC	$15.38 per hour / guard	3
Mopel Security Services; Charlotte, NC	$21.29 per hour / guard	4
Security Contracting, Inc.; Raleigh, NC	$16.47 per hour / unarmed guard	5

Pro:

- Provides funding for guard security services at City Hall and City Permit Center to safeguard building occupants and City property assets.

Con:

- None.

The total Fiscal Year 2017 cost of $140,000 was included in the adopted budget in the Risk Management Division of the Finance Department.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute an annual contract beginning July 1, 2016, through June 30, 2017, with Guard-One to provide security guard services at City Hall and the City Permit Center locations for an annual amount not to exceed $140,000.00 with an option to renew the contracted service for four (4) additional years on an annual basis, from July 1, 2017, through June 30, 2021, respectively, pending annual adopted budget allocations by City Council.

Councilman Bothwell questioned if Guard-One is paying a living wage to the security guards. He felt that the City should not be contracting with companies who pay less than a living wage to their employees. Risk Manager Brad Stein responded that he was uncertain if a living wage is paid; however, noted that the company said the 58-cent hourly increase was to pay for the guard's health care increases.

RESOLUTION BOOK NO. 38 - PAGE 180

K. ORDINANCE NO. 4519 - BUDGET AMENDMENT FOR THE BODY-WORN CAMERA PROGRAM

Summary: The consideration of a budget amendment in the Special Revenue Fund in the amount of $299,344.16, from the NC Governor's Crime Commission's State Appropriate Committee, to budget the grant funds and the City match for the 2016-17 Body Worn Camera Program.

During its July 26, 2016 meeting, the City Council authorized the Police Department to make application to the Committee for a grant to fund the implementation of a Body Work Camera Program. On August 23, 2016, the Police Department was informed that the grant has been awarded in the amount of $99,781.16, based upon the state-issued matching grant ($1 state for every $2 local) through a Memorandum of Understanding. The City's match, which totals $199,563 will come from the existing FY 2016-17 Police Department General Fund budget.

During its August 23, 2016 meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on September 6, 2016. The grant funds will allow the City to purchase an additional 60 Body-Worn Taser Axon Flex Camera Systems and accessories through TASER's Officer Safety Program as a part of the Police Department's Body-Worn Camera program, accelerating the implementation of the program from two years to one year, which is intended to achieve the following:

1) enhance the police-community partnership guided by integrity, fairness, respect, and professionalism;
2) produce a "civilizing effect" for both the police officers and citizens;
3) enhance the police-community partnership by decreasing citizen complaints on police officers, to include decreasing the use-of-force complaints;
4) decreasing the number of assaults against police officers; and augment criminal and internal investigations through audiovisual evidence that corroborates the factual basis of an incident.

Pros:

- Body Worn Cameras should produce a "civilizing effect" that enhances the police-community partnership with decreased citizen complaints on the police; decreased use-of-force complaints; and decreased assaults on police officers.
- Enhanced criminal and internal investigations

Cons:

- Ongoing City funding to sustain the Body-Worn Camera program for future police operations. This includes cost of the Law Enforcement Technology Specialist to manage the program and the cost of maintenance and replacement.
- Five-year service and purchase agreement must be renewed to enable continued use and data storage.
- Ongoing tasks and costs associated with managing devices and data, storing data, providing audio and video for court discovery, and following retention schedules.

The City will incur an expense based on the matching grant requirements ($1 state for every $2 local). As noted above, the City's match, which totals $199,563 will come from the existing FY 2016-17 Police Department General Fund budget. In total, the City is planning to purchase 180 camera systems in FY 2016-17 at a total cost of $323,255.36. Thus, the COA portion will be $223,474.20 with a grant award of $99,781.16. The five-year service and purchase agreement must be renewed to enable continued use and data storage. At the end of the grant, the general fund impact would be approximately $225,000.00 per year to cover additional accessories, safety plan and licenses for 4 additional years. The chart below outlines the general fund impact over the remainder of the proposed Body Worn Video Program implementation.

	Camera Systems, accessories and licenses		Grant	General Fund
Year #01 (FY 2017)	120	$ 223,474.20		$ 223,474.20
*Grant (FY 2017)	60		$ 99,781.16	$ 99,781.16
Year #02 (FY 2018)		$ 215,532.45		$ 215,532.45
Year # 03 (FY 2019)		$ 221,244.00		$ 221,244.00
Year # 04 (FY 2020)		$ 221,244.00		$ 221,244.00
Year # 05 (FY 2021)		$ 221,244.00		$ 221,244.00
Total	180	$ 1,102,738,.65	$ 99,781.16	$1,202,519.81

Staff recommends that City Council adopt a budget amendment in the Special Revenue Fund in the amount of $299,344.16, from the NC Governor's Crime Commission's State Appropriate Committee, to budget the grant funds and the City match for the 2016-17 Body Worn Camera Program.

ORDINANCE BOOK NO. 30 - PAGE 387

L. RESOLUTION NO. 16-212 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A TEMPORARY LABOR AGREEMENT WITH FIRST AT BLUE RIDGE, INC.

Summary: The consideration of a resolution to allow the City Manager to enter into a not to exceed contract for temporary labor services between the City of Asheville and FIRST at Blue Ridge, INC. (FIRST) for temporary laborers.

The City of Asheville is in need of temporary workers to perform a variety of tasks including work in litter collection, graffiti removal, drainage, traffic control, building maintenance, and other like work for the Public Works Department and the U.S. Cellular Center. These workers perform unskilled labor and are typically used in crews of four to five on an as-needed basis. In August 2013, City Council authorized the City Manager to enter into a temporary labor service agreement with FIRST at Blue Ridge, Inc. (FIRST) for these services. The term of that agreement ended on June 30, 2016.

FIRST is a local non-profit organization operating from 32 Knox Rd. in Ridgecrest, NC. FIRST offers a combination of therapeutic treatment, vocational training, and life skills development for people with chronic substance abuse addictions to assist them in becoming responsible members of society. Participants receive treatment, room and board, transportation and other benefits. The result is positive for the community for the reason that the participants learn to live a productive lifestyle as opposed to being a burden on society. The City of Asheville has utilized FIRST participants with excellent results for over the past ten years.

As of June 30, 2016, the City of Asheville has reached the end of a general services agreement with FIRST for temporary labor services. City staff along with FIRST, desire to enter into an agreement for temporary labor services for two additional years at the prior rate of $9.00/hour; not to exceed $330,000 per fiscal year. The contract amount has been allocated in the following way for fiscal year 2016/2017:

- U.S. Cellular Center $120,000
- Downtown Cleanliness (Streets Division) $107,000
- Sanitation Division $63,000
- Stormwater Division $40,000

Pros:

- Supports employment opportunities for at risk youth and adults.
- Reduced expense for recruiting, hiring and benefits for full-time workers.
- Reduced expense for temporary labor as opposed to traditional temporary labor agencies.
- Carpooling will reduce the negative impact to the environment.
- Supports diversified job growth and business development.
- Enhances diversity in the City as an organization so that the workforce more closely resembles the community.

Con:

- None identified.

The contract amount has been allocated in the adopted U.S. Cellular Center and Public Works operational budgets for Fiscal Year 2016/2017.

Staff recommends City Council adopt a resolution to allow the City Manager to enter into an agreement for temporary labor services between the City of Asheville and FIRST, Inc., not to exceed $330,000 per fiscal year; for an initial term of two (2) years, with the option of continuation for two (2) additional terms each equivalent to a single calendar year.

Councilman Bothwell questioned if the City was paying a living wage to temporary workers. Director of Public Works Greg Shuler responded that their rate is $9/hour, but what the FIRST workers receive in addition to their salary is housing, transportation, job training and life

skills training. He noted that several FIRST employees have applied for and been hired by the City after they completed their time with FIRST.

City Manager Jackson pointed out the effect of this agreement is very similar to day labor programs in other municipalities. In this instance, there is $300,000 worth of work that fills our needs and at the same time provides job training to help get people into permanent positions.

Councilman Haynes asked that future staff reports for service agreements include what the company is paying their employees. He will not support agreements to companies that do not pay a living wage. Mayor Manheimer noted that the City tried to require that all contractors pay a living wage to their employees; however, the state legislature passed legislation saying that we were not allowed to make that a requirement of our contractors. Yet, the City is still subject to the public bidding requirements.

Councilman Haynes felt that if our contractors are not paying a living wage to their employees, then perhaps the City should consider hiring more City employees to perform the work.

In response to Councilwoman Mayfield, City Manager Jackson said that he would investigate on whether the City can include a request for wage rates within our Request for Proposals. Councilwoman Mayfield said that if that is possible, and if they don't pay a living wage, then perhaps they can state what other benefits they are providing to their employees.

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M. RESOLUTION NO. 16-213 - RESOLUTION AUTHORIZING THE EXECUTION BY THE MAYOR OF A FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT

Summary: The consideration of a resolution authorizing the execution by the Mayor of a Federal Aviation Administration (FAA) Grant Agreement for Project No. 3-37-0005-047-2016 in the amount of $1,409,189.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount of $1,409,189 is for the Airport Project to Rehabilitate Runway (Phase 5 Site Preparation and NAVAIDs Installation, Permanent Runway 17/25), Acquire Aircraft Rescue and Firefighting Vehicle (1,500 gallon).

Pro:

- Supports service enhancements at Airport

Con:

- None noted

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-047-2016.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Items "C" and "E". This motion was seconded by Councilwoman Field and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

C. RESOLUTION NO. 16-203 - RESOLUTION AUTHORIZING THE CITY MANAGER TO RENEW AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE TO STAFF AND CONTINUE THE DRUG ENFORCEMENT AGENCY ASHEVILLE DUTY POST TASK FORCE

Summary: The consideration of a resolution to authorize the City Manager to enter into a renewed agreement between the United States Department of Justice, Drug Enforcement Administration (DEA) and the City of Asheville Police Department (APD) which is set to expire September 31, 2016.

The APD has been an active member of the DEA Task Force at the Asheville Duty Post for a several years. The DEA Task Force is a multi-jurisdictional unit that partners to address the illegal trafficking, sale and distribution of narcotics and dangerous drugs in Western North Carolina. The goal of the targeted reduction of such activities is to have a positive impact on the health and general welfare of our communities. As a member of the DEA Task Force the APD agrees to the following:

- APD will assign one experienced officer for at least 2 years, to work under the direct supervision and control of the DEA supervisory staff.
- APD staff will be required to adhere to the Policy and Procedures of the DEA as well of those of the City of Asheville, and the APD,
- Assigned APD Staff will be deputized as a Task Force Officer of DEA pursuant to 21 U.S.C 878

To accomplish the objectives of the Asheville Duty Post (Task Force) the DEA will assign 3 Agents to the Task Force. Additional DEA support, based on availability of annually appropriated funds, will provide funds and necessary equipment to support the Task Force Members activities. Such support will include: office space, office supplies, travel funds, funds for confidential informants and evidence procurement, training expenses, investigatory equipment, and other support items as needed.

On Monday, August 22, 2016, the Public Safety Committee was received this request and recommended that it be forwarded to City Council for review and approval.

Pros:

- Establish a dedicated Task Force to address the illegal trafficking, sale and distribution of narcotics and dangerous drugs in Western North Carolina.
- Foster an atmosphere focusing on reduction of such activities and to have a positive impact on the health and general welfare of our communities by reducing or eliminating illegal drugs and related crimes.

Con:

- None.

Salary and benefits for a Senior Police Officer position assigned to the DEA Task Force Asheville Duty Post, which are already included in the Adopted FY 2016-17 Police Department Budget.

Staff recommends that City Council approve the resolution authorizing the City Manager

to renew an agreement United States Department of Justice, Drug Enforcement Administration and the City of Asheville Police Department which is set to valid through September 30, 2017.

Police Chief Tammy Hooper briefly explained that this agreement enables the City to assign one detective to the Drug Enforcement Agency Task Force for WNC which enables us to investigate cases outside of Asheville. If we do not review this agreement, we would not be able to investigate cases of drug supplies outside of Asheville and Buncombe County.

Councilman Haynes read the following statement "Let me start by saying that my comments here today are not directed at Chief Hooper or any officers involved locally in the enforcement of drug laws. My issues are with the policy makers who blindly continue down a failed path. When President Nixon declared a War On Drugs in 1971, he made illegal drug use policy enemy number one. He temporarily put marijuana on the list of schedule one drugs pending a commission review. In 1972 that commission unanimously recommended decriminalizing the possession and distribution of marijuana for personal use. Nixon rejected their findings and marijuana remains a schedule one drug. In 1973 he created the DEA or Drug Enforcement Agency to fight his war on drugs. Nixon's Aid John Erlichman stated in 1994 that the war on drugs was started to combat the enemies of the Nixon Administration - the Anti-War Left and the Civil Rights Movement. That by associating Hippies and Blacks with drugs, the administration could disrupt these communities by arresting their leaders, raiding their homes, breaking up meetings, and vilify them night after night on the evening news. According to census data the prison population in 1970 was a little over 198,000. In 1981 when Reagan took office it was 302,000. Fueled by the Reagan Administration's escalation of the war on drugs, that number would rise 134% over the next decade. In 2013 there were 2,220,300 people incarcerated with another 4,700,000 on probation or parole. As with any war, there are causalities. The causalities of the War on Drugs are people of color. Though Blacks and Latinos make up one quarter of the population, they make up 57% of incarcerations. These figures are both staggering and unacceptable. The mass incarcerations along with the existing culture between law enforcement and the black community are both direct results of an ill-conceived and failed war on drugs. It is time to end the ware on drugs. We need to restructure our Criminal Justice System and begin a time of healing for our society. Therefore, I cannot in good conscience vote to re-enter into this agreement."

Councilman Bothwell said that the only way he can make a stand on the war on drugs is to vote against this agreement, even though he does support our police force.

Mr. Timothy Sadler encouraged Council to reach out to President Obama and encourage him to keep his promise to take marijuana off the schedule one drugs.

Ms. Jan Kubiniec noted that a lot of crimes are not from people smoking marijuana.

Mayor Manheimer noted that a recent citizens' survey showed that drugs are the number one problem in our community. The Council has the duty to help our police maintain safety in our community and we must support our officers to handle drug enforcement within Asheville.

Councilman Smith urged Council members, who review items in committee, request that the item be removed from the Consent Agenda for discussion and/or individual vote if they do not receive unanimous support. In this instance, at the Public Safety Committee the only unanimous support was to only forward the action to City Council for their review.

Councilwoman Mayfield moved for the adoption of Resolution No. 16-203. This motion was seconded by Vice-Mayor Wisler and carried on a 4-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Young voting "no."

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E. RESOLUTION NO. 16-207 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH PINNACLE LANDSCAPES LLC FOR THE 2016 MEDIAN MAINTENANCE PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Pinnacle Landscapes, LLC (Pinnacle), for the amount of $110,849.00 plus 20% contingency and any change orders within the project budget for the project known as 2016 Median Maintenance Project, City of Asheville Project #CPM-15-16-003.

The City of Asheville has many median and bulb-out locations in City of Asheville rights-of-way that need landscape improvement and maintenance. The initial phase of this project included obtaining design services for the various locations, including a basic schematic of each site, an assessment of each site's existing vegetation, and development of a maintenance plan for each site. Design services were obtained through an RFQ process, with McGill Associates of Asheville, N.C. chosen for the design portion of the project.

An advertisement for bids was issued for the 2016 Median Maintenance Project on June 13, 2016, and the following firms submitted bids for the project:

Pinnacle Landscapes, LLC	Asheville, NC	$110,849.00
Rivertop Contracting, Inc.	Asheville, NC	$155,267.18
Landmark Landscapes, Inc.	Asheville, NC	$129,922.35
Locust Property Management, LLC	Asheville, NC	$619,000.00

Pinnacle Landscapes, LLC was the lowest responsible bidder with a bid of $110,849.00. Adding in a 20% contingency, the total required budget for construction is $133,018.80. The work produced from this contract would improve the City of Asheville's roadway landscaping and provide a more uniform landscape scheme.

Pros:

- Improves the City's appearance by replacing overgrown vegetation.
- In some cases pedestrian safety is improved by adjusting sight lines at pedestrian crossings.

Con:

- Project management and contract administration will consume staff time and resources.

Funding for this contract is already included in the FY 2016-17 Public Works Department budget.

City staff recommends City Council adopt the resolution awarding the contract to Pinnacle Landscapes, LLC, and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $110,849.00 plus a contingency of 20% ($22,169.80), for a total of $133,018.80 with Pinnacle Landscapes, LLC for the project known as 2016 Median Maintenance Project.

When Councilman Haynes asked what the employees were paid for this contract, Director of Public Works Greg Shuler said that they know the unit prices; however, he did not know the employee wages. Councilman Haynes stated that he would not support service agreements with companies that do not pay a living wage.

After a brief discussion, initiated by Councilman Bothwell, it was the consensus of Council to ask City Manager Jackson to develop budget options for bringing contract services in-house, beginning with the Finance Committee review this fall.

Councilman Young moved to adopt Resolution No. 16-207. This motion was seconded by Councilman Haynes and carried on a 5-2 vote, with Councilman Bothwell and Councilman Haynes voting "no."

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III. PRESENTATIONS & REPORTS:

A. LEE WALKER HEIGHTS UPDATE

CEO of the Housing Authority David Nash updated City Council on the Lee Walker Heights Project. Unfortunately the Housing Authority was not successful in their application to the N.C. Housing Finance Agency for low income housing tax credits. It is their intention to listen to the feedback and submit another 9% application in January of 2017, or look at the 4% tax credit program which requires more local subsidy, and also which would require them to reach out to the County. A formal request to the County has not been made yet. He hoped that the City will continue to support their commitment.

Mayor Manheimer thanked Mr. Nash for his hard work on this project and hoped that he will continue to keep the City updated on the progress.

B. QUARTERLY I-26 CONNECTOR UPDATE

Transportation Director Ken Putnam said that City staff continues to meet with the N.C. Dept. of Transportation on a regular basis. They have held three meetings and have learned about traffic forecasting, level of service and capacity. They have discussed noise walks, bridges and aesthetics. He was pleased that people in charge of these items are coming to the meetings. He said that City Council will see a menu of the different options you'd like to see on I-26 in the future. Their next meeting is September 20, 2016, and their task will be to bring a betterments list. Future tasks will be the the aesthetics committee.

At the suggestion of Councilman Smith, Mr. Putnam said that at his next update he would provide Council with some visual representations.

At the request of Vice-Mayor Wisler, Mr. Putnam said that he would be happy to add the minutes of these meetings with the N.C. Dept. of Transportation on the City's website.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Mayor Manheimer received a letter from Mr. Jason Walls, Duke Energy District Manager for the Asheville Area, on August 9, 2016, which agreed that a delay would provide for the time needed for conversation and collaboration around electrical infrastructure construction in downtown Asheville. Mr. Walls also noted that they will not submit any permits for its three downtown substations until February 1, 2017, at the earliest. Therefore, Councilman Bothwell moved to continue this public hearing until the January 10, 2017, meeting. This motion was seconded by Councilman Young and carried unanimously.

B. CONTINUATION OF PUBLIC HEARING TO CONSIDER APPROVING A SIGN PACKAGE FOR INGLE'S MARKETS INC. FOR THE PROPERTY LOCATED AT 863 BREVARD ROAD

Principal Planner Shannon Tuch said that on July 26, 2016, the Asheville City Council reviewed a request from Ingle's Inc. for a signage plan that exceeds the City's maximum sign allowances. This public hearing was opened and closed on July 26. Council asked Ingle's representatives to improve upon the request in a manner that more closely aligns with city goals and return for reconsideration. The hearing was continued to September 6, 2016.

Ingle's representatives have revised their request to consolidate the two free-standing signs into a single 200 square feet, 25-foot tall monument sign in order to help reduce the sign clutter that comes from competing streetside signs. They have also supplied more information and detail regarding the building façade for the grocery store that breaks the façade into discreet sections where changes in architectural details, window and door fenestration, façade articulation, and materials creates natural breaks in the façade – much like a traditional multi-tenant building may do. In this regard, the newer Ingle's stores distinguish themselves from other large grocery retailers where a uniform façade is more commonplace. Other store examples may include some of the same features but often not as many, or to the same extent, as the Ingle's prototype.

With these details further clarified, Ingle's representatives are respectfully requesting reconsideration of their attached signage on the grocery store building based on the following:

Creativity - the building façade is creatively designed to resemble a multi-tenant building with different occupiable spaces. The architectural detailing, building articulation, varying roof lines, extensive window & door fenestration, and change in materials helps to communicate a building pattern that would normally include tenant signage.

Wayfinding – the overall façade is 324 linear feet and the site is a little over eight acres. Some of the attached signage (café, vineyard, Fresh Foods) helps communicate to the visitor which side of the store certain products or features are located so that they may park close to the most convenient entrance. The "Rx DRIVE-THRU" sign also identifies the location of the drive-through window.

No changes to the gas station signage are proposed as these signs already largely comply.

The "vineyard" sign has been substituted for the previously proposed "beer & wine" sign.

An update to the city's sign code will be required to comply with last summer's federal Supreme Court decision and is currently included in the Planning & Urban Design department's two-year workplan. Staff has been collecting preliminary information on other strategies for sign regulation including a more form based approach. The most common application of this method is to allow a percentage of the total building face (i.e. 3-5%) to be dedicated to signage. In some instances, bonus square footage may be considered when various design features are included, or in lieu of other free-standing signage. If this approach were to be applied, the proposed signage for Ingle's could potentially comply in the future, especially in light of the willingness to eliminate the second free-standing sign.

While an update to the sign code may provide Ingle's with greater opportunity in the future, the preferred strategy and final standards have not been identified or adopted. Any new standards will require review and input from other stakeholders and be balanced against competing goals.

Ms. Tuch said that in the earlier staff report, she found an error. She identified that there was a past application for an additional Starbucks sign at the Oteen store that was not approved. That was actually approved. What was denied was a more recent application in 2012 for a complete sign package for that same Oteen store. 2012 was the last Ingle's sign package that came before City Council and it was denied on a 3-3 vote.

In response to Councilwoman Mayfield, Ms. Tuch said that Ingles has more gas signs that what would normally be allowed. What didn't comply was the second sign on the canopy itself.

In response to Councilman Young, Ms. Tuch said that their sign package still does not comply with the sign ordinance. The sign ordinance does include an option for a site specific - project specific review for a comprehensive signage plan. Ingles is exercising that option. That is a legislative review. Council can use compliance with the ordinance as one means of evaluation, but Council is also open to using other things that may be relevant to this request.

When Councilman Young asked if the pictures shown of other grocery storefronts around Asheville were compliant, Ms. Tuch said that to her knowledge they were.

Mr. Wyatt Stevens, attorney representing Ingles Markets, explained that the 2012 denial related to the addition of a gas station. They wanted to add it to an existing store and that was denied. What they did was created a separate parcel for that tract and submitted it as a new application. He explained that this sign package is identical to what Council approved in 2007 for the Skyland store. Ingles is not asking for anything than what was approved before. Listening to Council's concerns, Ingles revised their sign package to delete one of their monument signs and combine it into one monument sign. That new one monument sign is in compliance with the ordinance. Regarding the front of the store, the sign ordinance only allows 200 sq. feet and Ingles was originally asking for 400 sq. feet. Ingles then reduced their front of the store signage from 403 sq. feet to 246 sq. feet. But they also have an alternate plan they would like Council to consider - a reduction to 320 sq. feet because it looks better. The 246 sq. feet signage looks too small. He then reviewed the site as a whole, e.g., 925 new trees and plants; moved the store from the back of the lot to the front of the lot which reduces the amount of parking in the front of the building which will reduce the amount of black asphalt; use of concrete for employees parking in the back of the building; black roof is now white; added 73 skylights; and further explained how they have reduced the energy usage of this building by 30%. When he showed a picture of an Ingles store in the County, approximately the same 72,000 sq. foot size, he explained the articulation between the elements, which creates a nice pleasing front view of the store. He felt that if they were restricted to 200 sq. ft. most of it would be for the Ingles sign and the other signs would be very small. Regarding the gas station signage, they are requesting two on the front (one is allowed); however, the total square footage is in compliance. On the side they are asking for two signs (one is allowed) and the total square footage exceeds 13.5 square feet. He did not think that was a garish way to sign a building. Ingles can come into compliance; however, they also can do what they did in 2012, which was to create a separate parcel and City Council would not have any input into their sign package for the gas station. He noted that Ingles is a Buncombe County based business and employs 4500 employees in the County, 1500 of who work in the City. The store, which employed 75-80 employees, will now employ approximately 150-160 employees. There is a $15 Million investment in this store alone, and all subcontractors are local, along with the materials for the site. He asked for Council to approve the entire sign package (with the reduction of 403 sq. feet to 320 sq. feet).

When Mayor Manheimer asked what would be the challenge in bringing the gas station signs into compliance with the ordinance, Mr. Stevens said they may be able to take the Ingles sign off on the side elevation. The size of those specific signs might be modified to fit the ordinance. He said they could bring the gas station into compliance if they had to, but prefer for Council to approve what they are proposing.

Vice-Mayor Wisler moved to approve the Ingles sign package with the front of the store signage being no larger than 246 sq. feet, and the gas station signage being brought into compliance with the sign ordinance.

Mr. Preston Kendall, representing the contractor, said that by law they have to be able to post the gas price. He said the combined monument sign was more showing what they could do, not exactly what they were going to put on it. Some of the franchises that they buy say that they have to promote outside. So if we show them what they have, they may have to put some of their signage where the gas price is shown on the monument sign. They would like to keep the gas price on the gas station canopy just in case they don't have room on the monument sign.

When Councilman Young asked how many grocery stores have asked for exceptions to our sign ordinance, Ms. Tuch was not aware of any, although one of the stores she believed there was a pharmacy sign. She was not sure how that got permitted but it was not on a Council level. Mayor Manheimer recalled that Council has approved campus signage packages for Mission Hospital, Airport, Asheville Outlets, and UNC-Asheville.

Mayor Manheimer then opened the public hearing at 6:47 p.m.

Mr. Jonathan Wainscott supported the the proposed sign package and also asked Council to require 8-10 inch address numbers and letters for visibility on the street.

Mayor Manheimer closed the public hearing at 6:49 p.m.

Councilman Bothwell applauded Ingles for saving 30% energy and hoped they put that extra savings into paying their employees a living wage. He could not see the justification for violation of the sign ordinance, especially since other grocery stores have had to comply with the ordinance.

Councilman Bothwell moved to reject the sign plan for Ingles Markets on Brevard Road. This motion was seconded by Councilman Young.

Councilwoman Mayfield said that she might be willing to support the 246 sq. feet front of store signage, but did not support the signs requested for the gas station. She wanted Council to be aware if this passed, that they need to be prepared to approve other sign ordinance out of compliance requests.

When Mayor Manheimer asked what would happen if the motion to deny passes, City Attorney Currin said that (1) if the applicant withdraws prior to a motion being voted upon, they could make a new application and come back through the process again; or (2) if the application is denied, there would be a 365 day waiting period before the applicant could begin the process again.

Councilman Bothwell said that he could support the applicant withdrawing their application.

Mr. Stevens said that the applicant would be willing to withdraw the application for the revised sign package, which includes the front single monument sign (which is compliant), the gas station sign package as originally presented, and the store frontage total square footage of 320. However, he asked Council to consider instead (1) the front single monument sign (which is compliant), (2) a compliant gas station sign package; and (3) 246 square feet with the front signage (ordinance only allows 200 sq. ft.).

Councilman Bothwell would not amend his motion as there would still be a violation of the sign ordinance (front square footage).

Mr. Stevens said that the store is almost finished; and if the applicant has to wait until the next available City Council meeting, it could potentially delay real jobs in this County by 4-8 weeks. Putting the applicant into a position to have to reapply for 246 sq. feet on the front on the store is not reasonable.

Councilman Young reminded the applicant that if he brings the sign package into total compliance with the sign ordinance, he would not have to come back to Council.

Councilman Smith said that Ingles has done so much, and continues to do so much, for the community, however, carving out an exemption for one company strikes him as being unfair.

Mr. Stevens said that Ingles will withdraw their application.

C. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR THREE PARCELS KNOWN AS 99999, 99999 AND 42 SIMPSON STREET TO ALLOW FOR THE CONSTRUCTION OF SEVEN 10-UNIT MULTI-FAMILY BUILDINGS WITH PARKING BELOW

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 7:04 p.m.

Urban Planner Vaidila Satvika submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Mr. Satvika said that this is the consideration of the issuance of a conditional use permit for three parcels known as 99999, 99999 and 42 Simpson Street to allow for the construction of seven 10-unit multifamily buildings with parking below. This project is considered a Level III review pursuant to Section 7-5-9(a) of the city's Unified Development Ordinance (UDO), which designates review for residential projects with more than 50 units. Level III projects are reviewed as Conditional Use Permits.

The site consists of three parcels with a combined area of 1.62 acres located immediately south of Swannanoa River and along the proposed corridor of the Swannanoa River Greenway (Attachment to City Exhibit 3 - Aerial Map). The property is addressed as 42 and 99999 Simpson Street and was formerly an industrial use that is now vacant. Adjacent zoning is River District and in the area uses are primarily industrial.

The developer, Beaucatcher Commons, LLC., is proposing a 70-unit multi-family apartment development on the site with associated parking and improvements related to residential amenities. The development is composed of seven, two-story buildings containing 10 units each (Attachments to City Exhibit 3 - Site Plan, Elevation Drawings). The structures will be constructed on stilts because the site is within a flood area. Parking will be located below each building. All of the apartments will be one-bedroom units.

The project will provide housing units that are 100% affordable at or below 60% of area median income (AMI).

Access to the site will be provided by two driveways, one that will allow both ingress and egress while the other will be egress only. The area will not be paved; the parking and vehicular area will be gravel. A six foot concrete sidewalk will be included along the street.

Parking is provided below each building (56 spaces) and along the sidewalk (17 spaces),

resulting in a total of 73 parking spaces. Pedestrian pathways will provide paved access between buildings and the sidewalk.

The nearest bus stop is located approximately one mile away at the intersection of Wood Avenue and River Hills Road, which requires walking through Target's parking lot to River Hills Road.

The project is required to comply with Section 7-11 of the UDO that includes street trees, parking lot buffer, street buffer, building impact, open space, and tree save standards. The applicant was approved for a reduction in some of the landscape requirements to support the provision of 100% affordable housing. The Tree Commission reviewed and approved the request, as outlined below:

- Street Trees, Street Yard Buffer, Open Space: 100% provided
- Parking Lot Landscaping:
  - Trees required: 17; Trees proposed: 9 (53% proposed)
  - Shrubs required: 67; Shrubs proposed: 34 (51% proposed)
- Building Impact:
  - Trees required: 21; Trees proposed: 11 (52% proposed)
  - Shrubs required: 42; Shrubs proposed: 21 (50% proposed)
- Tree Save:
  - Tree Save required: 0.49 Acres; Tree Save proposed: 0.39 Acres (80% proposed)

The applicant has agreed to provide a permanent easement along the property's riverfront for the future proposed Wilma Dykeman Greenway, a plan adopted by City Council in 2013.

The site is currently zoned River (RIV); the use proposed is permitted by-right and the applicant is proposing to meet the standards of the district with this development proposal.

This proposal was approved with conditions by the Technical Review Committee (TRC) on June 20, 2016, and requires quasi-judicial review by City Council and Final TRC review prior to zoning approval. The Planning & Zoning Commission voted unanimously to support the project.

The Asheville Area Riverfront Redevelopment Commission (AARRC) review is a mandatory review, voluntary compliance process for this application. The AARRC Planning and Design Review subcommittee reviewed and approved the proposal on June 23, 2016. Although the full Commission was not able to meet in August, the design committee confirmed approval to maintain the reasonable process and review timeframe set up by the ordinance.

The Tree Commission reviewed and approved the proposal for Alternative Compliance at their August 15, 2016, meeting.

Section 7-16-2(c) of the Unified Development Ordinance (UDO) states that Asheville City Council shall not approve the conditional use application and site plan unless and until it makes certain findings based on the evidence and the testimony received at the public hearing or otherwise appearing in the record of the case. The applicant has provided a statement on these findings.

Staff finds that the relevant standards of the City have been met or can be met with this application.

In response to Councilman Bothwell, Mr. Satvika said that one building has the Americans with Disabilities Act (ADA) accessible units.

In response to Councilwoman Mayfield, Mr. Satvika said that staff and the applicant are still working on connectivity issues for pedestrians to get to the bus stop.

Mr. Chris Day, representing Civil Design Concepts, reviewed with Council the site plan (Applicant Exhibit 1), along with the design sketch of the unit with the ADA ramp (Applicant Exhibit 2). The applicant is providing over 100 feet of open space between the project and the Swannanoa River, along with dedicated space for the future greenway. The applicant is willing to work with staff and the community on future connections to transit. He said this is a low impact development and briefly reviewed the conditional use findings (Attachment to City Exhibit C).

In response to Councilman Bothwell, Mr. Kirk Booth, applicant, said that the 100% affordable housing will be for 30 years.

When Councilwoman Mayfield asked if the applicant has approached the other property owners regarding the sewer line easement, Mr. Booth said that it is still on his list of things to do.

In response to Councilman Smith, Mr. Booth said that all 70 rental units will be $544/month and they will accept HUD vouchers.

Mr. Timothy Sadler suggested adding the cost of monthly bus passes into the cost of the rents and that will potentially bring enough revenue to the transit budget to extend the transit line to the complex.

Mr. Don Hunley, with McGill Associates, spoke in support of the project.

After rebuttal, Mayor Manheimer closed the public hearing at 7:22 p.m.

Vice-Mayor Wisler moved to recommend approval of the conditional use permit for the Simpson Street Development located at 42 and 99999 Simpson Street with the proposed reductions to landscape requirements as defined by Section 7-11-3 (3) Alternative Compliance because it meets the seven conditional use standards as demonstrated by the applicant. This motion was seconded by Councilman Smith and carried unanimously.

Councilman Smith said this is a leadership project and was grateful for the developer to step up to show how the City and developers can work together to bring more projects like this to the City.

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be presented at the next formal Council meeting on September 27, 2016.

Closed Session

At 7:25 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10 (a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a potential lawsuit. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 8:25 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Young and carried unanimously.

D. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 184 NEW HAW CREEK ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO INCLUDE A NEW TWO-STORY ADDITION BEHIND THE MAIN BUILDING

ORDINANCE NO. 4520 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 184 NEW HAW CREEK ROAD FROM RM-6 RESIDENTIAL MULTI-FAMILY LOW DENSITY DISTRICT TO COMMUNITY BUSINESS I DISTRICT/CONDITIONAL ZONING TO INCLUDE A NEW TWO-STORY ADDITION BEHIND THE MAIN BUILDING

Urban Planner Jessica Bernstein said that the applicant is requesting review of a conditional zoning request from Residential Multi-Family Low Density District (RM-6) to Community Business I Conditional Zone (CB1-CZ), in accordance with Section 7-7-8 of the Unified Development Ordinance (UDO), for the adaptive reuse of a former church building to an eating and drinking establishment. The project will include a new two-story building addition behind the main building. The parcel is owned by John Christoph, LLC (applicant) and is PIN 9658.47-7249. This public hearing was advertised on August 26 and September 2, 2016.

The project site, located at 184 New Haw Creek Road, consists of a single parcel of approximately 1.53 acres in East Asheville at the edge of the Haw Creek neighborhood. The site is currently zoned RM-6 and contains a formerly used church building with associated parking. There is a creek running along the western boundary of the project site.

Nearby zoning includes RM-6 on adjacent parcels to the north side of New Haw Creek Road and Highway Business (HB) for the parcels across the street to the south. The area is developed with primarily residential uses, including single-family homes and vacant parcels as well as a multi-family apartment development to the north and a small retail/office use to the south (zoned HB).

The applicant is proposing to adaptively reuse the existing building for a restaurant use. The change of use necessitates a change to zoning and upgrades to the site for compliance with the UDO. There is an expansion proposed for the rear of the existing structure, outdoor dining areas and petanque courts/outdoor seating. The two-story addition will total nearly 2,300 square feet. The second level will provide office space that will be used by the owner in the management of the restaurant. The proposed building and addition will total about 5,280 square feet which is within the allowance for the proposed zoning.

The proposal utilizes the two existing driveways into the site. The westernmost driveway provides two-way access into the parking area and the easternmost driveway is a deeded right-of-way for the apartment use to the north (30 foot right-of-way with 21 feet of pavement). This driveway will service the compost/recycling and delivery area for the restaurant but would not be used by patrons to the site.

A new sidewalk is proposed along the project frontage, meeting the City's standard configuration of five feet of sidewalk with a five foot grass strip.

Due to the number of seats (110) and employees (14), a range between 44 and 62 parking spaces is required; 47 are proposed (six are shown as gravel parking). Parking will be accommodated in the existing parking area location. Since the office space (950 s.f.) will be used to support the restaurant operation, it does not have a separate additional parking requirement. A minimum of two accessible parking spaces are required and four bike parking spots are provided. The placement of the parking requires a condition (see below).

The project is required to comply with landscaping standards, including a type A (20 foot)

property line buffer along three sides, a street buffer at the frontage, street trees, parking lot landscaping and building impact landscaping. There are existing trees on site that will remain and be used towards planting credits. The location of the existing driveway within the eastern property line buffer is an allowable encroachment per Section 7-11-3 of the UDO.

Open space is required for this project with a minimum of 15% of the lot area to be provided. More than this amount is shown on plans. There will be a 30 foot stream buffer preserved along the western side of the property.

Due to the adaptive reuse of the existing site features, the following condition will accompany this request and is included in the B1 conditions list:

1. Parking will be located in the front of the building rather than to the side or rear as typically required in the CBI zoning district.

This proposal was approved with conditions by the Technical Review Committee (TRC) on June 20, 2016, and requires review by the City Council and Final TRC prior to zoning approval. The applicant has participated in two neighborhood meetings.

At the Planning & Zoning Commission meeting on August 3rd, the Commission voted to support the request (6-0) and no public comment was heard. Subsequent to the meeting, staff has spoken with a neighboring property owner who objects to the rezoning and proposed restaurant use and has concerns related to increased traffic, site visibility issues, negative impacts of a food and alcohol-centered business on the streets and as an attractive nuisance for wildlife.

The change in zoning is required because under the current residential zoning, an eating and drinking establishment would not be allowed. The Community Business One zoning district is intended to provide for medium density business and service uses in locations that service multiple neighborhoods and are sensitive to pedestrian populations. The site is close to Tunnel Road, provides a sidewalk along the frontage and is within approximately a tenth of a mile to a transit stop on the E2 route.

Other recent projects in the general vicinity include Haw Creek Commons (CZ approved by City Council on June 28, 2016) and a Best Western Plus on Tunnel Road (Level II project, 2015, under construction).

While typically the City seeks to preserve residential neighborhoods for residential uses, this site has been the location of a non-residential use since 1965 when the current structure was built for a church use. Additionally, the location proximate to Tunnel Road and Highway Business zoning makes this a suitable setting for a transitional business between the higher-intensity uses that are permitted in HB and the residential uses to the north. The applicant will be reusing the existing site layout but will incorporate additional landscaping along the boundaries adjacent to residential zoning to provide additional buffering and screening as well as stream preservation. A condition has also been added to the B1 conditions and agreed to by the applicant that outdoor seating will cease by no later than 10 o'clock pm to lessen night time impacts on residential neighbors. Staff anticipates that this along with the other site improvements will result in a compatible use for this location.

This proposal aligns with several aspects of the *City Development Plan 2025* with respect to incorporating a sidewalk, encouraging bicycling and walking and adaptive reuse of existing structures. Further, the land use section of the *Plan* states that "The City can no longer afford to have land uses fully segregated by type, resulting in people driving long distances to their jobs or to access everyday services". Toward this end, the proposed use can be viewed as a "neighborhood restaurant".

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project reuses an existing structure, incorporates sidewalks, preserves a sensitive environmental area and is suitably situated along the edge of the neighborhood proximate to transit; and (2) *Thriving Local Economy* – The applicant is a local business-owner, proposing to create a neighborhood restaurant and gathering place.

Considerations:

- Adaptive reuse of existing building and site layout preserves a stream buffer
- Additional landscaping provides buffering from adjacent residential uses
- Site has historically been a non-residential use

Based on policies stated in the Comprehensive Plan and other plans, such as the 2036 Council Vision, staff finds this request to be reasonable and within the best public interest and recommends support of the proposed conditional zoning as proposed.

Mayor Manheimer opened the public hearing at 8:28 p.m. and when no one spoke, she closed the public hearing at 8:28 p.m.

When Vice-Mayor Wisler was concerned that people would remain in the outdoor seating area after 10 p.m., the applicant explained that he has a restaurant on Lexington Avenue for the past 11 years and would like to open a second location of that restaurant. They are not a late night operation, but a food service restaurant. They understand how the neighborhood should be respected and noted that they had two neighborhood meetings at which time all questions were addressed. They normally close at 9:30 p.m. The outdoor seating area is a very small part of the restaurant and is on the parking lot side of the lot. They will also have a 3,000 sq. ft. garden to the right of the patio that will also work as a buffer, and there is a huge amount of landscaping (and they will add more) between the apartment complex and their restaurant.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the conditional zoning request from Residential Multi-Family Low Density District (RM-6) to Community Business I Conditional Zone (CB1-CZ) with the requested condition for the adaptive reuse of the site for an eating and drinking establishment and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the site has historically been a non-residential use, (2) additional landscaping provides buffering from adjacent residential uses; and, (3) reuse of the building and site proposes minimal disturbance and preserves a stream buffer. This motion was seconded by Councilman Bothwell and carried unanimously.

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E. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 7 AND 11 PATTON AVENUE (FORMERLY KNOWN AS ONE WEST TOWER AT PACK SQUARE) TO CONSIDER CHANGES TO THE B1 CONDITIONS CONCERNING THE MIX OF ALLOWED USES AND PARKING ON THE SITE

ORDINANCE NO. 4521 - ORDINANCE TO AMEND THE CONDITIONAL ZONING OF PROPERTY LOCATED AT 7 AND 11 PATTON AVENUE (FORMERLY KNOWN AS ONE WEST TOWER AT PACK SQUARE) TO CONSIDER CHANGES TO THE B1 CONDITIONS CONCERNING THE MIX OF ALLOWED USES AND PARKING ON THE SITE

Director of Planning & Urban Design Todd Okolichany said that this is the consideration of an ordinance to amend the conditional zoning of property located at 7 and 11 Patton Avenue

(formerly One West tower at Pack Square) to consider the mix of allowed uses and parking on the site. This public hearing was advertised on August 26 and September 2, 2016.

Mr. Okolichany said that this conditional zoning proposal was originally approved by City Council on January 12, 2016. The project site consists of the existing 201,000 square foot BB&T building, which will be renovated to become a hotel with condominium units, restaurant spaces, retail and other office and hotel function area. A 35,000 square foot parking structure will be constructed on the west side of the parcel with access from surrounding streets. The project will also make substantial improvements to surrounding sidewalk areas as described in Ordinance No. 4476 and as shown on the approved site plan.

The owner is seeking to amend the number of hotel rooms and condominium units within the project and provide some flexibility with the number of parking spaces provided on-site. Both requests will change the B1 conditions for the project.

Hotel Rooms and Residential Units: The original proposal included 39 residential units intended for sale, and 140 hotel rooms. Additional flexibility was provided in the B1 list that allowed a single floor of the building to convert from hotel rooms (to reduce by 20 hotel rooms) and increase the residential count by seven units. The current proposal is requesting a wider range of hotel rooms and residential units with the following revised condition:

4. The permitted uses on the site are as follows:
   a. 39 to 54 residential units and a hotel with 114 to 140 rooms.

   b. Commercial uses including but not limited to restaurants and retail.

   c. Offices, meeting spaces and other similar uses.

The developer is requesting that the range of hotel rooms and residential units remain flexible within the parameters provided.

A three-level parking structure will be constructed on the west side of the development. The original approval specified 60 spaces be provided. The current request is for the parking to be reduced to provide no less than 55 spaces with the following revised condition:

3. The existing building, which has a total square footage of 200,900 square feet, will be renovated with a new façade finish for the exterior of the building. On the west side of the property there will be a three-level parking structure totaling 35,300 square feet with a minimum of 55 parking spaces, bicycle parking and a guest arrival and departure area.

Staff recommended this reduction to be sure that as building plans are developed the project can comply with the B1 condition concerning parking spaces. The parking spaces will be divided between the hotel arrival area on the top level of the structure with valet parking for hotel guests and two lower levels dedicated for residential parking.

All other conditions for the site will remain in effect for the proposal and will be part of the B1 conditions along with the approved site plan.

Since there are no proposed changes to the site plan, review by the Technical Review Committee is not required. At the Planning and Zoning meeting on August 3rd, the Commission voted unanimously (6-0) to recommend approval of the amendment as proposed.

The property is zoned Central Business District Conditional Zone (CBD CZ) and surrounding properties are zoned Central Business District (CBD). The uses proposed with the

application are compatible with surrounding uses and are expected to occur within the downtown CBD area.

The AC Hotel by Marriott was approved in 2014 at the corner of College Street and Broadway. Parking for hotel guests from the Arras development will be provided for in the AC Hotel parking structure.

The Asheville 2025 Comprehensive Plan recognizes the importance of redevelopment and reinvestment, especially in downtown where higher density development is appropriate and where infrastructure is in place to support the development. The Center City Plan supports high quality architecture with new construction, while respecting historic context and the creation of pedestrian environments and open spaces that are pleasant, visually interesting and welcoming to visitors. The Downtown Master Plan emphasizes the importance of new development projects to improve sidewalks along their frontages to meet defined standards and calls attention to the importance of building caps for taller buildings to enhance the skyline of downtown Asheville.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community* – The project reuses an existing structure, and expands and improves sidewalk areas surrounding the project site enhancing pedestrian connectivity; (2) *Connected and Engaged Community* – The project was reviewed by the Design Review Committee and was recommended for approval by the Downtown Commission during the initial project submittal. The membership of both groups is made up of local community members. The development proposal meets the zoning standards developed through a public process that culminated in the adoption of the Downtown Master Plan; and (3) *Quality Affordable Housing* – Although affordable residential units are not planned for this proposal, the developer agreed to make a voluntary contribution to the affordable housing trust fund.

Based on the above findings and the analysis provided in the report, staff finds this request to be reasonable.

Considerations:

- The proposal is an adaptive reuse of an existing building and was deemed appropriate through the 2016 conditional zoning process
- The mix of uses is accommodated in the building and is enhanced by the infrastructure improvements on the site and surrounding sidewalks
- Parking will be provided for the proposed uses utilizing the on-site parking structure, as well as overflow parking at a nearby hotel property

Staff recommends approval of the amendment to the CBD CZ zoning application with the revised conditions, finding it consistent with City-adopted plans and strategic goals.

Mayor Manheimer opened the public hearing at 8:45 p.m., and when no one spoke, she closed the public hearing at 8:45 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the amendment to the Central Business District Conditional Zoning (CBD CZ) request for 7 and 11 Patton Avenue with the revised conditions, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) the proposal is an adaptive reuse of an existing building and was deemed appropriate through the 2016 conditional zoning process; (2) The mix of uses is accommodated in the building and is enhanced by the infrastructure improvements on the site and surrounding sidewalks; and (3) Parking will be provided for the proposed uses utilizing the on-site parking structure, as well as overflow parking

at a nearby hotel property. This motion was seconded by Councilman Bothwell and carried unanimously.

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F. PUBLIC HEARING TO CONSIDER CONDITIONALLY ZONING PROPERTY LOCATED AT 99999 CARIBOU ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING AND RS-8 RESIDENTIAL-SINGLE FAMILY HIGH DENSITY DISTRICT TO ALLOW FOR THE DEVELOPMENT OF A PARKING LOT TO SERVE AN ADJACENT MEDICAL BUILDING

ORDINANCE NO. 4522 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 99999 CARIBOU ROAD FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO COMMERCIAL INDUSTRIAL DISTRICT/CONDITIONAL ZONING AND RS-8 RESIDENTIAL-SINGLE FAMILY HIGH DENSITY DISTRICT TO ALLOW FOR THE DEVELOPMENT OF A PARKING LOT TO SERVE AN ADJACENT MEDICAL BUILDING

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone property located at 99999 Caribou Road from RS-8 Residential Single-Family High Density District to Commercial Industrial/Conditional Zoning and RS-8 Residential Single-Family High Density District to allow for the development of a parking lot to serve an adjacent medical building. This public hearing was advertised on August 26 and September 2, 2016.

The applicant project proposes to build a 70 space parking lot to ease the parking shortage for Asheville Eye Associates on Medical Park Drive. The proposed plans include the donation of a portion of the subject property (approximately 30,707 sf) to either the City of Asheville or the Shiloh Community Association for a future use, such as housing or another use allowed under RS-8 zoning.

The project site is 2.36 acres at the northern end of the Shiloh community. The lot is near the end of Booker Street; although, the property only has frontage along Caribou Road via a narrow portion of the lot. The property is partially bounded on the north by Asheville Eye Associates, which is accessed by Medical Park Drive. Also along the north is residential property along Caribou. Residential uses in the RS-8 district surround the rest of the property.

Access to the site is provided by a private driveway that is 24 feet wide and approximately 90 feet long. There are 72 spaces in the new lot, bringing the total number of spaces for Asheville Eye Associates to 281 spaces. This is 28 spaces over the maximum allowed for the building. As a result, 32 spaces in the middle of the lot are proposed to have porous paving. Plans state that eight handicap parking spaces are provided in the main asphalt lot (location not shown on current plans). Four bicycle spaces will be added at the building entrance.

There is public transit access to Asheville Eye Associates; Medical Park Drive is on the S1 line of ART.

Plans show landscaping being provided for Property Line Buffer and Vehicular Usage Area. Additional landscaping is shown for the additional parking as required. The proposed landscaping appears to meet UDO requirements. There are no open space or tree save areas required for a parking lot.

This proposal was approved with conditions by the Technical Review Committee (TRC)

on June 20, 2016 and requires review by the City Council and Final TRC prior to zoning approval.

The Planning and Zoning Commission reviewed this project at their August 3, 2016 meeting and voted 5:0 (one member absent, one member recused) to approve the conditional zoning request. At the Planning and Zoning Commission meeting, Commissioner Hauser acknowledged that the project does not comply with the Shiloh Community Plan. The Commission was supportive of the proposal in part because members of the Shiloh Community Association spoke in favor of the project. The Planning & Zoning Commission is recommending to Council that the Shiloh Community Association receive the donation of the excess land.

Mr. Brian Mitchell, who owns property on Robinson Avenue, expressed concerns about stormwater affecting his property. The applicant's consultant, Equinox Environmental, addressed these concerns by highlighting the proposed stormwater structures planned for the parking lot.

A number of meetings have occurred with community members about the project. Asheville Eye Associates sent a letter to adjacent property owners inviting them to a meeting and met with four families prior to project submittal.

Staff met with Mr. Jeffery Brooks whose property is surrounded by the parcel owned by Asheville Eye Associates. Mr. Brooks' property would be the most impacted by any development on the remaining land to be left as RS-8 if it is accessed from Caribou Road. His concern focused on future development that may occur adjacent to his property and suggested a fence.

Staff and the applicant's design team also met with the Executive Board of the Shiloh Neighborhood Association regarding this project on July 19, 2016. A subsequent community meeting was held on August 1st in order to allow for additional feedback from the larger community. At that meeting, several community members asked questions about the impacts of the project. Overall, the community indicated concerns about increased traffic and density. At the beginning of the process, there were also concerns voiced that rezoning this land to a commercial use could open the door to additional requests for commercial uses in the future (from a parking lot to a more intense use). However, at the Planning and Zoning Commission meeting, members of the Shiloh Community Association expressed their support for the project.

Current zoning is Residential Single Family High Density District (RS-8). The applicant is requesting conditional rezoning to Commercial Industrial Conditional Zone (CI-CZ) for the parking lot area. The remaining property would remain RS-8.

This project includes a number of recommended conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. The larger portion of the site (72,095 sf) will be rezoned to CI-CZ for the construction and use of a parking lot to serve Asheville Eye Associates, 8 Medical Park Drive.
2. A portion of the property in the Southeast corner, 30,707 sf, will be subdivided and remain RS-8.
3. The subdivision will occur prior to issuance of the Certificate of Occupancy for the parking lot.
4. The RS-8 portion of the property will be donated to the City of Asheville or the Shiloh Community Association (to be finalized at the City Council meeting).
5. A sidewalk along the Medical Park Drive shall be constructed to City of Asheville standards.

The land surrounding the subject parcel is currently zoned RS-8 to the East, South and West. On the northern edge of the parcel, the adjacent zoning is approximately 1/3 RS-8 to the west, and the remaining portion is Commercial Industrial, where Asheville Eye Associates is located. The proposal to leave a portion of the lot zoned RS-8 is compatible with the surrounding zoning. The parking lot use is less compatible as it will be to the rear of several houses along

Robinson Avenue and Caribou Road, and is located near houses on another portion of Robinson Avenue and Booker Street.

Staff believes the project does not comply with the current Comprehensive Plan (Goal 1, Strategy 14) because it does not enhance or strengthen existing neighborhoods, in this case by encroaching commercial uses that are not allowed by the underlying zoning. The applicant has proposed donating a portion of the subject property to the City of Asheville or the Shiloh Community Association as mitigation for the encroachment.

The project proposes to improve the stormwater facilities on the subject property, which supports Goal III of the Water Quality section of the *2025 Comprehensive Plan*, which states "Develop and use best management practices to address the effect of development on stormwater runoff and water quality".

The *Shiloh Community Plan 2025* was adopted by Asheville City Council in 2010. Land use goal #4 is to "Protect, enhance and complement the existing character of Shiloh". Under this goal, strategy 2 states, "Target areas (particularly in the core area) for redevelopment and infill that complement existing development and are, or can be, supported by existing infrastructure (or improved infrastructure)." The plan further states:

> However, outside of this area (intersection of London and West Chapel Roads), it is strongly felt that commercial incursion should be prevented in the Shiloh community. Long threatened by change along the Hendersonville and Sweeten Creek Road corridors, the Shiloh community proposes that the City put in place mechanisms to reduce the impact of these heavy commercial areas and assure that nonresidential development does not further intrude into the neighborhood (39).

This project is not directly fronting on Sweeten Creek Road, but Medical Park is accessed from Sweeten Creek.

Regarding other adopted plans, the City's 2015 *Housing Needs Assessment* concluded that the housing gap is broad in the City of Asheville and spans all incomes and tenures (renters and homeowners). Recent MLS data, reported by Mosaic Realty, shows that the median sale price for a home in the city has risen 7% from last year to $260,000. The proposal would reduce the amount of land that could be used for housing.

This proposal aligns with the 2036 Council vision in the following area: (1) *A Well-Planned and Livable Community* – The project will make Asheville Eye Associates more easily accessible through additional parking and a sidewalk.

The proposal does not align with the 2036 Council vision in the following area: (1) *Quality Affordable Housing* - This project will remove the potential for a number of units to be built. As proposed, it would allow for up to four units to be built on a portion of the land.

Considerations:

- Development of the parking lot would result in the loss of potential housing units – up to 20 units could potentially be developed on this parcel with the existing zoning if access requirements can be met.
- New parking lot will ease parking in the Medical Park area, and is accessed from the existing parking lot, not affecting traffic in the Shiloh community.
- The new parking lot will support the continued success and potential expansion of a local business.
- Project will potentially allow the development of up to four residential units or another use allowed under RS-8 zoning, accessed from Caribou Road, if a portion of the subject property is donated to the city. Alternatively, the applicant has proposed donating this

portion to the Shiloh Community Association, which was supported by the Planning and Zoning Commission.

- Several residential neighbors (Robinson, Caribou) will have a large parking lot to the rear of their properties.

Based on policies stated in the *2025 Comprehensive Plan* and other plans, such as the 2015 *Housing Needs Assessment* and City Council's 2036 Vision, staff does not find this request to be within the best public interest and does not recommend support of the proposed conditional zoning as proposed.

Dr. Robert Wiggins, Administrator of Asheville Eye Associates, explained how they met with their neighbors bordering the property and the Shiloh community to make this a beneficial project for the community and Asheville Eye. They would like to expand their facility to add more skilled jobs; however, it cannot be accomplished without additional property. They have owned the adjacent property for 15 years and would like to donate the unutilized RS-8 portion of the property to the City for affordable housing or to the Shiloh community for a community resource center.

Mr. David Tuch, representing Equinox, explained their treatment of stormwater and felt that any concerns regarding that will be addressed. He then explained their need for additional parking at the medical facilities, which is basically one-stop parking for the entire medical park. They also looked at other parking options, e.g., on-street parking, shared parking, satellite parking, and/or a parking garage; however, either they were cost prohibitive or didn't provide enough parking. They would like to donate approximately 30,000 sq. feet to either the City for affordable housing or to the Shiloh community for a community resource center. Asheville Eye would prefer to donate to the Shiloh community. He felt this is a win-win situation because in the Shiloh Master Plan there is a goal to have a resource center. He asked for Council's support of this project.

When Councilwoman Mayfield asked if the applicant has reached out to the adjoining property owners to the unutilized land to see about consolidation of properties, Mr. Tuch said that they looked at a schematic plan because those property owners were having a challenge to make an affordable housing project work. This might make it easier for access to their parcel.

Mayor Manheimer opened the public hearing at 9:01 p.m.

Ms. Norma Baynes, liaison to the Shiloh Community Association, said that they have met several times with Asheville Eye representatives. They realize that Asheville Eye has been in the Shiloh community for many years and has given service to many communities, as well as the Shiloh community. The Shiloh community supports the development of a parking lot and asks that they donate the unutilized RS-8 land not being used for the parking lot be donated to the Shiloh Community Association.

Mr. Brian Mitchell Sr., adjoining property owner, explained his concern regarding stormwater affecting his property; however, Equinox representatives have met with him and assured him that their stormwater structures planned for the parking lot will not cause him additional stormwater. He had no problem with the parking lot itself.

Mayor Manheimer closed the public hearing at 9:05 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilwoman Mayfield moved to approve the conditional zoning request from Residential Single Family High Density District (RS-8) to RS-8 and Commercial Industrial Conditional Zone (CI-CZ) with the requested conditions for the development of a parking lot on

the CI-CZ portion of the lot; and the remaining portion of the subject property to remain RS-8 as shown on the revised site plan be donated to the Shiloh Community Association, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) improves pedestrian access to the complex; (2) provides land for affordable housing or community use opportunities; (3) supports water quality goals through the BMP improvements shown on the site plan; and (4) investment for expanding existing businesses. This motion was seconded by Councilman Smith and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 406

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 16-214 - RESOLUTION AUTHORIZING THE SELECTION OF TRIBUTE COMPANIES AS DEVELOPER FOR THE 338 HILLIARD AVENUE CITY-OWNED PROPERTY, AND AUTHORIZE THE CITY MANAGER TO NEGOTIATE THE TERMS OF DISPOSITION AND PERFORMANCE FOR FURTHER COUNCIL APPROVAL

Director of Community & Economic Development Sam Powers said that today is the first day of Mr. Jeff Staudinger's new transition to a part-time employee until his official retirement in June of 2017.

Assistant Director of Community & Economic Development Jeff Staudinger said that this is the consideration of a resolution authorizing the selection of Tribute Companies as developer for the 338 Hilliard Avenue City-owned property, and authorize staff to negotiate the terms of disposition and performance for further Council approval.

A Request for Proposals (RFP) for a developer for affordable housing at the City-owned Parks Maintenance Facility site, located at 338 Hilliard Avenue, was issued May 11, 2016. Two proposals were submitted by the July 11, 2016, deadline. The proposals received were from the Kassinger Development Group, and from Tribute Companies.

Following the Council approved process, a selection team of Jeff Staudinger (CED), Taylor Floyd (Finance), Nikki Reid (CED), Vaidila Satvika (Planning), and Pete Wall (Parks) reviewed and scored the development proposals. The selection team made its recommendation to Sam Powers, the Director of the Community and Economic Development Department. He recommended to the Housing and Community Development Committee that Tribute Companies be selected as the developer.

While both proposals met the minimum requirements contained in the RFP, and both developers met all qualifications, the Tribute Companies proposal has a stronger proposed housing program:

Housing Program Comparison	**Tribute**		**Kassinger**
# of units	60		60
% 80% AMI or below	82%		55%
# 30% AMI	6		0
# 60% AMI	12		12
# 80% AMI	31		21
# 100% AMI	11		0

# Market	0		27
# years affordable	20		25
# 1 BR	35		48
# 2 BR	15		0
# 3 BR	10		12

Tribute additionally pledged two units for homeless households.

Tribute estimated a total development cost of $5.5 million, and proposed to purchase the property from the City for $1.00. They propose to conventionally finance the development and contribute sufficient equity to obtain that financing. Tribute proposes a 20 year period of affordability.

Tribute proposed 30 parking spaces on site, with additional parking possible on site and with spaces available at their other near-by multi-family developments. They propose to provide space for community gardens, and to seek third-party sustainability certification with an emphasis on controlling utility costs. Tribute also presented information regarding design, including interphase with Hilliard Avenue and the Clingman Forest Greenway. Tribute plans include space for a child care center. Tribute met with the WECAN organization, and indicated specific outreach activities, including to public housing residents

Tribute stated that they would require no additional City subsidy to perform according to their proposed program.

Over their proposed 20 year affordability period, the subsidy per affordable unit provided to Tribute through the estimated value of the land would be $19,204, based upon an appraised land value of $937,000. HCD Committee members requested that staff discuss the possibility of a long-term lease with Tribute Companies, and a longer period of affordability.

Staff recommends that the Tribute Companies be chosen as the developer for the city-owned 338 Hilliard Avenue property. This choice will be contingent on satisfactory negotiations for a final development agreement that will include the terms of property transfer, the number and tenure of affordable housing units created, workforce housing and market rate housing units, the term in years during which the housing will remain affordable and at what levels, the type and amount of funding or in-kind assistance provided by the City of Asheville, the physical design and site design of the proposed housing, the internal and external community benefits, community outreach activities, and timeframe for development.

The Housing and Community Development (HCD) Committee reviewed the staff recommendation at their meeting on August 16, 2016, and voted to recommend its approval to Council.

Pros:

- Choosing a developer brings closer to realization the strategy for using City-owned land to directly and positively increase the supply of affordable housing in Asheville.
- The developer affirms that it has the financial capacity to develop the site as proposed, and within the timeframe sought by the City.
- The proposal can be accomplished without the need to apply for additional competitive resources.

Cons:

- The timely relocation of the current Parks Maintenance is required.
- A change in terms from the RFP requirements could result in the need for additional program resources.

As currently proposed, the developer proposes that the City sell the subject property for $1. Therefore, the value of the property is the currently proposed one-time subsidy needed to achieve the affordable housing and other programmatic outcomes. A final proposed fiscal impact will be determined upon Council review and action on the final negotiated terms of disposition and program outcomes.

The HCD Committee recommends that Council approve the selection of Tribute Companies as developer for the 338 Hilliard Avenue City-owned property, and authorizes staff to negotiate the terms of disposition and performance, for further Council approval.

When Councilman Bothwell asked what the value of the property is, Mr. Staudinger responded that it was appraised for $937,000.

Councilman Bothwell suggested the applicant guarantee the housing affordability for 30 or more years.

Vice-Mayor Wisler, member of the HCD Committee, said that the Committee did discuss various issues and Councilman Smith, Chair of the HCD Committee, urged the Council to give additional feedback to the City Manager since Council will have final approval after negotiation.

When Mayor Manheimer asked for public comment, no one spoke.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-214. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 183

B. RESOLUTION NO. 16-215 - RESOLUTION ADOPTING CITY COUNCIL STRATEGIC PRIORITIES

Mayor Manheimer said that this is the consideration of a resolution adopting City Council's 2016-17 Strategic Priorities.

In January 2016, Asheville City Council came together to create a shared 20-year vision for the city. The vision reflects Asheville's unique character and the aspirations of the community as evidenced in private sector investments and public input that has informed current policy and City master plans. Assuming delivery of high quality core services, the 20-year vision is a tool to guide City policy and budget priorities while inspiring innovation and private sector investments aligned with the community's values. This vision was affirmed by council motion in February 2016.

In alignment with the vision, council developed priorities to guide the work of the organization. These priorities fall within the vision categories of:

- A Diverse Community
- A Well-Planned and Livable Community
- A Clean and Healthy Environment
- Quality Affordable Housing
- Transportation and Accessibility
- Thriving Local Economy
- Connected and Engaged Community

- A Smart City

City management used the Council's vision to analyze the strategic priorities including review of existing resources, both existing and potential. Once priorities are adopted, the vision and priorities will be communicated through an engaging multi-channel communication effort to include traditional and social media as well as ongoing relationships with community groups, boards and commissions.

City Manager Jackson will produce a comprehensive quarterly report and Committee Chairs will produce updates on policy initiatives designed to further achievement of strategic priorities.

Pros:

- Provides Council and City staff with an overall direction and goals of the organization.
- Provides Council and City staff with a measure of success.

Con:

- None.

The Strategic Operating Plan will provide direction for Council and the Executive Management Team throughout the budgeting process.

City staff recommends that City Council adopt the resolution adopting Council's 2016-17 Strategic Priorities.

City Manager Jackson then briefly discussed the implementation of the Council's strategic priorities on the staff level. In addition, he explained how each board & commission will have the opportunity to align their goals with Council's goals.

Councilwoman Mayfield suggested under the Diversity Community category that a key task under Goal 1 be to complete the disparity study.

When Mayor Manheimer asked for public comment, no one spoke.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-215. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 184

C. RESOLUTION NO. 16-216 – RESOLUTION APPOINTING MEMBERS TO THE AFFORDABLE HOUSING ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Barber Melton, Scott Dedman and Lindsey Simerly Wilson expired on September 1, 2016.

The following individuals applied for a vacancy: Kama Ward, Zachary Eden, Sage Turner, Charlene Jones, Arthur Myers, Emily Coleman-Wolf, Richard Fort, John Brigham, Rita Yerby, Mark Collins, Amy Murphy-Nugen, Bob Swanson, Mark Goldstein and Andrew Mayronne.

It was the consensus of the Boards & Commissions Committee to reappoint Barber Melton and Scott Dedman, and appoint Sage Turner.

Vice-Mayor Wisler moved to (1) reappoint Barber Melton and Scott Dedman to each serve an additional three-year term respectively, terms to expire September 1, 2019, or until their successors have been appointed; and (2) appoint Sage Turner to serve a three year term, term to expire September 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 207

D. RESOLUTION NO. 16-217 – RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Megan Archer has resigned from the Board, thus leaving an unexpired term until June 30, 2018. In addition, Barry Mundt has also resigned from the Board, thus leaving another unexpired term until June 30, 2018.

The following individuals applied for a vacancy: Zachary Eden, Ken Miller, Tiffany DE'Bellott, ZaKiya Bell-Rogers and Ali Mangkang.

It was the consensus of the Boards & Commissions Committee to appoint Zachary Eden and ZaKiya Bell-Rogers.

Vice-Mayor Wisler moved to (1) appoint Zachary Eden to serve the unexpired term of Ms. Archer, term to expire June 30, 2018, or until his successor has been appointed; and (2) appoint ZaKiya Bell-Rogers to serve the unexpired term of Mr. Mundt, term to expire June 30, 2018, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 208

E. RESOLUTION NO. 16-219 - RESOLUTION APPOINTING A MEMBER TO THE BUNCOMBE COUNTY TOURISM DEVELOPMENT AUTHORITY

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Jim Muth (must be an owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less than 100 rental units) as a member on the Buncombe County Tourism Development Authority expired on August 30, 2016.

No individual applied for a vacancy.

On a 2-1 vote, with Councilman Smith voting "no", the Boards & Commissions Committee recommended reappointment of Jim Muth.

Councilman Smith noted that Mr. Muth is a friendly person; however, he has not been supportive of the City in regard to the occupancy tax. Councilwoman Mayfield, liaison to the Tourism Development Authority, said that she had had a number of conversations with Mr. Muth and has not walked away with that feeling.

Vice-Mayor Wisler moved to reappoint Jim Muth as a member of the Buncombe County Tourism Development Authority to serve an additional three-year term as a owner or operator of a hotel, motel, bed and breakfast, or vacation rental management company with less than 100 rental units, term to expire August 30, 2019, or until his successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried on a 4-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Smith voting "no".

RESOLUTION BOOK NO. 38- PAGE 209

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Jonathan Wainscott felt that it was time that the City begin conversations about district elections in Asheville.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:36 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – September 27, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; Acting City Manager Cathy Ball; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING SEPTEMBER 27, 2016, AS "AVIATION CAREERS APPRECIATION DAY"

Vice-Mayor Wisler read the proclamation proclaiming September 27, 2016, as "Aviation Careers Appreciation Day" in the City of Asheville. She presented the proclamation to Mr. Timothy Anderson, Chairperson for Aviation Management and Career Pilot Technology at A-B Tech Community College, and others.

B. PROCLAMATION PROCLAIMING OCTOBER 10, 2016, AS "INDIGENOUS PEOPLES' DAY"

Mayor Manheimer read the proclamation proclaiming October 10, 2016, as "Indigenous Peoples' Day" in the City of Asheville. She presented the proclamation to Dr. Trey Adcock, Assistant Professor at UNC-Asheville, and Vice Chief of the Eastern Band of Cherokee Indians Richard Sneed, and others, who thanked City Council for their support.

C. RESOLUTION NO. 16- 224 - RESOLUTION STANDING IN SUPPORT OF STANDING ROCK SIOUX

Councilman Smith read the resolution, in which supports the Standing Rock Sioux Tribe as they exercise their sovereignty in protest of the encroachment upon their ancestral land, water and sacred sites by the Dakota Access Pipeline, and which calls upon the United States and the Army Corps of Engineers to obtain the free, prior and informed consent of the Standing Rock Sioux Tribe, prior to taking any federal action regarding the Dakota Access Pipeline that would harm or destroy the Tribe's ancestral lands, waters and sacred sites.

Vice Chief of the Eastern Band of Cherokee Indians Richard Sneed spoke in support of the resolution and thanked City Council for their support.

A member of the Eastern Band of Cherokee Indians spoke in support of the resolution and felt it was time to look at our environmental resources.

Councilman Bothwell moved for the adoption of Resolution No. 16-224. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 217

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 6, 2016

B. MOTION APPROVING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR SIMPSON STREET BEAUCATCHER COMMONS LLC)

Summary: This public hearing was held on September 6, 2016.

C. RESOLUTION NO. 16-219 - RESOLUTION SETTING A PUBLIC HEARING ON OCTOBER 11, FOR A LAND USE INCENTIVE GRANT FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

Summary: The consideration of a resolution setting a public hearing on October 11, 2016, for a land use incentive grant agreement for Simpson Street (Beaucatcher Commons LLC).

The developer of "Simpson Street," Beaucatcher Commons LLC, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015. Beaucatcher Commons LLC, represented by Kirk Booth, seeks to develop a 1.63 acre site, located at 43 Simpson Street and including two additional adjacent parcels. In his initial proposal, the developer estimated a total development cost of $3.3 million. The LUIG application proposed a project that would consist of 60 one-bedroom units, in six buildings with ten units in each building. The project scale has now been increased by 10 units to 70 units, with an estimated cost of $4 million. This increased scale was approved as a CUP by City Council on September 6, 2016. Kirk intends to make all 70 units affordable.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing

The proposed project will provide 70 units affordable to households at 60% or less of median income, and the developer has committed to the affordability period of 15 years. The project qualifies for 100 points.

Long term affordability

The proposed project will be committed to serving households at the designated rental rates for a period of 20 years. This qualifies the project for 10 points.

Staff has scored the project with 110 points, which qualifies the project for Eleven Years (11) of Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report, with the exception that the additional 10 units were not part of the project plan at that time.

The action complies with the following adopted City plans: (1) 2025 Comprehensive Plan; and (2) 2015-2019 Consolidated Plan for the Use of CDBG and HOME Funds.

Pros:

- The proposed project will provide affordable rental housing to 70 households earning 60% or less of area median income, for a period of at least 20 years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

Estimated value of Land Use Incentive. The current assessed value of the property is $240,000. The developer's estimate of completed project taxable value is $5,000,000. The current annual city tax, based on current assessed value, is $1,140. The annual estimated city tax post completion, based on the developer's estimate of value is $23,750. Therefore, the estimated annual Land Use Incentive Grant would be $22,610, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 11 years, the estimated Grant would be $248,710. The subsidy per affordable unit would be $3,553. The subsidy amount per affordable unit/year would be $178.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $125,000. The value of each 10% of the fee rebate would be $12,500. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 110 point level, the fee rebate would be $125,000, $1,786 per unit.

This project has been approved for a Housing Trust Fund loan. The loan amount approved is $300,000, for a loan term of 20 years, with an annual 2% interest-only payment, with the principal amount due at the end of the 20 year term. The HTF loan per affordable unit is $4,286. The total combined LUIG and HTF subsidy per unit, if the LUIG is approved, would be $9,625.

Staff recommends that Council set a public hearing on October 11, 2016, to hear and act upon the request of Beaucatcher Commons LLC for a Land Use Incentive Grant.

RESOLUTION BOOK NO. 38 - PAGE 210

D. RESOLUTION NO. 16-220 - RESOLUTION ACCEPTING THE REPETITIVE LOSS AREA ANALYSIS ANNUAL REPORT

Summary: The consideration of a resolution accepting the annual Repetitive Loss Area Analysis report which identifies actions staff has taken since becoming a member of the Community Rating System (CRS) Program.

The City of Asheville joined the Community Rating System (CRS) program administered by the Insurance Services Office (ISO) in 2014. As required by the CRS program, a Repetitive

Loss Area Analysis (RLAA) to supplement the Buncombe's County-wide All Hazards Mitigation Plan was prepared in 2014 by the consultation firm of Brown and Caldwell.

A Repetitive Loss Area (RLA) is defined as an area that contains one or more repetitive loss structures (two or more claims of more than $1,000 that have been paid by the National Flood Insurance Program (NFIP) within any 10-year period since 1978). The RLAA is a mitigation plan developed for those areas with the purpose of reducing damages and increasing awareness from flooding and lowering the cost of claims submitted to the NFIP. The ultimate goal of lowering these costs is to reduce the consistent increase in flood insurance premiums that has been occurring for a number of decades.

The Community Rating System (CRS) is a program administered by the Federal Emergency Management Agency (FEMA). It provides lower insurance premiums under the National Flood Insurance Program. The premium reduction is in the form of a CRS Class. A 5 percent reduction is received by policy holders within the City for each class reduction the community obtains. The classes are obtained by actions that are above and beyond the requirements of the National Flood Insurance Program administered by FEMA. The benefits of joining the CRS program has been a reduction of flood insurance premiums paid for by those citizens who have flood insurance. Currently, the citizens of Asheville receive a 10 percent reduction in their flood insurance premiums because Asheville is a participant in the CRS program.

In order to maintain the current status in the CRS program, staff is required to provide to council the annual report of the Flood Mitigation Actions Items that were part of the RLAA report from Brown and Caldwell adopted by Council on December 10, 2013. As highlighted in the report, staff continues to look for ways to reduce flooding and damage from floods through community awareness through our website and flyers, staff is working with the Army Corps of Engineers on opportunities within the Swannanoa River Basin for flood mitigation opportunities and city staff works with developers and property owner on ways to protect their properties from flooding.

Pros:

- The citizens of Asheville will continue to receive a 10 percent reduction on their flood insurance program.
- Provides higher level of protection through our current flood ordinance
- Promotes public education of the Special Flood Hazard Areas

Con:

- Considerable amount of staff time is necessary to maintain these requirements

There is no additional fiscal impact to continuing the efforts necessary for the CRS program, staff time is currently programmed into the annual operating budget.

Staff requests City Council approve a resolution accepting the report prepared by city staff for the flood mitigation action associated with the repetitive loss area analysis report.

In response to Councilwoman Mayfield, Stormwater Division Manager McCray Coates said that the action items are similar to last year and are on-going.

RESOLUTION BOOK NO. 38 - PAGE 211

E. RESOLUTION NO. 16-221 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PROFESSIONAL ENGINEERING SERVICES AGREEMENT WITH SCHNABEL ENGINEERING SOUTH, PC, FOR THE NORTH FORK WATER TREATMENT PLANT DAM/SPILLWAY UPGRADE - PHASE II

Summary: The consideration of a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel Engineering South, PC, (Schnabel) for the North Fork WTP Dam/Spillway Upgrade Phase II: Design and Construction Services project for the amount of $4,350,170.

On June 27, 2014, the Water Resources Department (Department) issued a Request for Qualifications (RFQ) for professional engineering services for the upgrade of the North Fork Dam/Spillway. As outlined in the RFQ, engineering services for the project will be conducted in two phases: Design and Construction Services. The selected engineering firm will be responsible for all of the design phase (Phase I) and all of the construction phase (Phase II) aspects of the project. Phase I and II are the engineering phases of the $30 million dam/spillway construction upgrade project to occur at the North Fork Water Treatment Plant in Black Mountain.

On February 24, 2015, City Council awarded the Phase I Design contract to Schnabel in the amount of $3,903,350. Phase I Design included design services, geotechnical exploration, assessment of the existing gated spillway, environmental permitting, bid process support, and public outreach. With Phase I now complete, the Dam/Spillway upgrade project is ready to move onto Phase II.

Phase II Construction Services includes hydrometeorological modeling, contract administration, observation of all construction-related activities, field and laboratory quality control testing, full-time onsite representation, attendance at construction meetings, preparation of reports, and final record drawings. Since the original RFQ included that the selected firm would provide services for both phases, a separate RFQ for Phase II is not required. The department is seeking Council approval for the Phase II contract with Schnabel for the proposed amount of $4,350,170.

Pro:

- This project will allow the Water Resources Department to upgrade the North Fork dam and spillway to comply with State regulations.

Cons:

- The cost for the engineering services agreement, while substantial, is typical for a construction project of this size. The overall construction project is estimated at $30 million.
- Failure to award an engineering services agreement would prevent Water Resources from making the necessary upgrades to the North Fork dam and spillway.

The funding needed for the professional engineering services contract is currently allocated within the North Fork WTP Dam/Tunnel Repairs project in the Water Resources Capital Improvement Projects fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a professional engineering services agreement with Schnabel, for the North Fork WTP Dam/Spillway Upgrade Phase II: Design and Construction Services project for the proposed amount of $4,350,170.

When Mayor Manheimer asked if the City knows what wages the employer is paying its employees, Director of Water Recourses Director Jade Dundas said that was not asked in preparation of this contract and we don't know.

In response to Councilwoman Mayfield, Mr. Dundas said that the estimated timeframe for the construction bid awards coming to Council will be in the December/January timeframe.

RESOLUTION BOOK NO. 38 - PAGE 214

F. RESOLUTION NO. 16-222 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY TRANSMISSION AND DISTRIBUTION EASEMENTS TO DUKE ENERGY PROGRESS INC. IN THE RIVER ARTS DISTRICT TRANSPORTATION PROJECT AREA ALONG RIVERSIDE DRIVE

Summary: The consideration of a resolution authorizing the City Manager to convey transmission and distribution easements to Duke Energy Progress, Inc. in the River Arts District Transportation Project (RADTIP) area along Riverside Drive.

The River Arts District Transportation Improvement Project (RADTIP) is a City of Asheville multi-modal transportation project that includes the installation of sidewalks, street trees, public art, bike lanes and greenways. As part of this project, the City is coordinating with Duke Energy on the location of utility poles and aerial lines throughout the project area. There are existing transmission lines and distribution lines that run along City-owned property on Riverside Drive. These lines will either remain in the existing location(s) or will be modified to some degree to accommodate the new roadway, greenway and recreation improvements. Duke is requesting that the City grant easements to clearly identify the areas of the utilities, as follows:

<table>
<tr><th>Location</th><th>Area of Distribution Easement</th><th>Area of Transmission Easement</th></tr>
<tr><td>Parcel 20, 172 Riverside Dr.</td><td>+/- 0.28 acres more or less</td><td>+/- 0.17 acres more or less</td></tr>
<tr><td>Parcel 26 Riverside Dr.</td><td rowspan="3">+/- 1.01 acres across three parcels more or less</td><td rowspan="3">+/- 1.512 acres across four parcels more or less</td></tr>
<tr><td>Parcel 27, Riverside Dr</td></tr>
<tr><td>Parcel 28, 14 Riverside Dr</td></tr>
<tr><td>Parcel 30, 5 Riverside Dr</td><td>NA</td></tr>
<tr><td>Parcel 31, Lyman Street</td><td>NA</td><td>+/- 0.167 acres more or less</td></tr>
</table>

These easements are to be conveyed as part of the Utility Relocation Agreement for the City's RADTIP project and therefore no compensation for the easements is considered. Duke prohibits certain improvements within easement areas, and the City has worked with Duke so that improvements for RADTIP, the new Craven Street River Access point, the upgraded river access at Jean Webb Park, and 14 Riverside project are not in conflict with these easements. City land on the East side of Riverside Drive is not impacted by the easements.

Pros:

- Easements are consistent with current City improvement projects.
- Granting these easements will provide Duke the needed property rights on City property to install or relocate utilities lines as part of the City's RADTIP project.

Con:

- Utility easements limit the use of property.

City staff recommends City Council approve a resolution authorizing the City Manager to convey transmission and distribution easements to Duke Energy Progress, Inc. in the River Arts District Transportation Project area along Riverside Drive.

In response to Councilwoman Mayfield, Real Estate Manager Nikki Reid said that the placement of these easements do not change anything about our development plans. The plans for this Duke utility relocation were designed in concert with the City recreation improvements, as well as the RADTIP improvements and the 14 Riverside Drive improvements.

RESOLUTION BOOK NO. 38 - PAGE 215

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. UPDATE ON ASHEVILLE SISTER CITIES

Ms. Karon Korp updated City Council on the Asheville Sister Cities programs and projects that took place this summer and an exciting event that is coming up.

On behalf of City Council, Mayor Manheimer thanked Ms. Korp and the entire Sister Cities organization for their hard work and dedication.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 25 FORSYTHE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING TO RE-ESTABLISH A PLACE OF WORSHIP

ORDINANCE NO. 4523 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED AT 25 FORSYTHE STREET FROM RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT/CONDITIONAL ZONING TO RE-ESTABLISH A PLACE OF WORSHIP

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to conditionally zone property located at 25 Forsythe Street from RS-8 Residential Single-Family High Density District to RS-8 Residential Single-Family High Density District/Conditional Zoning to re-establish a place of worship on an existing site with specific conditions to typical zoning requirements. The parcel is owned by Greater Works Church of God and is identified as PIN 9649.24-3580. This public hearing was advertised on September 16 and 23, 2016.

The project site consists of one parcel located at 25 Forsythe Street in the Five Points neighborhood of North Asheville and has an area of 1.44 acres. The area is zoned RS-8 and the surrounding neighborhood is primarily residential. The site contains an existing church building and surface parking.

The applicant is proposing to legally re-establish a place of worship on the site with special conditions related to parking, setbacks and landscaping. The site contains a single structure that is two-stories in height and 12,800 square feet, built around 2001 that is not proposed to be changed or altered.

Access to the site is from two driveways off of Forsythe Street, on either side of the structure. Parking is located to the rear and sides of the structure (north, east and west). There are between 71-86 spaces currently and 78 proposed to remain after restriping, including 6 handicapped accessible spaces. There is an existing concrete sidewalk along part of the project frontage which will remain.

At the northernmost corner of the parking lot, there is an existing garage carport for an adjacent residential property that fronts into and is accessed through the parking lot. This access will remain as an existing break in the landscaped property line buffer.

Landscaping is required for compliance and would typically include street trees, parking lot landscaping, building impact landscaping, screening of the trash enclosure and the USSR-specific property line and street buffers. The applicant was granted an alternative landscaping plan in 2014 consisting of reduced property line buffers and vehicular use area plantings which corresponds to a requested condition, detailed below. The landscaping from the 2014 approval is all in place.

Due to the adaptive reuse of the existing site features, the following conditions accompany this request:

1. Side setbacks will be reduced to 15 feet
   Typically side setbacks are 25 feet for places of worship in residential areas but with this application, the setback would be reduced to 15 feet
2. Landscaping will correspond with the 2014 alternative compliance approval and includes a reduced property line buffer
   Typically a 20 foot property line buffer would be required along the north, east and west; the plan proposes mostly a 15 foot buffer on these boundaries with reduced planting. There are a few sections that do comply with the 20 foot area and areas with less (garage access as mentioned above).
3. Number of parking spaces exceeds the maximum number for the use
   The range of spaces based on the number of seats in the sanctuary (175) is between 22-58; the plan proposes to use 78

This proposal was approved with conditions by the Technical Review Committee on August 15, 2016, and requires review by the City Council and Final TRC prior to zoning approval. Staff has received a number of letters of support for the request to allow the additional parking to remain in the current configuration as it is shared for use with surrounding neighbors.

At the Planning & Zoning Commission meeting on September 7th, the Commission voted to support the request (7-0) and supportive public comment was heard. Staff relayed communication and provided copies of letters signed by adjacent neighbors supporting the request. The Commission was supportive of the proposal to utilize the site as is, especially since off-street parking is noted by residents as being needed as Forsythe, Hillside and other surrounding streets are congested with on-street parking and have narrow rights-of-way, so the ability for neighbors to park on the site is well-received. The Commission suggested a condition formalizing the agreement letting neighbors and members of community park on the site, however Planning and Legal staff do not recommend a condition such as this due to complications and potential unintended consequences from inserting or requiring public parking on a private site.

As stated above, typically places of worship are considered as uses by right, subject to special requirements (USSR) according to Section 7-16-1(c.)(55) of the UDO and therefore necessary upgrades to the site are typically required for compliance. The applicant completed a Level II review process and received a zoning permit for a compliant site plan in 2012. This request would supplant that previous approval and proposes modifying the standards as described above. As variances may not be pursued for USSR projects, a conditional zoning is being sought.

USSR Standards: The standards that are met or not met are indicated below:

- *Lot area*- Minimum lot area required is 5,000 SF and this site is 1.44 acres

- *Lot location*- May be located on any street – Forsythe is publically maintained
- *Access*- Limited to two points – two driveways currently exist and will remain
- *Height* – Limited to 40' with additional height for architectural features. Building is noted as 47' in height overall.
- *Impervious area*- limited to 60% of site
- *Size*- There is a capacity for 175 in the sanctuary and as such, this church would be designated as a "small place of worship" (not more than 300 seats).
- *Lighting* – Various standards to minimize impact to adjacent properties -No change to site lighting.
- *Setbacks*- Front 15 feet front; sides and rear 25 feet, no parking within these areas
    - Applicant is requesting a reduced side setback from 25 feet to 15 feet
- *Parking*- Range between 1 space per 3-8 seats = minimum 22 spaces and maximum 58 spaces
    - Applicant will be requesting a condition to allow greater than the maximum number of parking spaces but not to follow the requirements of section 7-11-2 regarding pervious paving and additional landscaping
- *Specific landscaping* – A 20' Type A buffer is required around three sides of this property and a planting strip is required along the street frontage, both incorporating a wall, berm and/or shrubs as well.
    - Applicant is requesting to follow an alternative compliance plan approved in 2014 with reduced property line buffers and less vehicular use area planting.

While the City seeks to preserve residential neighborhoods for residential uses, the code anticipates that complimentary community supported non-residential uses will often be located within the neighborhoods, such as schools and churches. These uses are given special standards to mitigate the potential negative impacts associated with the increased activity on these sites (typically parking and traffic). This site has been the location of a non-residential use around 2001 when the current building was constructed (permit issued in 1999) and has been used as a church since then. Because of this, the use is considered compatible. However, the proposal does not comply with the additional standards for greater landscaping and parking restrictions that are applied to a place of worship within a neighborhood.

This proposal does not necessarily conflict with the *City Development Plan 2025* but is also not directly supported by the *Plan* either. The Land Use section notes that "many of the older neighborhoods zoned as single family still incorporate a variety of land uses" but also that "protection, preservation and enhancement of existing neighborhoods" is essential, which is typically done through compliance with zoning standards.

The proposal can be said to both align and conflict with the 2036 Council vision regarding *"A Well-Planned and Livable Community."* Traditional neighborhood development incorporates uses such as churches into the fabric of a residential area and the sites are often utilized by neighbors as well (such as for shared parking or gathering spaces); however, typically required standards for mitigating additional impact on neighbors are not met with this application.

Considerations:

- Allows continued use of an existing structure with no additional site disturbance
- Additional landscaping has recently been incorporated into the buffers and parking field
- Places of worship in residential neighborhoods are typically required to comply with non-variable standards related to landscaping and parking restrictions (which are included as requested conditions in this application)

While the use is considered to be a compatible component of the historic development pattern, current standards in place for places of worship in a residential district require standards intended to mitigate impacts to adjacent properties and these are not met with the application. Because of that, staff cannot recommend support of the proposed conditional zoning as proposed.

In response to Councilwoman Mayfield, Ms. Bernstein explained the 2014 landscaping approval and said that what is on the site plan now is what they would do, noting most of it is already in place.

Senior Pastor Ronald Gates of the Greater Works Church explained the different community uses that use their parking lot. Keeping the lot at the 78 spaces helps the community and eliminates the need of overflow into the street. He noted they have a great relationship with the community and they actually watch over the property.

Mayor Manheimer opened the public hearing at 5:44 p.m., and when no one spoke, she closed the public hearing at 5:44 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Young moved to approve concitional zoning request from Residential Single Family High Density District (RS-8) to Residential Single-Family High Density Conditional Zone (RS-8 CZ) with the requested conditions for the use of the site for a place of worship and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the site has historically been a non-residential use in the current configuration, and (2) additional landscaping has been provided on the site through an alternative compliance process. This motion was seconded by Councilwoman Mayfield and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 414

B. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO ARTICLE X OF CHAPTER 7 OF THE CODE OF ORDINANCES FOR THE PURPOSE OF ADDING A GENERAL DEVELOPMENT AND PERFORMANCE STANDARD REGULATING STRUCTURES IN THE NAVIGABLE AIRSPACE OF THE GREATER ASHEVILLE REGIONAL AIRPORT

ORDINANCE NO. 4524 - ORDINANCE AMENDING ARTICLE X OF CHAPTER 7 OF THE CODE OF ORDINANCES FOR THE PURPOSE OF ADDING NEW STANDARDS REQUIRING REVIEW AND APPROVAL BY THE FEDERAL AVIATION ADMINISTRATION FOR ANY PROJECT THAT FALL WITHIN THE AIRPORT'S NAVIGABLE AIRSPACE

Principal Planner Shannon Tuch said that this is the consideration of a proposed ordinance to add new standards requiring review and approval by the Federal Aviation Administration (FAA) for any project that fall within the airport's navigable airspace. This public hearing was advertised on September 16 and 23, 2016.

Planning and Urban Design staff were approached by representatives from the Asheville Regional Airport requesting cooperation from the City of Asheville in communicating to the general development community the FAA's restriction on height of structures and features on properties that fall within the aircraft approach and departure zones that extend beyond the boundaries of the airport property.

The navigable airspace for the Asheville Regional Airport crosses multiple jurisdictions including: the City of Asheville, the Town of Fletcher, the Town of Mills River, Buncombe County, and Henderson County. Of the five affected jurisdictions, Asheville has the least amount of land area affected by these approach/departure zones.

The requirement to avoid any encroachments or penetrations into navigable airspace is a federal requirement and applies regardless of whether a municipality chooses to adopt a local standard. However, in order to help communicate this requirement and safeguard against the potential for new construction that violates this standard, many jurisdictions will choose to incorporate standards into their local development code that can be found and referenced during the planning and review stages of a project. The two most common code strategies are:

1. Adopt an airport overlay zoning district with special standards for any property that falls within that overlay area, or
2. Adopt the same or similar special standards as part of the general development code, which are applied only as needed or when applicable and without an overlay.

The first option requires both a wording amendment that adds the special requirements, and a zoning action that applies the overlay zoning district to all affected properties that fall within the runway's clear airspace. The second option also includes a wording amendment but there is no zoning action that applies an overlay. In this strategy, the burden is on the owner/developer to investigate whether these standards apply to their property. Through reference maps supplied to staff by the airport, an effort to identify affected properties would be made.

Given the relatively small amount of land impacted by the FAA restrictions, and the likelihood of that land being developed with structures tall enough to encroach into the navigable airspace, applying an airport overlay may arouse unnecessary concern from property owners as the zoning action is pursued. Primarily for this reason, option #2 is being proposed.

This proposal was reviewed and approved unanimously by the Planning and Zoning Commission at their September 7, 2016, meeting. All wording amendments receive final review by City Council.

This wording amendment complies with City's Comprehensive Plan as it relates to Land Use (Goal X) and Transportation (Goal IX) by guiding growth to accommodate various forms of transportation and by supporting the growth of the Asheville Regional Airport consistent with general aviation and commercial air traffic demands and operational needs.

The wording amendment most closely aligns with the 2036 Council vision in the following ways: (1) ***A Thriving and Local Economy*** - by supporting a regional asset that benefits local Asheville businesses; and (2) ***Transportation and Accessibility*** – by supporting all modes of transportation that provide opportunities and access to Asheville citizens.

This proposal is consistent with goals outlined in the Comprehensive Plan and City Council 2036 Vision, and staff recommends approval of the wording amendment as proposed.

Mayor Manheimer opened the public hearing at 5:49 p.m., and when no one spoke, she closed the public hearing at 5:49 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the wording amendment modifying the General Development and Performance Standards and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) by supporting a regional asset that provides a valuable and needed service to Asheville residents and businesses; (2) by improving communication of development requirements to prevent unnecessary costs and delays; and, (3) by safeguarding the welfare of all air travelers to Asheville by limiting the potential for unsafe obstructions. This motion was seconded by Councilman Haynes and carried unanimously.

V. UNFINISHED BUSINESS:

A. DOWNTOWN PLANNING AND DEVELOPMENT POLICIES

Planning & Urban Design Director Todd Okolichany said that this report outlines staff recommendations for Central Business District (CBD) related requirements regarding:

- Development review thresholds,
- Review process for large projects,
- Development review thresholds and process for review for hotel applications; and,
- Public outreach during the development review process.

This process began in December 2015 with a request by City Council for review of the aforementioned areas of concern. Since that time, staff has conducted a community engagement process that included a public forum, a presentation to the Asheville Lodging Association, an online survey and several updates to City Council, the Downtown Commission and the Planning and Zoning Commission.

The Downtown Commission has received regular updates on the topics concerning downtown development review. In addition, the Commission held a special meeting on September 1st, to respond to and discuss staff's recommendations. While there was a variety of opinions and points expressed on these topics, there was consensus on the need for fairness and to have expectations for developers laid out as clearly as possible. The Commission then voted September 9th on a list of recommendations to be shared with City Council. At that meeting, the Commission also recommended that parking requirements for new downtown projects be studied for a potential UDO amendment.

Based upon feedback received as part of the outreach process, staff offers the following considerations:

DEVELOPMENT REVIEW THRESHOLDS FOR PROJECTS IN CENTRAL BUSINESS DISTRICT

PROCESS FOR REVIEWING LEVEL III PROJECTS IN THE CENTRAL BUSINESS DISTRICT

- Issue:
  Review Thresholds for Level II and Level III projects: Level II projects are proposals that have a gross floor area of greater than 20,000 square feet but not exceeding 175,000 square feet, with a height not exceeding 145 feet. These projects are reviewed by the Technical Review Committee (TRC), the Downtown Commission (DTC) and the Planning and Zoning Commission (PZC).

  Level III projects are those projects that have a gross floor area greater than 175,000 square feet and a height taller than 145 feet. These projects are reviewed by the TRC, the DTC and the PZC with final review by City Council following a review process that differs depending on the location downtown (see the following section for additional comment on the Level III review process).

- Staff recommendation:
  Staff recommends no change to the development review thresholds for Level II and Level III projects. There have not been any projects that have qualified as a Level III project aside for the redevelopment application for the BB&T building on

7 and 11 Patton Avenue (i.e. Arras), which included a change of use for an existing building. There were a number of public comments both for and against changing the established thresholds from the public forum and the online downtown survey. The current review threshold was developed during the Downtown Master Plan (DTMP) process completed in 2009, which included extensive community input and engagement and was ultimately adopted by City Council. While we have had a number of Level II projects proposed and approved since 2010 only two new projects have reached 130,000 square feet or larger.

Staff also reached out to several other cities in North Carolina in order to inquire about how those cities review projects in their respective downtowns. All of the cities that had design guidelines or standards, review downtown projects at the staff level with the rationale that those cities are trying to encourage growth and development in their downtowns. The City of Asheville's existing Unified Development Ordinance (UDO) also contains a similar purpose and intent for Asheville's CBD.

Issue:
The larger Level III projects in the CBD follow either the conditional zoning (CZ) or conditional use permit (CUP) process. Level III projects located in the CBD, but outside of the Traditional Downtown Core, are reviewed following the CUP process. Level III projects located inside the Traditional Downtown Core are reviewed following the CZ process.

A CUP is a site plan review that follows a quasi-judicial process with the City Council as the final review step. A developer must prove through testimony and evidence that the seven standards for CUPs are met through the project proposal. Council can't participate in conversation (no ex parte communication) about the project prior to the public hearing for the review. The inability for Council to communicate early in the process has been the subject of some concern and frustration among the community.

A CZ is a rezoning application to a new zoning district with a site plan and conditions that both Council and the developer must agree to. This discussion between Council and developer may begin early on in the review process. In some cases, a developer may not know at initial submittal what to expect as project conditions. Many community members feel that a CZ process is preferred because of the availability to communicate amongst Council members and with the developer.

- Staff recommendation:
  Staff recommends that all Level III projects in the CBD follow the conditional zoning (CZ) process. Most feedback from the community also supports this change, which would involve an amendment to the UDO.

Councilman Bothwell felt that we should lower the Level III threshold to 100,000 square feet or 100 feet tall and extend it throughout the City. He felt that we will soon see more hotel projects in the River Arts District and west Asheville.

Councilman Smith would like to explore some possible incentive opportunities, if legally permissible. He wondered if certain types of uses should have a higher threshold for review. For example, if a residential project that was greater than 100,000 square feet, but if 80% square footage was devoted to residential purposes, and if 20% of those units were affordable or workforce, and it was clear that this would be for residential only, and that it complied with the

Downtown Master Plan and other design guidelines, that then they might have as lower review threshold since they are meeting some of Council's big goals.

In response to Councilman Bothwell, City Attorney Currin said that we can start with a district that allows a certain number of uses and then Council has the flexibility to negotiate with that developer on what the individual project zoning district will look like. Both sides will have to agree to the conditions. To achieve that flexibility, that might create the need for some new districts that don't exist now.

It was the consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to amend the development review threshold of Level II projects to 100,000 square feet or less throughout the City with an additional new threshold of 100 feet tall or less in the Central Business District.

It was the consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to amend the development review threshold of Level III projects throughout the City to anything over 100,000 square feet or over 100 feet tall, which would require a rezoning and which would follow that process; and to establish certain incentive criteria for developers wishing to build residential.

It was the consensus of Council to direct staff to explore using the rezoning process for all Level III projects throughout the City, especially in areas where mutual agreement would like to be reached.

DEVELOPMENT REVIEW THRESHOLDS AND PROCESS FOR REVIEW FOR HOTEL APPLICATIONS IN THE CBD

- Issue:
  Hotels are reviewed like all other uses in the downtown area, which is based on the scale of the project. While there is not consistent feedback about the growth and impacts of the hospitality industry in downtown, it can be acknowledged that a number of the recent larger scale proposals in the downtown are hotel developments. Since 2010 there have been seven hotel projects approved in or near the CBD. Two additional hotel proposals are currently under review. Some of the concerns that have been shared focus on the growth of a single industry sector, concerns about lower wage paying jobs, the need for parking, having a balance of uses in the CBD and the sense that the downtown area is benefitting tourists instead of residents of Asheville.

- Staff recommendation:
  Staff recommends that lodging facilities (e.g. hotels) with 50 or more rooms should be reviewed at a different threshold than other uses in order to allow for additional Council review of hotel developments. Staff proposes that all lodging facilities with 50 or more rooms be reviewed following a conditional zoning process, with final consideration by City Council. This would involve a UDO amendment to implement this change.

  If this threshold had been in place beginning in 2010, all of the hotel proposals would have been reviewed by Council (as the ordinance stands today, only two were). If the change is approved, Council will have the opportunity to consider each proposal individually along with the potential impacts of these projects, and communicate with the developer throughout the development review process.

Councilman Haynes supported making lodging facilities with 20-25 or more rooms a use which would require a rezoning and which would follow that process. He in particular wanted Council review in the downtown area, River Arts District and Haywood Road.

Councilman Smith felt the review should be City-wide because we may be finding hotels just outside the district boundaries. He felt this is a clumsy way to go about managing tourism, and would rather work with Buncombe County and the Tourism Development Authority around a sustainable tourism study that would help us work together to decide how many rooms are enough and how can we achieve environmental and economic and social sustainability with our tourism industry. Until that bigger conversation happens, he feared we will get to where we want to go with the tools we have available.

Councilwoman Mayfield felt we are missing the issue around trying to preserve the historic fabric and feel of downtown of the smaller and older buildings. Mr. Okolichany did advise her that there is an on-going joint working group between the Historic Resources Commission and the Downtown Commission around design guidelines. Also, similar to hotels over a certain size having to come before Council, she suggested if someone was going to tear down an existing building in Asheville that would really change the historic fabric/feel of the street and that should come to Council as well.

Mayor Manheimer said the design guidelines and preservation issues can be a second part to this process. Those issues are on the horizon and Council will tackle those next.

Councilman Bothwell said that in June the Finance Committee heard a report regarding the actual cost of tourism to cities. It was clear that when we hear reports about all the benefits of tourism we never hear about the cost. He felt it would be valuable information to know if it's costing us more than it's worth.

It was the consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to make lodging facilities with 20-25 or more rooms throughout the City a use which would require a rezoning and which would follow that process.

At the suggestion of Councilman Smith, it was the consensus of Council to direct staff to explore Council reviewing applications for retail space over 3,000 square feet in the Central Business District. In analyzing that change, Mayor Manheimer wanted to know the number of projects that have occurred in the downtown in the past five years that Council would have reviewed.

When Councilwoman Mayfield also asked for information of what existing stores are over 3,000 square feet, Mayor Manheimer felt that may be difficult to find out. Councilman Smith suggested the Downtown Association may be able to help us with that.

Vice-Mayor Wisler noted that the potential review of all applications for retail space over 3,000 in the Central Business District by City Council is a new topic and should be reviewed by various organizations and vetted through public forums.

Councilwoman Mayfield said that Council is not telling developers they can't develop in Asheville. Her view is that if you are going to develop in Asheville what you build needs to add to the City - to contribute to the incredible urban fabric and vibrancy of our downtown which has been built over the years. That building and use, to some degree, has to contribute to the success of Asheville.

PUBLIC OUTREACH DURING THE DEVELOPMENT REVIEW PROCESS

- Issue:
  During the CBD Development Forum held in March, many participants expressed concerns that citizens are not aware of new development proposals early enough in the development review process and that they learn of a proposal only when construction begins. During the Open City Hall survey, four notification methods

were identified as the most helpful: Posting the site with signs at each stage of the approval process, providing information on a web portal, better notification for the developer's required neighborhood meeting and social media communication.

- Staff recommendation:
  Staff recommends that public outreach methods be expanded in order to better communicate development proposals in the CBD. Options to improve the public notification process may include posting the site during different stages of the approval (such as before the Downtown Commission meeting and prior to the developer's neighborhood meeting), requiring that the developer's neighborhood meeting occur at a specific time period prior to TRC review, recommending the use of a facilitator at neighborhood meetings, and working with the city's Communication and Public Engagement (CAPE) division and IT Department to broaden the web portal and social media outreach.

It was the consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to increase public notification for Level II and Level III projects in the Central Business District in accordance with staff's recommendations.

VI. NEW BUSINESS:

A. CONSIDERATION OF A PARTNERSHIP WITH PISGAH LEGAL SERVICES FOR THEIR POVERTY FORUM

Acting City Manager Ball said that the City has received a partnership request from Pisgah Legal Services. Pisgah Legal Services provides free legal advice, pro bono lawyers, and community legal services for underserved populations in Western North Carolina. The city currently partners with Pisgah Legal Services through the Community Development Division/CDBG. Additionally, in Fiscal Year 2015 & 2016, City Council authorized Pisgah Legal Services' utilization of the U.S. Cellular Center banquet hall for Affordable Care Act sign ups each November at the City interdepartmental rental rate, a 66% discount from the established fees and charges manual. This city partnership was previously approved by Council.

Pisgah Legal Services is requesting Council to consider partnership for their annual poverty forum event. In previous years this event has been held in another venue. According to Pisgah Legal staff members, the event has outgrown the previous venue. The partnership assistance would be for covering fees associated with equipment, labor, and other costs in both the Banquet Hall and Thomas Wolfe Auditorium within the U.S. Cellular Center. Total estimated fees related to the use of U.S. Cellular Center facilities, staffing, contracted labor and equipment is over $9,000. The partnership request from Pisgah Legal is for $4000 to provide off sets in these costs. This does not include any costs associated with catered bar service. Catered bar service will be billed on a consumption basis. Due to restrictions related to the USCC ABC permit, staff does not recommend waiving fees or covering costs associated with bar service.

Options for consideration by City Council include: 1) No Action; 2) Approve a partnership with Pisgah Legal Services for a Council decided amount, up to $4,000, in operational expenses for the event, without a budget amendment, through savings within the City's general fund, which will be transferred to the U.S. Cellular Center enterprise fund to cover associated costs.

Acting City Manager Ball provided additional information about the specific request from Pisgah Legal Services for renting the Thomas Wolfe Auditorium. The total fees for renting the Thomas Wolfe break down as follows:

Rent:	$2,000
Equipment Rental:	$1,750
Staffing:	$3,700
Facility Fees:	$1,000

For a total of $8,450

Pisgah Legal is requesting that this amount be reduced by $4,000.

Of the $8,450 approximately $4,870 is money that the City will pay out of pocket. The breakdown of out-of-pocket costs is $3,700 for staff and approximately $1,170 in utility costs.

Councilman Bothwell felt that part of the justification for this request is that the City doesn't permit donated beer and wine to be brought into the US Cellular Center, and they are having to pay for that as part of their catering. General Manager of the US Cellular Center Chris Corl responded that they are doing an open bar, which is what they sold their tickets as, so they can't do a cash bar. The US Cellular Center occasionally does allow one-time permits in the building, but only for events that are 100% centered around food. He said the timeline to issue a one-time permit has passed. The State ABC application process is a 90-day lead-time for a one-time permit and their decision to move to the Thomas Wolfe Auditorium was less than 30 days ago.

Vice-Mayor Wisler said that she is very supportive of Pisgah Legal Services and supports their work, but she can't support this request. She understands they want to expose more people to this important topic, but it is a fund-raising event and while the fees charged at Thomas Wolfe Auditorium are higher than the Diana Wortham Theatre, they do have an opportunity to recoup at least part of these expenses through more ticket sales. More importantly to her; however, is during our budget process they consider a lot of requests from many worthy non-profits for partnerships. It is a very competitive process and we have to turn down a lot of local non-profits. She didn't believe it is equitable to pull Pisgah Legal Services out and give them a partnership outside of the established process.

Councilwoman Mayfield felt this is a relatively unique situation in that it would have never occurred to them to apply for a partnership given their original parameters of their event. She was less worried about the precedential value of this given the nature of the speaker and the fact that the Thomas Wolfe Auditorium was the only place they could find to house this number of people. She felt it is the City's fees and the City's limitation around alcohol that are causing the increase in expenses. She said we are not actually paying them $4,000 but only reducing the fees they would have to pay.

Councilwoman Mayfield moved to transfer $4,000 from the General Fund to the US Cellular Center Enterprise Fund for the Pisgah Legal Services Poverty Forum.

Councilman Smith was also concerned about the precedent-setting, going outside of the established process, and taking taxpayer money out of the General Fund to support a non-profit fundraiser. As a supporter of Pisgah Legal Services for years, he asked for a friendly amendment to the motion to reduce the amount by $250 which will be a donation he will personally make to Pisgah Legal Services towards this event to reduce their costs. He won't be able to support the request though.

Councilwoman Mayfield agreed to donate $250 as well and amended her motion to transfer $3,500 from the General Fund to the US Cellular Center Enterprise Fund for the Pisgah Services Poverty Forum. This motion was seconded by Councilman Haynes.

Mayor Manheimer said that Council has tried to streamline the process and had a total re-vamp of how we partner with groups in the City. Council even doubled the outside agency funding, but that was done within the parameters of the process. It is a struggle for Council since there are so many worthy applicants. She appreciated all the work of Pisgah Legal Services, but unfortunately she will not be able to support the funding. She would, however, talk to her law firm that is also a stronger supporter of Pisgah Legal Services and see what they might like to do to help offset the costs associated with this event.

Councilman Bothwell also supported Pisgah Legal Services and would donate to them; however, he could not support the motion.

Brother Christopher Chiaronmonte felt City Council should stick to their rules.

The motion made by Councilwoman Mayfield and seconded by Councilman Haynes failed on a 2-5 vote, with Mayor Manheimer, Vice-Mayor Wisler, Councilman Bothwell, Councilman Smith and Councilman Young voting "no."

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Brother Christopher Chiaronmonte spoke him being in Asheville for 14 years.

Mr. Kennenth Buckner spoke about crowd control issues at the Trump rally in Asheville at the U.S. Cellular Center and the need for buffer zones between opposing groups.

Ms. Kim Roney, member of the Multimodal Transportation Commission and Transit Committee, spoke about transit route changes and evening services.

Mr. Timothy Sadler encouraged Council to work with Buncombe County to have better resources to deal with people that have served their time and need to get back into the community.

Mr. Travis Smith thanked City Council for their public service in making Asheville the best City possible.

Councilwoman Mayfield updated Council on the workshop on our Use of Force/De-escalation Policy.

Closed Session

At 7:00 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a potential lawsuit. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:22 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VIII. ADJOURNMENT:

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Mayor Manheimer adjourned the meeting at 7:22 p.m.

Magdalen Bowlson
CITY CLERK

Edwin E. Manheimer
MAYOR

Tuesday – October 25, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Closed Session

Due to technical difficulties with the Public Address System, at 5:03 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Alison Rose Kern and the City of Asheville . The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To establish or to instruct the City's staff or negotiating agents concerning the position to be taken by or on behalf of the City in negotiating the terms of a contract for the acquisition of real property by purchase, option, exchange or lease. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(5). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 5:29 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING OCTOBER 25, 2016, AS "HISPANIC RESTAURATEUR DAY"

Councilman Bothwell read the proclamation proclaiming October 25, 2016, as "Hispanic Restaurateur Day" in the City of Asheville. He presented the proclamation to Mr. Aaron Scarboro, and others, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

Mayor Manheimer said that Consent Agenda "I" has been changed to set the public hearing on December 13, 2016, to hear and act upon the request of Skyland Exchange for a Land Use Incentive Grant.

Vice-Mayor Wisler asked that Consent Agenda "J" be removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON SEPTEMBER 27, 2016

B. RESOLUTION NO. 16-225 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH GENERAL PARTS COMPANY FOR WATER RESOURCES INVENTORY MANAGEMENT

Summary: The consideration of a resolution by City Council authorizing the City Manager to enter into a three year general services agreement with an option to renew for two successive one-year periods with Genuine Parts Company (GPC) for Water Resources Inventory Management for an amount not to exceed the City's approved fiscal year budget for each applicable fiscal year period.

The Water Resources Department (WRD) spends approximately $980,000 in inventory/parts each year. These parts are mainly purchased from local suppliers and warehoused on City property. In the past, the management and distribution of parts has been performed by City staff. While this arrangement has been effective, the level of technological sophistication has been limited and has led to some inefficiency. Transactions are currently handled using paper processing, which is then entered into the City's enterprise management system. Past failures of this system have resulted in stocking shortages, which have caused delays in performing water system repairs. Additionally, the lack of a good inventory database has contributed to the accumulation of a large amount of obsolete inventory.

On February 26, 2016, the WRD issued a Request for Proposals (RFP) for Inventory Management Services. Although this RFP was issued in the spring of 2016, recent discussions with the vendor representatives have confirmed that the proposed service and terms are still valid. In response to the RFP, one vendor responded – Genuine Parts Company (GPC). The service would be provided entirely by GPC and would require that the vendor own and manage all of the WRD inventory and provide central supply distribution for other City departments. The third party provider will be required to manage the inventory using a technologically based inventory management system. GPC will also use their staff and will own the inventory which they are managing for the City.

The annual net cost of the management service is estimated to be $46,000 per year. The net cost of this project represents an increase in the expenses associated with inventory management. The vendor will employ two staff to maintain the inventory and will charge a markup of not to exceed 10% on parts. Through the national buying power of the vendor some inventory items will be purchased a lower price than the City is able to purchase the material.

This contract will allow the City to transfer ownership and management of parts inventory to GPC. The transfer of ownership will be completed upon startup and will involve the outright purchase of all current inventory. Management and distribution of parts will be provided in a timely fashion and on a 24/7 basis. The parts operation will be housed at 200 Bingham Road, the WRD's new maintenance facility. City staff will have limited access to the inventory without the assistance from GPC staff.

Pros:

- The WRD will reduce the cost of carrying obsolete parts or parts that have a very limited usage.
- GPC will provide an advanced level of technology to support the accurate management of inventory.
- Some less specialized items can be purchased at a significant cost savings due to the national buying power of GPC.

Con:

- GPC may not get the same pricing as the City on some of the specialty water parts.

The estimated cost to the City for this service is $174,000 annually with possible annual inflation-adjusted price increases. Over the course of the contract, the cost is not expected to exceed $200,000. The Department is expected to pay more for inventory management on an annual basis than it currently costs to run this as an internal operation. The total additional cost is estimated to be $46,000 per year. While this is a higher cost annually, savings will be received through the elimination of long term benefits and other employment liabilities. Additionally, the City will not carry the cost of obsolescence, loss, or low-use parts. There will also be a large initial payment to the WRD from GPC for the purchase of the inventory. It is recommended that the funds from this initial purchase be placed in a reserve account in case there is a need to terminate the contract in the future and the inventory would need to be purchased back from GPC.

Staff recommends City Council adopt a resolution authorizing the City Manager to enter into a three year general services agreement with an option to renew for two successive one-year periods with Genuine Parts Company for Water Resources Inventory Management for an amount not to exceed the City's approved fiscal year budget for each applicable fiscal year period.

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C. RESOLUTION NO. 16-226 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH GILBERT ENGINEERING COMPANY FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT BULK CAUSTIC TANK REPLACEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Gilbert Engineering Company for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Replacement Project for the bid amount of $432,000 plus a 10% contingency in the amount of $43,200 for a total project budget in the amount of $475,200.

On September 20, 2016, the Water Resources Department issued an Advertisement for Bids for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Project. This Project includes, but is not limited to: removal and replacement of an existing 9,000 gallon bulk storage tank and associated day tank, piping, secondary containment improvements, and associated electrical upgrades.

In response to the informal construction bid, the department received two bids on October 7, 2016. Companies responding were:

1. Gilbert Engineering Company (Statesville, NC) – bid $432,000
2. JS Haren Company (Athens, TN) – bid $490,000

The bids were reviewed by City Staff and Gilbert Engineering Company was selected as the lowest responsible, responsive bidder in the amount of $432,000. A contingency amount of $43,200 has been added for a total project budget in the amount of $475,200.

Pros:

- This project will replace existing leaking, outdated infrastructure.
- The secondary containment aspect of this project is a new requirement of the Public Water Supply Section of the NC Department of Environmental Quality to ensure that the chemical will be contained in the event of a leak.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Without routine investment in upgrading and replacing water treatment infrastructure, there are greater risks of potential negative impacts on water quality.

The funding needed for the construction agreement is currently allocated within the Water Treatment Plant Improvements project in the Water Resources Capital Improvement Projects fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Gilbert Engineering Company for the William DeBruhl Water Treatment Plant Bulk Caustic Tank Replacement Project for the bid amount of $432,000 plus a 10% contingency in the amount of $43,200 for a total project budget in the amount of $475,200.

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D. RESOLUTION NO. 16-227 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ASHEVILLE FORD TO PROVIDE SERVICE FOR LIGHT VEHICLE MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Asheville Ford to provide service to the City for light vehicle maintenance.

The City is seeking an outside service contract for the maintenance of light vehicles to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional vehicle maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year at $85 per hour and parts will be purchased at 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement, which will establish formalized rates and terms with Asheville Ford for light vehicle maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- Asheville Ford will not be able to provide service after hours and on weekends. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City spent $116,188 with Asheville Ford for service in the 2016 fiscal year. This amount is not expected to increase significantly as a result of this contract. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated FY 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Asheville Ford to provide service to the City for light vehicle maintenance.

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E. RESOLUTION NO. 16-228 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A GENERAL SERVICES AGREEMENT WITH CAROLINA TRACTOR & EQUIPMENT CO. INC. TO PROVIDE SERVICE FOR HEAVY VEHICLE AND EQUIPMENT MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Carolina Tractor & Equipment Co. Inc. (Contractor) to provide service to the City for heavy vehicle and equipment maintenance.

The City is seeking an outside service contract for the maintenance of heavy vehicles and equipment to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year and vary depending upon the service from $87 per hour to $95 per hour. There are separate charges for call out service including a call out service fee and travel charges associated with distance traveled and the mechanics time to respond to the call. Premium rates will also be charged for after hours and weekend work. The contract also establishes a rate for the purchase of parts. This rate will be 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement will establish formalized rates and terms with the Contractor for heavy vehicle and equipment maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- The Contractor will be able to provide service after hours and on weekends although these services will be billed at a premium labor rate. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City spent $79,372 with the Contractor for service in the 2016 fiscal year. In establishing this contract the City may utilize the contracted services for repairs that were previously performed with other contractors. Expanding the services provided by this contractor will increase the amount spent with the contractor in the coming fiscal years. It is anticipated that the total cost of service in the coming years will exceed $150,000. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated Fiscal Year 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Carolina Tractor & Equipment Co. Inc. to provide service to the City for heavy vehicle and equipment maintenance.

RESOLUTION BOOK NO. 38- PAGE 223

F. RESOLUTION NO. 16-229 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ATLANTIC EMERGENCY SOLUTIONS INC. TO PROVIDE SERVICE FOR HEAVY FIRE EQUIPMENT MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to execute a multi-year general services agreement with Atlantic Emergency Solutions Inc. to provide service to the City for heavy fire equipment maintenance.

The City is seeking an outside service contract for the maintenance of heavy fire equipment to supplement the in-house services provided by the City Fleet division. This contract will help to provide service in the event that there is no capacity within the shop for additional vehicle maintenance or if the service needs are beyond the capabilities of City staff or equipment.

The agreement stipulates the terms and rates under which services will be provided and establishes a set fee for the purchase of parts provided by this vendor. Labor rates are set for a period of one year at $111 per hour, a travel rate of $78 per hour and parts will be purchased at 10% over cost to the service provider.

Outside services have been used through a number of vendors without a formal agreement. This agreement will establish formalized rates and terms with Atlantic Emergency Solutions for heavy fire equipment maintenance, will be effective for a one year period, and allows for 4 one year renewal.

Pros:

- The City is able to ensure that vehicles are maintained in a timely manner regardless of the capacity utilization within the City Fleet Maintenance shop.
- This agreement facilitates the use of outside services by establishing a consistent agreement with defined rates and terms.

Con:

- Atlantic Emergency will not be able to provide service after hours and on weekends. These are times during which the City Fleet Maintenance staff is also only available on call and/or service will be provided through another outside contract.

The City is spent $144,986 with Atlantic Emergency Solutions for service in the 2016 fiscal year. The amount spent in future years is not expected to increase significantly as a result of this contract. This agreement will ensure that a contract is in place to lock in a price structure for all future parts and labor transactions. Funding for anticipated FY 2016-17 expenses is already included in the Adopted Budget.

City staff recommends City Council approve the resolution authorizing the City Manager to execute a multi-year general services agreement with Atlantic Emergency Solutions Inc. to provide service to the City for heavy fire equipment maintenance.

RESOLUTION BOOK NO. 38 - PAGE 224

G. ORDINANCE NO. 4525 - BUDGET AMENDMENT FOR THE EDWARD BYRNE JUSTICE ASSISTANCE GRANT - LOCAL SOLICITATION GRANT

Summary: The consideration of a budget amendment in the Special Revenue Fund from the US Dept. of Justice 2016 Edward Byrne Justice Assistance Grant – Local Solicitation in the amount of $55,150.

During its June 28, 2016, meeting, the City Council authorized to apply and enter into an agreement with the US Dept. of Justice 2016 Edward Byrne Justice Assistance Grant (JAG) in the amount of $55,150. This is a predetermined amount of funds based on the Part 1 Uniform Crime Reporting Crimes. The Asheville Police Department and Buncombe County Sheriff's Department will be allocated $55,150 based on the award matrix, with Asheville receiving $43,902 and Buncombe County receiving $11,248. The distribution of funds will be approved through a signed Memorandum of Understanding.

During September 27, 2016, meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on October 25, 2016. Funds will be utilized to purchase Taser devices which will serve to enhance officer safety and potentially reduce the propensity for injury that offenders could be exposed to during altercations with officers. Effective Taser applications have demonstrated the capability to incapacitate threatening subjects by using an electrical charge to target the motor nerves that control movement. Ideally, these devices facilitate effective restraint while reducing the opportunity for injury to all involved parties, thereby potentially reducing workers' compensation claims and liability claims.

There will be an expense of $43,902 by the APD for the purchase of approximately 30 Tasers. The Buncombe County Sheriff's Department will be awarded $11,248 for its identified needs. This accounts for the total allocation of $55,150 for this grant.

This is a 100% funded non-local match grant that will serve to enhance officer safety for substantially more patrol officers and potentially reduce the probability of injury for threatening offenders.

This action went before the Finance Committee on September 27, 2016, and their recommendation was support to move forward to City Council.

Pros:

- Increasing the number of Tasers for patrol officers will enhance officer safety and that of the community
- Increased accountability because of the downloadable content related to deployments
- Costs of the devices could offset the costs incurred by workers' compensation or liability claims

Cons:

- Additional burden on future operations budget for the cost of maintenance and replacement after the approximate five-year service life of the device
- Additional training costs associated with purchasing the training cartridges at an approximate cost of $40 per year per device.

There is no local match required, however there will be maintenance and replacement costs for the equipment that needs to be included in future fiscal year budgets.

Staff recommends City Council adopt the budget amendment to accept grant funds through US Dept. of Justice Programs in the amount of $55,150.

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H. RESOLUTION NO. 16-230 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE U.S. DEPT. OF JUSTICE FOR THE BALLISTIC VEST PARTNERSHIP PROGRAM

ORDINANCE NO. 4526 - BUDGET AMENDMENT FOR THE BALLISTIC VEST PARTNERSHIP PROGRAM

Summary: The consideration of a resolution authorizing the City Manager to accept funds through US Department of Justice Ballistic Vest Partnership Program in the amount of $21,022; and the associated budget amendment in the amount of $42,044 in the Special Revenue Fund.

The City of Asheville has been awarded $21,022 through the US Department of Justice Ballistic Vest Partnership Program for a grant to fund to offset departmental cost associated with purchasing ballistic vests, which requires the City to match this amount dollar-for-dollar. The budget amendment is necessary to authorize the full project budget amount of $42,044 in this fund. The City's match of $21,022 will come from the Police Department's adopted Fiscal Year 16-17 operating budget.

During September 27, 2016, meeting, the Finance Committee was informed of the grant award and need to move the item to the full City Council for approval on October 25, 2016. Funds will be utilized to purchase approximately 56 bulletproof vests over the next 2 years.

This action went before the Finance Committee on September 27, 2016, and their recommendation was support to move forward to City Council.

Pros:

- Reduction in cost to the City of Asheville for the purchase of ballistic vests
- Increase in officer safety by providing crucial safety equipment

Con:

- None

As noted above, this grant requires a match of $21,022, which will come from the approved Police Department's Fiscal Year 2016/17 General Fund budget (Patrol Division – Supplies – Safety Equipment). It should be noted that by accepting this grant, the overall fiscal impact to the City of Asheville is reduced due to the fact that the APD would have to purchase these vests at full replacement costs if we did not accept award.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds through US Department of Justice in the amount of $21,022; and 2) a budget amendment in the amount of $42,044 reflecting $21,022 from US Department of Justice BVP funds and approved Fiscal Year 2016/17 APD General Fund money (421,022) to establish a project budget for the 2016 BVP Program.

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ORDINANCE BOOK NO. 30 - PAGE 423

I. RESOLUTION NO. 16-231 - RESOLUTION SETTING A PUBLIC HEARING ON DECEMBER 13, 2016, FOR A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE (HATHAWAY DEVELOPMENT LLC)

Summary: The consideration of a resolution setting a public hearing on December 13, 2016, for a land use incentive grant agreement for developer of Skyland Exchange (Hathaway Development).

The developer of Skyland Exchange, Hathaway Development, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015. Hathaway Development is developing a 14.32 acre site, located on Miami Circle in South Asheville. The developer estimates a total development cost of $32,710,837 and an improvement value of $36,190,837. The project consists of 290 residential rental apartments, with 10% units (29 units) proposed affordable (80% AMI or less). The site is within 0.25 miles of transit and 0.5 miles of schools; the job centers in Biltmore Park, is over 1 mile.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing - The proposed project will provide 290 units with 29 units (10%) being affordable to households at 80% or less of median income, and the developer has committed to the affordability period of 15 years. This project qualifies for 20 points in this category.

Superior locational efficiency - The proposed project is within 0.5 miles of a school in T.C. Roberson; the project is also within .25 mile of an existing bus-stop served but is not served by a one-half hour ART transit frequency (1.5 hour frequency), HCD Committee has recommended 5 points for the proximity to transit; the site is not within 1 mile of a job center (1.8 miles to Biltmore Park). This project qualifies for 10 points in this category.

Staff has scored the project with a total of 30 points. The project is eligible for a three (3) year Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report.

Pros:

- The proposed project will provide affordable rental housing to 29 households earning 80% or less of area median income, for a period of 15 years;
- The proposed project is in close proximity to schools and transit;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- None

The current assessed value of the two parcels is $1,007,100 ($244,300 and $762,800). The developer's estimate of improvement value is $32,710,837 with a completed estimated project taxable value of $36,190,837. The current annual city tax, based on current assessed value, is $4,783.73. The annual estimated city tax post completion, based on the developer's estimate of value is $171,906.48; therefore, the estimated annual Land Use Incentive Grant would be $167,122.75, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 3 years, the estimated Grant would be $501,369. The subsidy per affordable unit would be $17,289. The subsidy amount per affordable unit/year would be $1,153.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Stormwater Plan Review Fee, and Water Service Connection Fee is $89,344. The value of each 10% of eligible fee rebates would be $8,934. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 30 point level, the fee rebate would be $26,802.

The total estimated Land Use Incentive Grant benefit over 3 years is $528,171, which equals a $18,213 subsidy per unit, and $1,214 subsidy per unit per year.

Staff recommends that Council set a public hearing for December 13, 2016, to hear and act upon the request of Skyland Exchange for a Land Use Incentive Grant.

RESOLUTION BOOK NO. 38 - PAGE 226

J. RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE FREE DAY ON NOVEMBER 8, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

This item was removed from the Consent Agenda for discussion and/or an individual vote.

K. RESOLUTION NO. 16-233 - RESOLUTION AUTHORIZING A LEASE AGREEMENT WITH HENDERSON COUNTY FOR A TRANSIT VEHICLE

Summary: The consideration of a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one transit vehicle.

As a result of the 2000 Census, the French Broad Metropolitan Area was reclassified from a non-urbanized area to an urbanized area with a population greater than 200,000 persons and now includes municipalities in Buncombe, Haywood, and Henderson counties. After the reclassification, Henderson County's transit system became part of the transit systems operating in the overall urbanized area. The Federal Transit Administration (FTA) named the City of Asheville the designated recipient and as a result, the City of Asheville oversees all of the FTA funding, including reporting, administration and procurement of goods. The City of Asheville and Henderson County have signed a sub-recipient agreement that specifies how the funds are disbursed. The City of Asheville is accountable to the FTA regarding the use of all FTA funds and owns all the capital items that Henderson County purchases with these funds.

As per Henderson County's request, the City of Asheville ordered a van from a State contract to serve Henderson County's paratransit system, operated by Apple Country Transit. The vehicle is paid with Section 5307 funds and match is provided by Henderson County.

In order for the County to receive the van, a lease agreement, stipulating the terms and conditions to operate this vehicle, must be signed by both parties as required by FTA.

There is no cost obligation for the City with this action other than staff time to accomplish the task.

Pros:

- The lease agreement is an administrative step required by the FTA that protects the City's interests as designated recipient of Federal funds.
- There is **no** cost obligation for the City of Asheville other than administrative expenses.

Con:

- The City of Asheville is responsible for administrative expenses including staff time to oversee the project for the duration of such, approximately five years.

There is no direct fiscal impact to the City of Asheville, however the City's cost of administering the project is not recovered.

City staff recommends that City Council approve a resolution authorizing the City Manager to enter into an agreement with Henderson County to lease one transit vehicle.

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L. ORDINANCE NO. 4527 - BUDGET AMENDMENT FOR THE ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES FEDERAL GRANT, SECTION 5310

Summary: The consideration of a budget ordinance, in the amount of $479,717, from the Federal Transit Administration to set up the project budgets for the Enhanced Mobility of Seniors and Individuals with Disabilities Federal grant, Section 5310.

The City of Asheville is the designated recipient of the Enhanced Mobility of Seniors and Individuals with Disabilities program, which is a program of the Federal Transit Administration (FTA). This is a formula grant program oriented to improve mobility for seniors and individuals with disabilities by removing barriers to transportation service and expanding transportation mobility options.

This is a program of the Moving Ahead for Progress (MAP) 21 transportation bill passed by Congress in 2012 that consolidated the Elderly and Disabled program that distributed funds to the states and the New Freedom program that was a formula program in which the City was the region's designated recipient.

To be eligible, the program requires an intensive planning process and the development of a Coordinated Public Transportation and Human Services Transportation Plan or CTP-HSTP based on community participation. The CTP-HSTP was developed in conjunction with the French Broad Metropolitan Planning Organization (MPO), Buncombe, Henderson and Haywood Counties, human services agencies, public and private transportation providers, the North Carolina Department of Transportation and the general public to assess current transportation needs, identify gaps and to set goals.

The plan was approved on March 29, 2012, by the French Broad River MPO's governing body (the Board), which includes elected representatives from each of the eighteen local governments which make up the MPO. The CTP-HSTP set the region's priorities and identifies needs; the projects were selected on January 28th, 2016 through a competitive process led by the MPO.

The projects below were selected as city's sub-recipients for the 5310 program. The projects are listed as follows:

Sub-Recipient	Project	Amount funded	Sub-Recipient's match
Jewish Family Service	Transportation for Elder Club	$26,414	$6,603
Council on Aging	Volunteer Driving Program and Travel Training	$22,815	$22,815
Buncombe County	Supplemental elderly and disabled assistance	$86,166	$86,166
City of Asheville	ADA paratransit	$90,000	$22,500
City of Asheville	ADA improvements to the transit station	$67,000	$16,750
City of Asheville	Program Administration	$32,488	N/A

The city needs to set up project budgets in order to pass through the funds and will seek reimbursement directly from the FTA. The sub-recipients will be responsible for the match.

The City will be responsible for the Program Management and, as designated recipient, to oversee the use of the funds according to FTA regulations. The program management will require the use of city resources, mainly staff. As a designated recipient the city will use $32,488 for administration purposes, which will cover the program management expenses for approximately one year.

Pros:

- Project funding is provided by the FTA, 50% for operating projects and 80% of capital projects. The sub-recipients are responsible for the local match.
- The city can use $32,488 for administration purposes.

Con:

- The project cost is $479,717, of those $324,883 are federal funds and the city will seek reimbursement from FTA.

The total financial impact for the subject projects is $479,717 and it will be funded with Federal Funds. $32,488 will be reimbursed to the city for administrative costs.

Staff recommends that City Council adopt a budget amendment in the amount of $479,717 from Federal Funds to setup the project budget for the 5310 projects funded, including the administrative costs.

ORDINANCE BOOK NO. 30 - PAGE 425

M. RESOLUTION NO. 16-234 - RESOLUTION AUTHORIZING THE CITY OF ASHEVILLE FIRE DEPARTMENT TO APPLY FOR A GRANT FROM THE U.S.

DEPT. OF HOMELAND SECURITY TO OBTAIN FUNDING FOR STRUCTURAL FIREFIGHTING PERSONAL PROTECTIVE EQUIPMENT, AND TO ACCEPT GRANT FUNDING IF AWARDED

Summary: The consideration of a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant in the amount of $500,000 from the US Dept. of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept grant funding if awarded.

The Department of Homeland Security has recently issued guidance for the Fiscal Year (FY) 2016 Assistance to Firefighters Grant (AFG) program. This is a grant opportunity for fire departments to purchase needed equipment to enhance firefighter safety, service delivery, and effectively train personnel. Towards that end, if the grant request is approved, the Fire Department would purchase Structural Firefighting Personal Protective Equipment to replace equipment that is currently reaching its end of service life. The Structural Firefighting Personal Protective Equipment is one of a firefighter's most critical tools for personal protection and regular replacement ensures that our personnel have the most up-to-date equipment available. The grant program requires communities of greater than 20,000 populations to match Federal grant funds equal to 10 percent of the total project cost, or $50,000.

Staff recommends participation in the AFG Program for the following reasons:

- The grant program was developed to assist in the purchase of critical firefighting equipment and tools to provide greater safety for firefighters.
- If awarded, the City would be able to utilize grant funds for the purchase of required equipment.

This action was unanimously recommended by the Finance Committee to move forward to City Council on September 27, 2016.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- This grant will enable AFD to accelerate our procurement of this equipment.

Cons:

- 10% matching amount of purchase required $50,000

This grant will not increase the Fire Department's budget request as these funds are already programmed into the budget.

City staff recommends that City Council authorize the fire department to apply for a grant in the amount of $500,000 from the US Department of Homeland Security to obtain funding for Structural Firefighting Personal Protective Equipment, and to accept the grant funding if awarded.

RESOLUTION BOOK NO. 38 - PAGE 229

N. RESOLUTION NO. 16-235 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT ON MARTIN LUTHER KING JR. PARK TO BELLSOUTH TELECOMMUNICATIONS, LLC, D/B/A AT&T FOR UTILITY PURPOSES

Summary: The consideration of a resolution authorizing the City Manager to convey an easement on Martin Luther King Jr. Park to BellSouth Telecommunications, LLC dba AT&T for utility purposes.

BellSouth Telecommunications (AT&T) has approached the City of Asheville with a request to locate a utility box on city property at Martin Luther King Jr. Park. AT&T plans to increase internet service offerings in the neighborhood and needs to install additional infrastructure. AT&T has requested a 10'x10' easement to locate a utility cabinet at the corner of the park property. Parks staff met with AT&T onsite and concluded that there is no conflict with the use of the park and the installation/location of the utility box.

AT&T has offered to pay $1000 for the easement, which is in alignment with per square foot easement and land values in the surrounding neighborhood. City staff reviewed recent property transactions in the area, and found a range of values between $5 per square foot and $12 per square foot of land (or approximately $25,000 to $60,000 for a 0.11 acre / 5,000 square foot lot.) The offered amount is consistent with this range of values. AT&T will also pay the established transaction fee of $280 per the City's adopted fee structure for these types of requests.

Pro:

- Easement does not interfere with City's land use at the park.
- Granting these easements will provide AT&T the needed property rights to improve utility services in the area.

Con:

- Utility easements limit the use of property.

The fiscal impact is unbudgeted revenue of $1000 plus fee of $280 to benefit the General Fund.

City staff recommends City Council approve a resolution authorizing the City Manager to convey an easement on Martin Luther King Jr. Park to BellSouth Telecommunications, LLC dba AT&T for utility purposes.

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O. RESOLUTION NO. 16-236 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR AND RECEIVE FUNDS FROM THE N.C. DEPT. OF TRANSPORTATION 2017 BICYCLE AND PEDESTRIAN PLANNING GRANT PROGRAM TO CONDUCT A GREENWAY CORRIDOR STUDY NAMED THE "SWANNANOA RIVER GREENWAY CORRIDOR - PHASE TWO"

Summary: The consideration of a resolution authorizing the City Manager to apply for and receive funds from the N.C. Dept. of Transportation 2017 Bicycle and Pedestrian Planning Grant Program to conduct a greenway corridor study named the "Swannanoa River Greenway Corridor - Phase Two".

The N.C. Dept. of Transportation (NCDOT) Bicycle and Pedestrian Planning grants are small grants to assist with corridor studies for bike and pedestrian projects to encourage bike and pedestrian comprehensive planning. These funds will assist in up to $36,000 for a corridor study, requires a 40% match and has a November 10, 2016 due date. If awarded, the City of Asheville would receive the funds in early March. We would like to request $36,000 with a $24,000 match requirement from the City.

The grant would be for a segment of the Swannanoa River Greenway, a 1.25 mile long project that parallels Swannanoa River Rd and the Swannanoa River from the intersection of Biltmore Ave. to S. Tunnel Rd. If awarded the funds, we will conduct this study simultaneously

with the first phase, the "East Asheville Greenway" segment of the Swannanoa River Greenway that is proposed to be implemented in the bond referendum.

This study area is a key segment of the City's Greenway Master Plan. It is also identified as a priority area in the AIM Plan and is a crucial segment of the Wilma Dykeman Plan. This request of acceptance is supported by the Asheville Multimodal Transportation Commission and the Greenway Committee.

The City's match will either be funds that have been raised by local non-profits who are dedicated to the implementation of the Swannanoa River Greenway or from the City's general funds. The decision depends on the success of the bond referendum. If the bond referendum is successful, the raised funds can be taken from the first study that starts at S. Tunnel Rd. and heads east to Azalea Park. If the bond referendum is not successful, we will need to use funds from the general funds.

Once finished, this feasibility study will poise this project for engineering and final design work.

Pros:

- This will be an adjoining greenway study to "East Asheville Greenway", otherwise known as the Swannanoa River Greenway Phase One.
- A completed feasibility study will provide guidance for future development in this rapidly growing area.

Con:

- Other than the requirement to pay matching funds, there are no foreseen negative impacts.

City will be required to provide a $24,000 match for the study. Matching funds would come from the existing Fiscal Year 2016-17 Adopted General Fund budget.

City staff recommends City Council approve a resolution authorizing the City Manager to apply for and receive funds from the NC DOT to conduct the greenway corridor study named the "Swannanoa River Greenway Corridor - Phase Two".

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P. ORDINANCE NO. 4528 - BUDGET AMENDMENT ACCEPTING A DONATION FOR THE LEXINGTON AVENUE PUBLIC ART PIECE

Summary: The consideration of a budget amendment in the amount of $40,000 from private donations for the Lexington Avenue Public Art Project.

The Asheville Downtown Association Foundation (ADAF) engaged city staff and the Public Art & Cultural Commission members in discussions regarding a commemorative art project that would recognize the vision of many local leaders whose foresight made Lexington Avenue *One of America's Great Places* (American Planning Association 2015). This honor was bestowed on Lexington Avenue because it "is a funky, creative, and delightfully unexpected home to a bustling music and arts scene that plays a crucial role in supporting Asheville's economy."

The ADAF requested use of the area at 65 N. Lexington Avenue which includes two bump outs and a motorcycle parking area. All appropriate city staff have reviewed the area and approved its use for this purpose.

The Public Art & Cultural Commission (PACC) at their regular meeting of January 22, 2015, heard details of the proposed public art project and fundraising goal by the ADAF and recommended approval of the project.

The Asheville Downtown Association Foundation is a 501(c)(3) nonprofit association organized to support and promote activities, projects and programs that support the livability, arts and cultural, economy, safety and infrastructure of downtown Asheville.

Pros:

- The project will allow the acquisition of more public art downtown.
- The cost of the project is fully funded by the Asheville Downtown Association Foundation funding.
- The use of the area will not have any negative impacts to that area for pedestrians or businesses.

Con:

- None noted.

All funding for this project including associated administrative fees are included in this $40,000 donation for the project. City will convey the use of the area noted in this staff's report for the permanent artwork.

City staff recommends City Council to approve the budget amendment authorizing the City Manager to accept the contribution from the Asheville Downtown Association Foundation in the amount of $40,000 from private donations for the Lexington Avenue Public Art Project.

Councilman Smith thanked the Asheville Downtown Association Foundation for working with the community on donations and making this project happen.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Item "J". This motion was seconded by Councilman Smith and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

J. RESOLUTION NO. 16-232 - RESOLUTION AUTHORIZING THE CITY MANAGER TO IMPLEMENT A FARE FREE DAY ON NOVEMBER 8, 2016, IN ORDER TO INCREASE OPPORTUNITIES FOR VOTERS ON ELECTION DAY

Summary: The consideration of implementing a fare-free day on November 8, 2016, General Election Day.

At the City Council meeting on January 12, 2016, a proclamation was presented proclaiming January 2016 as "Senior Suffrage Month". During that process, a request was made for staff to consider a fare-free day on Election Day. The Multi-Modal Transportation Commission reviewed and discussed this request at their regularly scheduled meeting on February 24, 2016. They were concerned about financial implications and the overall effectiveness of having a fare-free day. After much discussion, the Commission recommended that the Transit Committee and staff conduct additional research including making sure that outreach efforts are made to communicate the promotion to the public. The Transit Committee reviewed and discussed this request at their regularly scheduled meeting on March 1, 2016, and took no action pending consideration by City Council at their March 8, 2016, meeting. The Transit Committee did agree

that fare-free days would be a good topic of discussion at their annual retreat which is scheduled for October 21, 2016.

Resolution No. 16-51, which was approved by City Council on March 8, 2016, authorized the City Manager to implement a fare-free day on March 15, 2016, in order to increase opportunities for voters on Election Day.

Currently, there is a longstanding fare-free day on Veteran's Day that enables veterans to ride for free when they show an appropriate identification card. In addition, there is a reduced fare of $0.25 per ride during "Strive Not to Drive Week" and "Earth Day".

Pros:

- Fare-free days include para-transit services.
- Reduces a transportation barrier to voting.

Con:

- Anticipated loss in daily revenue of about $2,000.

A fare-free day would probably result in an anticipated loss in daily revenue of about $2,000.

City staff recommends that City Council approve a resolution authorizing the City Manager to implement a fare-free day on November 8, 2016, in order to reduce barriers to voting.

Vice-Mayor Wisler said that in March when City Council authorized a fare-free day for the primaries, Council had agreed to look at the effectiveness of whether a fare-free day actually increased voters. Even though the City has no way to determine out, ridership was down that day. Also, the Multimodal Transportation Commission did not recommend this noting that it would be a revenue loss. While she agreed with the objective, she did not feel that it is a barrier to voting. She could support a fare-free day for para-transit services; however, was opposed to making it across the board. She proposed staff and the Multimodal Transportation Commission come up with an alternative that is more effective than a fare-free day.

Councilwoman Mayfield said that the Transit Committee supported this request.

Councilman Smith hoped that the City would consider fare-free days on election days in the City in the future. That would reduce the marketing for it each time and perhaps more people would use the buses because they would automatically know it was a fare-free day. He would be open to hearing the results of the staff and Multimodal Transportation Commission.

Ms. Kim Roney, member of the Transit Committee, supported a policy that would make election days fare-free days.

Councilman Young supported making all election days fare-free days.

Councilwoman Mayfield suggested that proposal be brought to the Finance Committee when other similar proposals are presented.

Councilman Smith moved for the adoption of Resolution No. 16-232. This motion was seconded by Councilman Young and carried on a 6-1 vote, with Vice-Mayor Wisler voting "no".

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III. PRESENTATIONS & REPORTS:

A. HAYWOOD STREET COMMUNITY VISIONING PROCESS UPDATE

Mr. Chris Joyell, Executive Director of the Asheville Design Center, provided Council an update from the Asheville Design Center (ADC) regarding the community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in Downtown Asheville.

Regarding public input, the ADC has been collecting public input re: the Haywood & Page properties since May, focusing on what activities people would prefer to do in the space. They have constructed a database to capture all of this input verbatim. ADC is working with a Lenoir-Rhyne graduate class (Visions for Sustainable Communities) to code this input, documenting the uses & amenities, specific design elements, and community benefits identified by the public. This database will be shared with the Advisory Team, and it will ultimately inform their recommendations to Council. In the spirit of full transparency they'd like to make the database public, as well.

To date they have collected public input from the following events and activities, totaling over 1,000 comments, thus far:

- May 19th Project for Public Spaces (PPS) presentation,
- June Open House at 1 Pack Square West,
- July LEAF Downtown event,
- Focus group meetings with Vanderbilt, Battery Park, DARN, & Grove Arcade residents and merchants (we're planning one for Basilica parishioners).
- An internal survey of DARN members,
- On-site intercept surveys,
- Emails sent to directly ADC,
- Open City Hall - Activity Preference Survey.

In addition, Mr. Tom Gallaher has conducted over 100 confidential one-on-one interviews with stakeholders. He has produced two reports—one focused on preferred uses, the other addressing site considerations—which they've provided to Advisory Team members to serve as background information. They have also set up the Haywood/Page physical model at Pack Square library, with PPS's Place Game available to the public. They are encouraging participants to take the Place Game, visit the site, and share their assessment of current conditions and future opportunities.

Regarding the Advisory Team, they have met five times—once a month beginning in June. They have also elected to split into two subcommittees: one focusing on Uses, the other studying the physical constraints and opportunities on the Site. Each subcommittee has met twice. The process has been dynamic, and at each stage ADC seeks input from the team to guide our next steps.

Mr. Andrew Fletcher, Chair of the Haywood Street Advisory Team, explained that adhering to the design principle that "form follows function," the Advisory Team set out to understand first how the public would like to use the space. From there they will begin exploring how those uses can coexist while conforming to the site. As the team began to refine their vision, they anticipated creating a Visual Preference Survey that reflects the team's desired uses and benefits. This gave the public another opportunity to weigh in on more tangible examples of preferred outcomes.

Regarding next steps, the Advisory Team sees their work stretching through the winter, producing a final deliverable in early spring. Prior to producing the final deliverable, they plan to hold a public meeting to present the team's vision (or alternate visions) and receive one last round of feedback. They anticipate that the team's final product would contain a list of preferred

uses and amenities, along with a bubble diagram outlining how those uses and amenities could share the site. They also hope that a series of temporary installations can help inform future designs for the site, and successes and failures of those temporary uses will be seen. Their goal is to try to accommodate as many uses as possible, while reflecting the values and benefits identified by the Advisory Team. He provided Council with over 60 potential temporary uses for the site, noting they are not prioritized, but are in the categories of site amenities, art, food, exercise, performance, revenue producing, seasonal and other. They also range from practical to whimsical. He then provided Council with an example of multiple uses can work together to activate the space. He hoped that Council will review the uses and ask the Advisory Committee to help implement them. They are excited about putting the community back in charge of the space.

On behalf of City Council, Mayor Manheimer thanked the Advisory Committee for their hard work on this major task. She was also excited to see younger people rise in the leadership role. She asked that the Advisory Committee narrow down their recommendations to possibly a consensus of 3-4 items and bring those back to Council for consideration. Narrowing them down will be more manageable for staff to evaluate each recommendation and vet the issues.

Because of the number of uses that could be grouped together, Councilman Bothwell suggested possibly 12 recommendations. Councilwoman Mayfield felt like the more uses on the site will require more management to oversee the activities.

Councilman Young supported uses that are not invasive and uses that don't require a lot of oversight.

B. EFFECTIVE COMMUNICATION OF CITY PROJECTS AND PROGRAMS, GEORGE WASHINGTON CARVER EDIBLE PARK UPDATE

Director of Communication and Public Engagement Dawa Hitch reviewed with Council the communication plan of City projects and programs. She explained that they will continue to grow and improve a diverse communication portfolio, encourage a culture of engagement in the organization and effectively manage engagement in the community. She explained their circle of service, along with the spectrum of public participation. In community communication, they will continue to (1) consider who will be impacted by the project/program (both internal and external); (2) consider a diverse set of tools when choosing the communication medium; and (3) communicate the level of participation in which the City is engaging. They will use a plan to maximize timely communications and minimize misunderstandings.

Director of Parks and Recreation Roderick Simmons briefly explained how the incident regarding the removal of some trees and vegetation in the right-of-way happened, which he noted was a miscommunication of staff. He explained that they are now reviewing all City policies to make sure of adequate communication between all important stakeholders and the neighborhoods prior to taking any action. In addition, they will post notices on the property prior to any work taking place.

Councilwoman Mayfield asked that we make a commitment to build and foster strong relationships within the community in advance of any actions taking place.

The following individuals commented about the need for clarification and revision of the City's communication policies and procedures: the need to understand and protect our edible tree resources; and funding for edible park and planting maintenance and community engagement:

Ms. Kiera Bulan, Coordinator for the Asheville-Buncombe County Food Policy Council
Ms. Darcel Eddins, Executive Director of Bountiful Cities
Ms. C. Nichole Hinebaugh, with Bountiful Cities
Ms. Vicki Meath, Director of Just Economics

Mayor Manheimer said that this issue is being addressed internally.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER LAND USE INCENTIVE GRANTS FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

RESOLUTION NO. 16-237 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR SIMPSON STREET (BEAUCATCHER COMMONS LLC)

Assistant Community & Economic Development Director Jeff Staudinger said that this is a public hearing to consider approving a land use incentive grant for Simpson Street (Beaucatcher Commons LLC). This public hearing was advertised on October 14, 2016.

Mr. Staudinger said that the developer of "Simpson Street," Beaucatcher Commons LLC, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015.

Beaucatcher Commons LLC, represented by Kirk Booth, seeks to develop a 1.63 acre site, located at 43 Simpson Street and including two additional adjacent parcels. The developer estimates a total development cost of $3.3 million. The LUIG application proposed a project that would consist of 60 one-bedroom units, in six buildings with ten units in each building. The project scale has now been increased by 10 units to 70 units, with an estimated cost of $4 million. This increased scale was approved as a CUP by City Council on September 6. Mr. Booth intends to make all 70 units affordable.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing

The proposed project will provide 70 units affordable to households at 60% or less of median income, and the developer has committed to the affordability period of 15 years. The project qualifies for 100 points.

Long term affordability

The proposed project will be committed to serving households at the designated rental rates for a period of 20 years. This qualifies the project for 10 points.

Staff has scored the project with 110 points, which qualifies the project for Eleven Years (11) of Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on June 14, 2016, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report, with the exception of the additional 10 units, which were not part of the project plan at that time.

Pros:

- The proposed project will provide affordable rental housing to 70 households earning 60% or less of area median income, for a period of at least 20 years;
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Cons:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

Estimated value of Land Use Incentive. The current assessed value of the property is $240,000. The developer's estimate of completed project taxable value is $5,000,000. The current annual city tax, based on current assessed value, is $1,140. The annual estimated city tax post completion, based on the developer's estimate of value is $23,750. Therefore, the estimated annual Land Use Incentive Grant would be $22,610, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 11 years, the estimated Grant would be $248,710. The subsidy per affordable unit would be $3,553. The subsidy amount per affordable unit/year would be $178.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $125,000. The value of each 10% of the fee rebate would be $12,500. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 110 point level, the fee rebate would be $125,000, $1,786 per unit.

The total estimated Land Use Incentive Grant, if approved, would be $373,710.

Staff and the HCD Committee recommends that Council approve the request of Beaucatcher Commons LLC for a Land Use Incentive Grant for an 11 year period.

Mayor Manheimer opened the public hearing at 6:45 p.m.

Ms. Amy Kemp asked for information on the matrix of scoring, which was provided to her by Mr. Staudinger.

Mayor Manheimer closed the public hearing at 6:47 p.m.

Councilman Bothwell said that often times the City has to struggle to get developers to provide affordable units, and these 70 units will make a real dent in the goal to provide affordable housing.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-237. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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B. PUBLIC HEARING RELATIVE TO AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE THE SIGNAGE PLAN APPLICATION PROCESS

ORDINANCE NO. 4529 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO REMOVE THE SIGNAGE PLAN APPLICATION PROCESS

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend Chapter 7 of the Code of Ordinances to remove the signage plan application process. This public hearing was advertised on October 14 and 21, 2016.

State and federal courts have recently rendered decisions related to signage regulation and the city's decision-making process for land use applications. This amendment proposes to bring a portion of the Unified Development Ordinance (UDO) into alignment with these decisions by removing the option for a Signage Plan.

The amendment proposes to clarify that properties seeking relief from the sign code may apply for a Board of Adjustment Variance as outlined in UDO Sec. 7-13-9. Variances. This clarification comes as a result of removing UDO Sec. 7-13-10. Signage Plan. which had proposed a nonquasi-judicial, legislative process for projects meeting specified criteria, as an alternative to a Board of Adjustment variance.

This proposal was reviewed and approved unanimously (5:0) by the Planning and Zoning Commission at their October 5, 2016, meeting. All wording amendments receive final review by City Council.

The nature of this wording amendment is to bring the city's development code into alignment with sound land use practices and is not directly addressed in the *Asheville City Development Plan 2025,* although the need for flexible and effective development standards is mentioned throughout.

The nature of this wording amendment is to provide clarification and is not contemplated in the 2036 Council vision. Nevertheless, having a sound development review process and standards of evaluation indirectly supports numerous vision goals.

This proposal supports the goals outlined in the Comprehensive Plan and City Council 2036 Vision, and staff recommends approval of the wording amendment as proposed.

Upon inquiry of Councilman Bothwell, Ms. Tuch said that all variances to the sign ordinance will now be brought before the Board of Adjustment through the quasi-judicial process.

City Attorney Currin responded to Councilman Bothwell when he asked if there was a way for City Council to retain control of sign ordinance variances and still be in compliance with the law.

Mayor Manheimer opened the public hearing at 6:54 p.m., and when no one spoke, she closed the public hearing at 6:54 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the wording amendment removing the application and review process for Signage Plans, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that the amendment will result in sign variance applications being directed to the Asheville Board of Adjustment where such reviews are standard and will be determined pursuant to a quasi-judicial process. This motion was seconded by Councilman Smith and carried on a 6-1 vote, with Councilman Haynes voting "no."

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4530 - ORDINANCE AMENDING THE SELLING, ENTERTAINING AND DINING ORDINANCE RELATED TO STREET PERFORMANCES

Assistant City Manager Paul Fetherston said that the purpose of this agenda item is to present the City Council with an update on the Downtown Public Space Management initiative as it relates to street performances relative to the High Impact Area proposal as recommended by the Public Safety Committee (Committee). City Council action is requested on ordinance revisions to enable the High Impact Area Program.

Over the past several years, the Committee has worked with staff and community stakeholders to develop a multi-faceted approach intended to address the management of public space within the Downtown. One of the initiatives undertaken was the development of a Downtown Enhancement Plan by the Asheville Police Department which has been in place since July 2014.

Another initiative was a review and analysis of: 1) public safety concerns in areas where street performances take place and 2) illegal sidewalk vending and how these activities act as components of the overall Downtown public space management. The Committee considered research, analysis and recommendations on this issue during meetings in September 2014, April 2015 and August 2015, respectively. Following a presentation of information in April 2015, staff was directed to continue to research options and make recommendations regarding these components of the overall public space management in the Downtown. After considering options and recommendations presented by staff in August 2015, the Committee asked staff to work with stakeholders within the Downtown regarding proposals to enhance the City's Downtown Public Space Management efforts.

Since August 2015, staff has worked with a group of stakeholders with representatives from the following areas: businesses, residents, Asheville Busking Collective, and Asheville Downtown Association. Stakeholder meetings were held in September and December of 2015 and April 2016 for purposes of receiving input, reviewing proposals, and engaging in dialogue about options, considerations and next steps. Staff also met with the stakeholders group in August and September following the June 22 Committee forum and special meeting described below. While there are a diversity of interests and perspectives represented through the stakeholder group, the engagement process has fostered a venue through which ideas are exchanged in a meaningful and respectful manner.

On June 22, 2016, the Committee hosted a forum with representatives of the Downtown Commission, Public Art and Cultural Commission, Recreation Board, Planning and Economic Development Committee, and the community stakeholders referenced herein. The forum focused on a number of components of the Downtown Public Space Management initiative including place making, placement of street furniture in the area of Biltmore/ Patton Avenue, management of vending cart permits within the Downtown, street performance management and

the temporary closure of Wall Street on limited occasions to vehicular traffic for street market purposes. Following the June 22 forum, the Committee held a special meeting during which time the following direction was provided to staff: (a) authorized removal of benches in the right of way at Biltmore/ Patton Avenues with a reconfiguration of seating options; (b) supported stakeholder engagement to consider the possibility of temporary closures of Wall Street to vehicular traffic on limited occasions for street market purposes; and (c) development of a High Impact Program for street performances in the downtown prior to the end of the current season.

A status update on the process and recommendations was provided to the Committee on August 22, with a final presentation of a recommendation for the parameters of a high impact area proposal made to the Committee during its September 26 regular meeting. At that time, the Committee voted unanimously to support a program for designated high impact street performance areas within the Downtown that encompass the following:

1. Locations: Woolworth Walk sidewalk in the vicinity of the intersection of Haywood Street and Battery Park Avenue; and the sidewalk adjacent to the Flat Iron Sculpture at the intersection of Wall Street and Battery Park Avenue
2. Distance Requirements: Only one audible performance could be located between the marked center point and a 120 foot radius
3. Ordinance Revisions: The existing ordinances relative to street performances should be amended in a manner to enable enforcement of the pilot program. The ordinances would be written in a manner that does not sunset, but which could be revisited at any time. The ordinances would place some responsibility on street performers to assist in keeping the minimum sidewalk area clear for pedestrian traffic and to remind pedestrians not to gather or walk in the street due to the street performance.
4. Quarterly Check-ins: Staff would provide the Committee with updates on the high impact pilot program on a quarterly basis, at a minimum. The updates would include feedback from the various representatives of the stakeholders group (business, residents, street performers, police, etc.)

Downtown Asheville High Impact Area Street Performance Program

In accordance with the action of the Committee, the following High Impact Area Street Performance Program is proposed for implementation in Downtown Asheville:

Implement a Public Space Management Program for two specifically designated high impact areas relative to street performances within those areas. Within the specific area, street performances will be allowed as designated by artistic symbols. Within 120 feet of the marked center point of each location, other audible street performances would not be allowed. The minimum distance would be marked on the sidewalk for ease of compliance and enforcement. Only street performances within the two designated areas would be impacted. Street performances in other areas of the Downtown would not be regulated other than through current ordinances. The existing minimum 6 feet of area for pedestrian passage from the curb to the performance currently required by ordinance would be marked in each of the two designated areas.

Staff has worked with a local artist to develop a symbol which will designate each areas center point and minimum distance in which no other audible performances may occur.

The following locations are proposed as a part of the Downtown Public Space Management Pilot Program for High Impact Areas.

<u>Haywood Street in front of Woolworth Walk</u>
The center point for performances would be marked with the artistic symbol on the sidewalk. The 120 ft. space requirement still allows for performances in nearby spots favored by performers. While performances will not be required to fit within a specific designated space,

performances will be required to keep the minimum 6 feet of space between the curb and performance area clear for pedestrian passage.

Flat Iron at Battery Park Avenue and Wall Street
On the flat side of the Flat Iron sculpture, the center point for performances would be marked with the artistic symbol on the sidewalk. While performances will not be required to fit within a specific designated space, performances will be required to keep the minimum 6 feet of space between the curb and performance area clear for pedestrian passage. No other audible performances would be allowed within 120 feet of the marked center point. This distance would eliminate any other audible performances to occur on the opposite corner of Wall Street/ Battery Park Avenue – and would not eliminate non-audible performances on that corner.

- ***Ordinance Revisions***

While ordinance revisions would be required in order to enable enforcement within both the high impact and incentive areas, respectively, all other regulations applicable to street performances and sidewalk vending would remain in effect. The recommended ordinance changes are proposed in a manner that do not expire on a date certain. Instead, staff would monitor the implementation and impacts (intended and unintended) and return to the Committee and Council with information and recommended next steps. Depending on the data secured through the first year of the program, the areas could be expanded or adjusted. City Council would be in the position to amend the applicable ordinances as warranted.

The fiscal impact of implementing the proposed high impact area program is covered within the approved budget.

- ***Update on other Downtown Public Space Management initiatives***:

Information of other initiatives underway to maximize Downtown Public Space Management are listed below. This is provided to Council for informational purposes only and is not presented for consideration or action at this time.

Vending/ Pushcart Permit Management: The City's Code of Ordinances §16-144 currently permits vending/ pushcarts only within the Downtown/ Central Business District and Biltmore Village. Currently, approximately 30 pushcart/ vending locations are currently offered within the Downtown/ Central Business District area. During a review of current conditions impacting both the safety and place making within the Downtown, a number of current pushcart locations were identified in areas that conflict with a high volume of pedestrian traffic, crosswalks, streetscape improvements and utility poles. As a result, two current push cart locations are being eliminated and relocated to other permitted locations within their respective areas. As a part of the Downtown Master Plan update, pushcart locations and guidelines will be analyzed for purposes of ensuring considerations such as public safety and place making are considered in the identification and management of current and future locations.

Monitoring of Kiosk Locations: Based on feedback from stakeholders regarding challenges to the flow of pedestrian traffic due to the current location of the kiosk located near the intersection of Patton/ Biltmore Avenues, staff is working with the Asheville Tourism Development Authority (TDA) to monitor changes made by the city in the vicinity to determine if the kiosk can be removed or relocated. Staff will continue to work with the TDA to maximize the benefits and safety of the locations of such kiosks.

Relocation of benches currently located in public space in the area of Patton/ Biltmore: Based on feedback regarding the challenges created by the current location of benches, the high traffic volume and other uses in the area, staff will work to relocate these benches. The relocation will

enhance the flow of pedestrian traffic in the area. Future public space and place making improvements will be considered as a part of the Downtown Master Plan update.

Temporary Closure of Wall Street on Select Weekends for Public Street Market: Staff has engaged in a process with stakeholders to identify a select number of weekend days during which Wall Street would be closed to traffic in order to create a pedestrian market environment that would include street performances and programming led by Wall Street merchants. Business owners on Wall Street do not support a vendor market with competitive merchandise sales.

Downtown Master Plan Update: With the assistance of the City's Planning and Urban Design Department, staff will engage in a process that updates the public space management and place making components of the Downtown Master Plan. The update process, projected to take approximately 12 months, is tentatively anticipated to begin in the spring of 2017. The scope will encompass the following:

- community concerns regarding management of public spaces,
- enhancement of community character and neighborhoods, and
- expand place making options considered at a range of scales from the entire downtown to the neighborhood level in the Central Business District.
  The effort will be focused on downtown issues in the public realm such as

- overcrowded sidewalks,
- pedestrian crowding in roadways,
- motorist safety,
- blocked crosswalks,
- handicap access,
- the availability and programming of parks,
- sidewalk dining and other encroachments,
- vending permit locations,
- overall functionality of existing public spaces and areas within the right-of-way, and
- noise.

The process is expected to result in an update that focuses on the public realm – including streetscapes – instead of an overall update to the entire Downtown Master Plan.

Next Steps

If the Council approves the recommendations of the Public Safety Committee as outlined herein, (1) center points in traffic areas and 120' boundaries will be marked; (2) educational materials will be developed, distributed, and available through the City's website; (3) quarterly check-ins/updates to the Public Safety Committee based on metrics and feedback; (4) performance metrics will be developed, implemented and monitored; and (5) the High Impact Area Program will be ready for implementation within two weeks (by November 8).

Staff recommends City Council adopt the ordinance revisions necessary for implementation of the high impact area program.

When Councilwoman Mayfield asked about how the 40' distance was determined, City Attorney John Maddux said that it is the same restriction for other performances.

Mr. Andrew Fletcher, representing the Asheville Buskers Coalition, looked forward to this change and hoped that other cities will look to Asheville as being leaders on this

On behalf of City Council, Mayor Manheimer thanked staff, the Public Safety Committee and members of the community who participated in the this portion of management of public space within the downtown.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Young moved for the adoption of Ordinance No. 4530. This motion was seconded by Councilwoman Mayfield and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Dawn Nelson hoped that City staff would provide more attention to personal access instead of process.

Councilman Bothwell (1) sadly announced that a frequent City advocate Fred English has died; and (2) announced that a university in Virginia is willing to help with the costs of a tree canopy study of Asheville.

Vice-Mayor Wisler urged everyone to vote and that enrollment for insurance starts November 1.

Councilman Smith (1) congratulated those responsible for keeping the Southern Conference Tournament in Asheville in March; and (2) reported on some of the legislative advocacy goals from the N.C. League of Municipalities meeting he recently attended.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:19 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – November 8, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; Acting City Manager Paul Fetherston; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

Mayor Manheimer announced that Consent M (Resolution authorizing the City Manager to enter into a contract for the Cedar Street Bridge Repair Project) has been withdrawn from consideration.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON OCTOBER 25, 2016

B. RESOLUTION NO. 16-238 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH LAUGHLIN-SUTTON CONSTRUCTION COMPANY FOR THE MILLS RIVER WATER TREATMENT PLANT MEDIA REPLACEMENT AND RELATED UPGRADES PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Laughlin-Sutton Construction Company for the Mills River Water Treatment Plant Filter Media Replacement and Related Upgrades Project for the bid amount of $308,400 plus a 10% contingency in the amount of $30,840 for a total project budget in the amount of $339,240.

On September 20, 2016, the Water Resources Department issued an Advertisement for Bids for the Mills River Water Treatment Plant Filter Media Replacement and Related Upgrades Project. The scope of work for this project includes all labor, materials, equipment, and incidentals required to remove the existing filter media and install new filter media for three filters.

In response to the informal construction bid, the department received three bids on October 14, 2016. Companies responding were:

1. Laughlin-Sutton Construction Company, Browns Summit NC – bid $308,400
2. JS Haren Company, Athens TN – bid $415,000
3. Gilbert Engineering Company, Statesville NC – bid $457,000

The bids were reviewed by City Staff and the project engineers, CDM Smith, with Laughlin-Sutton selected as the lowest responsible, responsive bidder in the amount of $308,400. A contingency amount of $30,840 has been added for a total project budget in the amount of $339,240.

Pros:

- Replacement of the filter media will continue to ensure clean, potable water and aid in particulate filtration.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Without routine investment in upgrading and replacing water treatment infrastructure, there are greater risks of potential negative impacts on water quality.

The funding needed for the construction agreement is currently allocated within the Water Treatment Plant Improvements project in the Water Resources Capital Improvement Projects fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Laughlin-Sutton Construction Company for the Mills River Water Treatment Plant Filter Media Replacement and Related Upgrades Project for the bid amount of $308,400 plus a 10% contingency in the amount of $30,840 for a total project budget in the amount of $339,240.

RESOLUTION BOOK NO. 38 -PAGE 233

C. RESOLUTION NO. 16-239 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION (MPO) FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS, AND IF THE APPLICATIONS ARE SUCCESSFUL, TO ACCEPT GRANTS AND SIGN NECESSARY AGREEMENTS WITH THE MPO, OR STATE OR FEDERAL AGENCIES TO RECEIVE THE FUNDS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of Federal Transportation Funds.

The MPO has opened a call for projects to use Federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities (5310) funds with an application deadline of November 23, 2016. The application requires City Council's approval. If the applications are successful, this resolution is to accept the grants and sign the necessary agreements with the MPO and/or Federal and State agencies to receive the funds.

The MPO expects to have approximately $325,000 available in 5310 funds for 2017 and these funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding for the following projects:

- Paratransit service for $112,500; with 80% funded by the grant. This funding helps leverage funds to pay for the current city wide ADA service which is outside of the federal mandate of ¾ of a mile from a transit route.
- Installation of accessible pedestrian signal features at six intersections for $62,500, with 80% funded by the grant. This equipment allows people with low or no vision to use existing pedestrian signals.

If received, these funds would help funding an annual operating expense, ADA service, and a capital project, accessible signals, and both projects would be programmed in the FY 2018 budget; in each case, these funds would help offset costs of normal operations.

Each of these projects is ready to move forward as the funding becomes available.

The Transit Committee and Multimodal Transportation Commission endorsed this application.

Pros:

- Allows the City of Asheville access to up to $140,000 in federal funds for necessary services.
- Allows the City of Asheville to offset existing costs.

Con:

- Commits the city to funding to the match, at least for the time the applications are pending.

If successful, the grant applications will involve the spending of city funds to leverage between 80% grant funding for these projects, up to a grant value of $175,000. Matching funds would need to come from the Fiscal Year 2018 Transportation Department Budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization for grants of federal transportation funds, and if the applications are successful, to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

RESOLUTION BOOK NO. 38- PAGE 235

D. RESOLUTION NO. 16-240 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE UNITED STATES GEOLOGICAL SURVEY APPLICATION TO NAME A CREEK IN THE KENILWORTH NEIGHBORHOOD AS "LOUISE GIBSON CREEK"

Summary: The consideration of a resolution authorizing the City Manager to sign the United States Geological Survey (USGS) application to name a creek in the Kenilworth Neighborhood.

As a part of its "Name that Creek" program, RiverLink recently worked with city staff to perform a community engagement process to gather nominations and identify a preferred name for the creek that flows southward along Norfolk Street and under Wyoming Road and Kenilworth Park to the Swannanoa River. The Kenilworth Residents Association identified the creek and the need to maintain and name it as a part of their organization's mission to enhance the quality, safety, and beauty of their neighborhood.

The Kenilworth neighborhood proposed three names and the community-based engagement process initiated by RiverLink and supported by the City of Asheville (City) resulted in the selection of the name "Louise Gibson Creek" to honor the accomplishments of a long-time resident of the area who died in 2009.

In order to complete the application to the United States Geological Naming Convention form to name this water body "Louise Gibson Creek", a local government official must sign the form to demonstrate support and to certify that the naming process followed USGS guidelines.

Because the request came from a Neighborhood Association and the creek is contained within a neighborhood, the request was referred to the City's Neighborhood Advisory Committee (NAC). On October 24, 2016, the NAC reviewed and unanimously approved the following motion:

We advise Council to support the proposed name of "Louise Gibson Creek" for the creek in the Kenilworth Neighborhood that flows through the neighborhood into the Swannanoa River.

Pros:

- Naming of a creek or stream can bring attention to its existence, help identify it as a part of neighborhoods ecosystem, and encourage environmental stewardship that enhances quality of life.
- Supporting this community-driven effort further develops partnerships between groups like RiverLink, the Kenilworth neighborhood and the City.

Con:

- None identified.

There is no fiscal impact related to this item.

Staff recommends City Council authorize the City Manager to sign the USGS form to name the creek in Kenilworth "Louise Gibson Creek".

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E. RESOLUTION NO. 16-241 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN CONTRACT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM FOR A GRANT TO FUND YEAR FOUR OF THE MULTI-JURISDICTIONAL DWI TASK FORCE INVOLVING THE POLICE DEPARTMENT AND THE BUNCOMBE COUNTY SHERIFF'S OFFICE

ORDINANCE NO. 4531 - BUDGET AMENDMENT TO FUND YEAR FOUR OF THE MULTI-JURISDICTIONAL DWI TASK FORCE

Summary: The consideration of (1) a resolution authorizing the City Manager to enter into a contract with the North Carolina Governor's Highway Safety Program (NCGHSP) for a grant to fund year four of the multi-jurisdictional DWI Task Force involving the City of Asheville Police Department (Police Department) and Buncombe County Sheriff's Office (Sheriff's Office); and (2) a budget amendment in the amount of $411,311 to establish a budget for the fourth year of the grant in the City of Asheville's (City) Fiscal Year (FY) 2017.

In the City of Asheville and Buncombe County, the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. Since 2010, there have been 4,434 DWI arrests by Buncombe County law enforcement agencies, more than 1,024 traffic collisions that have involved impaired drivers and 18 fatal collisions as a result of an .08 Blood Alcohol Content (BAC) or higher. This grant is based on the Federal Fiscal Year of October 2017 through November 2018.

In reviewing these statistics, the NCGHSP contacted the Police Department and suggested a DWI Task Force with the goal of (a) reducing the number of DWI-related collisions, injuries and deaths in Asheville and Buncombe County, and (b) educating the public on impaired driving and its effects. This request would continue the last year of a four year grant in the amount of $411,311 in FY 2017 to cover the cost to pay for six officers for DWI enforcement and training (one sergeant and three officers from the Police Department and two officers from the Sheriff's Office). These six officers would conduct a number of important functions including the following:

- targeted DWI enforcement throughout Asheville and Buncombe County,
- DWI, seat-belt and night-time traffic safety checking stations throughout the County, and

- educational events at local high schools that would focus on teen driving safety, impaired driving, distracted driving, and seat-belt compliance.

The City of Asheville and Buncombe County are responsible for a total grant match of 50% or $205,655.50. The City's share of this match in FY 2017 is $133,676.

During its October 25 meeting, the Finance Committee unanimously approved moving the item to the City Council for its consideration and action during its November 8 meeting.

Pros:

- NCGHSP grant funds used to pay for training and pay 50% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond the first year.
- In year four, the City of Asheville will be required to match 50% of the personnel costs. The grant funding will incrementally decrease each year and after the four-year funding period, 100% of the personnel costs will be the City of Asheville's responsibility.

The FY 2017 general fund impact is $133,676 which is included in the Police Department's adopted FY 2017 budget. If the City chooses to maintain the DWI Task Force at the end of the four year grant, the City's FY 2018 general fund impact would be approximately $267,352 annually to permanently add one sergeant and three officers to the Police Department. The chart below outlines the general fund impact over the remainder of the grant.

Year 4	Fiscal Year 2017	$133,676
Year 5	Fiscal Year 2018	$267,352

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a contract and accept grant funds through the North Carolina Governor's Highway Safety Program; and (2) a budget amendment in the amount of $411,311 to establish a budget for the fourth year of the grant.

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ORDINANCE BOOK NO. 31 - PAGE 1

F. RESOLUTION NO. 16-242 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR FISCAL YEAR 2016-17 EMERGENCY SOLUTIONS GRANT FUNDS AND PROVIDE FUNDING TO SELECTED AGENCIES

Summary: The consideration of a resolution authorizing the City Manager to apply for Fiscal Year 2016-17 Emergency Solutions Grant (ESG) funds and provide funding to selected agencies.

The City of Asheville has been the fiscal sponsor for Emergency Solutions Grant funding since the 2012 ESG grant cycle. Through the State of North Carolina Division of Aging and Adult Services (DAAS), Housing and Homeless Unit these funds are made available to a regional fiscal sponsor to fund local agencies with capacity to provide emergency shelter and rapid rehousing services for individuals and families. For the FY 2016-17 ESG Grant cycle, the City of Asheville is eligible to apply for $121,992 on behalf of the Asheville-Buncombe Continuum of Care.

Funding recommendations are made to the Housing and Community Development Committee by the Homeless Initiative Advisory Committee. These recommendations follow a process that includes review and preliminary selection by the ESG Subcommittee of the Advisory Committee and joint endorsement by the Asheville Homeless Coalition and the Homeless Initiative Advisory Committee.

The following projects have been recommended for the 2016-17 ESG Grant Application:

2016-2017 ESG Funding Competition	Requests	Recommendations
Emergency Shelter		
Asheville Buncombe Community Christian Ministries	$ 17,930	$ -
Helpmate	$ 33,000	$ 28,671
Salvation Army	$ 20,125	$ 20,125
Rapid Re-Housing		
Helpmate	$ 28,000	$ 28,000
Homeward Bound	$ 63,196	$ 43,196
Homeless Management Information System		
City of Asheville	$ 10,000	$ 2,000
TOTALS	**$ 172,251**	**$ 121,992**

This distribution maintains level funding for existing ESG shelter programs, includes a new rapid re-housing program and continues to support the City's administration of the Homeless Information Management System (HMIS) database.

In the FY 2015-16 cycle, the City of Asheville initially received $118,965. An additional allocation of $28,372 was granted to further expand Rapid Re-housing services and $2,000 was designated for grant administration. Staff anticipates that an unknown amount of similar funds will be available for this cycle in Spring 2017.

Award of funds is conditional on the application being approved by the State. These conditions will include, but are not limited, to adequate documentation of required matching funds. Matching funds have been committed by the individual agencies, as well as, through the City's Community Development Block Grant (CDBG) and HOME Investment Partnership Program contracts.

Pro:

- The Emergency Solutions Grant program is a key funding resource for emergency shelter and for rapid rehousing of persons experiencing homelessness.

Con:

- None noted.

Program funding is entirely from the US Department of Housing and Urban Development, through the State of North Carolina. Existing Community Development Division staff will administer the program. No general funds are requested to support this program.

Staff recommends that Council approve the Housing and Community Development Committee's recommendation to make application on behalf of the Continuum of Care for $121,992 in FY 2016-17 Emergency Solutions Grant funds to the State Division of Aging and Adult Services (DAAS) and accept funds awarded, including any additional allocations.

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G. RESOLUTION NO. 16-243 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE N.C. GOVERNOR'S HIGHWAY SAFETY PROGRAM TO PURCHASE EQUIPMENT FOR THE TRAFFIC SAFETY UNIT AND COVER THE COSTS ASSOCIATED WITH THE REGIONAL LIAISON DUTIES

ORDINANCE NO. 4532 - BUDGET AMENDMENT TO PURCHASE EQUIPMENT FOR THE TRAFFIC SAFETY UNIT AND COVER THE COSTS ASSOCIATED WITH THE REGIONAL LIAISON DUTIES

Summary: The consideration of (1) a resolution authorizing the City Manager to accept awarded funds by the North Carolina Governor's Highway Safety Program (GHSP/ program) for the Traffic Safety Unit and cover the costs associated with training for officers and cover travel expenses for the Regional Liaison duties; and (2) an associated Special Revenue Fund budget amendment in the amount of $20,000.

The funds allocated through this program are designed to purchase equipment for the Traffic Safety Unit and cover the costs associated with training for officers and cover travel expenses for the Regional Liaison duties. The expenses created by the purchase of the equipment and the duty related travel are reimbursed through the National Highway Traffic Safety Administration. There is no local match of funds required for this grant.

The Police Department currently participates in the North Carolina Governor's Highway Safety Program Highway Safety campaigns. In order to facilitate better participation and efficiency of highway safety initiatives, a regional law enforcement network was created to enhance communication and effectiveness. The Police Department promotes highway safety statewide by designating a member of the department to serve as the regional liaison for GHSP Region 10 covering Buncombe, Henderson, Madison, Mitchell, Polk, Rutherford, and Yancey counties.

During its October 25 meeting, the Finance Committee unanimously approved moving the item to the full City Council for its consideration and action during its November 8 meeting.

Pros:

- Reimbursement revenue to cover the cost of (a) obtaining the needed equipment including Radars, CDR Software subscription, and laptop computers; and (b) necessary training and travel related to highway safety duties and operations.

Con:

- Dedicate the staff hours for the officer charged with the liaison duties to accomplish the goals stated in the grant contract.

This budget amendment is fully funded with grant revenue with no impact to the General Fund budget.

City staff recommends City Council adopt (1) the resolution authorizing the City Manager to accept funds and enter an agreement with N.C. Governor's Highway Safety Program to provide an officer to act as the Regional Law Enforcement Liaison; and (2) a budget amendment in the amount of $20,000 to establish the project budget for the North Carolina Governor's Highway Safety Program Regional Liaison.

RESOLUTION BOOK NO. 38 - PAGE 239
ORDINANCE BOOK NO. 31 - PAGE 3

H. RESOLUTION NO. 16-244 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PUBLIC/PRIVATE PARTNERSHIP

STORMWATER AGREEMENT WITH THE DEVELOPER/OWNER OF RAD LOFTS, LLC, TO CONSTRUCT A NEW STORM DRAINAGE SYSTEM WITHIN THE PUBLIC RIGHT-OF-WAY ALONG ROBERTS STREET WHERE IT WILL END AT THE CONNECTION WITH AN EXISTING STORM DRAINAGE SYSTEM LOCATED ON ROBERTS STREET

ORDINANCE NO. 4533 - BUDGET AMENDMENT FOR PUBLIC/PRIVATE PARTNERSHIP STORMWATER AGREEMENT WITH RAD LOFTS LLC

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a public/private partnership stormwater agreement with the developer/owner of RAD Lofts, LLC, to construct a new storm drainage system within the public right of way along Roberts Street; and (2) a budget amendment in the amount of $250,000 from Stormwater fund balance to provide budget authorization for the City of Asheville's (City) cost share amount.

RAD Lofts, a mixed use project including approximately 240 residential units and commercial space located at 146 Roberts St. in the River Arts District, received a Conditional Zoning approval on October 22, 2013 (Ordinance No. 4241) and an amended CZ approval on May 26, 2015 (Ordinance 4414). During the investigation of the future development for the Roberts Street Property, the, RAD Lofts development team approached the City concerning a potential partnership for new infrastructure located within the public right of way. A Land Use Incentive Grant ("LUIG") between the City and RAD Lofts, LLC was approved by Council on August 26, 2014.

As part of the presentation to City Council (Council) regarding the LUIG in August 2014, city staff discussed the stormwater partnership option. The proposed partnership with RAD Lofts would allow the developer to design and construct a new stormwater system by utilizing the property and relocating an existing box culvert currently running under its property to a better suited location on its property and connecting back to the city's right of way where the developer would install a new concrete box culvert. Once construction is complete, the City would reimburse the developer up to $250,000 for the work within the City's right of way. The cost estimate was developed by City staff in conjunction with the project designers for the work in the right-of-way.

Pursuant to North Carolina General Statutes §160A-320, the City may partner and contract with a developer/owner for public enterprise improvements that are adjacent or ancillary to a private land development project to reimburse the developer/owner for costs associated with the design and construction of such improvements in the public right of way. Such a contract is not subject to public bidding requirements if the public cost will not exceed $250,000 and the City determines that the public cost will not exceed the estimated cost for providing such improvements itself or that the coordination of separately constructed improvements would be impracticable.

City staff has determined that (1) the cost of constructing these improvements is $434,809 which exceeds the reimbursement costs ($250,000) for this proposed partnership; (2) the City does not currently have the staff capacity to complete this project within the time needed to meet the developer's schedule; and (3) as a result, this partnership is a benefit to the public.

Pros:

- Provides for the installation of new drainage infrastructure to be located within the public right of way

Cons:

- Requires City funding for a portion of the project cost
- The City will be responsible for the ongoing maintenance of this system

The total construction cost estimate for the portion of the project in the City's right-of-way is $434,809. A maximum of $250,000 for the portion of the project located in the public right of way is proposed to be funded by the Stormwater Utility Enterprise Fund using fund balance. The remaining cost of design and construction is proposed to be paid by the private property owners. The project will be completed by the developer's construction team.

By City policy, the Stormwater Fund must maintain a fund balance equal to 8% of annual expenses. Preliminary year-end estimates for FY 2015-16 indicate that Stormwater Fund balance will exceed the policy target by approximately $1.4 million. The $250,000 appropriation associated with this project will lower the estimated available amount to $1.1 million.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to execute a public/private partnership stormwater agreement with the developer/owner of RAD Lofts, LLC, to construct a new storm drainage system within the public right of way along Roberts Street; and (2) a budget amendment in the amount of $250,000 from Stormwater fund balance to provide budget authorization for the City's cost share amount.

RESOLUTION BOOK NO. 38 - PAGE 240
ORDINANCE BOOK NO. 31 - PAGE 5

I. RESOLUTION NO. 16-245 - RESOLUTION AUTHORIZING THE CITY MANAGER TO COMPLETE NEGOTIATIONS AND SIGN A CONTRACT WITH HAZEN AND SAWYER ENGINEERING FOR THE PROFESSIONAL SERVICES NEEDED FOR THE STORMWATER IMPROVEMENT PROJECT LOCATED IN THE EDWIN/CELIA/CANTERBURY ROAD AREA

Summary: The consideration of a resolution authorizing the City Manager to (a) complete negotiations and sign a contract with Hazen and Sawyer Engineering for the professional services needed for the design of a stormwater improvement project located in the Edwin/Celia/Canterbury Road Area; and (b) execute any easement documents necessary for the construction of the project and to petition for any stormwater grant opportunities associated with the construction of the project.

During heavy rainfall events, the Edwin/Celia/Canterbury neighborhood area experiences flooding issues as summarized below which has resulted in residents requesting flood mitigation improvements by the City of Asheville (City) within the area:

- The intersection of Edwin Place and Celia Place is flooded and impassable during intense rain events.
- The Canterbury Road area experiences high velocity waters which clog public drains and surface flow over the roadway.

In an effort to evaluate the City's infrastructure and provide a 10 year Capital Improvement Project (CIP) list for stormwater, the Public Works Department's Stormwater Division recently hired the professional team of Brown and Caldwell to develop a 10 year CIP list of projects. Through that process, the Edwin/ Celia/ Canterbury drainage improvement project was identified. This project combines the design of the Edwin and Celia Place drainage improvements, which was identified for year 1 of the CIP, with the Canterbury Road Drainage Improvement, identified for year 2 CIP, for an optimized stormwater quality and flood mitigation project approach. Both components will be designed with a focus on localized flood reduction and to provide additional water quality benefits. Upon completion of the design, staff will seek project funding opportunities such as Clean Water Management Trust Fund.

The City solicited Requests for Qualifications for professional services for the design of this drainage improvement project. Thirteen proposals were submitted which were reviewed and screened. Through that process, the top three proposals were selected for interviews. Following

the interview process, Hazen and Sawyer was identified and recommended for selection as the most qualified team.

The top three proposals were submitted by the following:

Hazen and Sawyer	Charlotte Office, NC
Mattern and Craig	Asheville, NC
WK Dickson	Raleigh Office, NC

Guided by a goal to serve as stewards of the environment, the City will maximize opportunities to implement green infrastructure practices and localized flood mitigation projects, as well as public private partnership funding opportunities.

Pros:

- Reduce flooding along Edwin/Celia/Canterbury.
- The project will provide green infrastructure and will look to provide localized flood mitigation.
- Provide public educational opportunities to promote stormwater quality and flood mitigation measures
- Utilize the stormwater utility fee for construction related projects

Con:

- The project will require partnerships to obtain stormwater easements for the improvements.
- Since this contract is for the design of the stormwater improvement project, the construction of the project will require additional funds.

The City's Stormwater Utility will be responsible for the cost for the professional services contract which will not exceed $692,300. Funding for this contract is included in the adopted Fiscal Year 2016-17 Stormwater Fund budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to (1) complete negotiations and execute a contract with Hazen and Sawyer for the professional services associated with the design of a Edwin/Celia/Canterbury Road Stormwater Improvements Project in the amount of $602,000; (2) execute any change orders to this contract not to exceed 15% of the original contract amount ($90,300) for a total amount up to $692,300; and (3) execute any easements documents necessary for construction of the project and to petition for stormwater grant opportunities associated with the construction of this project.

RESOLUTION BOOK NO. 36 - PAGE 241

J. RESOLUTION NO. 16-246 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT TO DDG REAL ESTATE LLC, FOR THE CONSTRUCTION OF TWO SINGLE-FAMILY HOMES ON DUNDEE STREET

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to DDG Real Estate LLC, for the construction of two single-family homes on Dundee Street.

Dandridge Giltz of DDG Real Estate LLC owns two vacant lots on Dundee Street and wishes to construct two single family homes on the lots. He approached the Metropolitan Sewer District (MSD) for the approvals needed to connect to the sewer system. He was informed that no sewer line currently exists on Dundee Street and the closest connection to an existing sewer line would cross adjacent city property located on Martin Luther King Jr. Drive. The developer then approached the City's Real Estate Division about the possibility of a sewer easement.

The total square footage of permanent easement being requested is 324 square feet, approximately 54 linear feet by 6 feet wide. The developer plans to build a single family home on each affected lot. This development conforms to the current zoning and existing single-family neighborhood land use.

City staff including staff from the Parks Department and Economic Development Department were consulted concerning this easement request and found no conflicts with the granting of this easement. The City property being impacted is already encumbered with service lines that cross city property to the nearest MSD line. A sizable unencumbered footprint still exists on this city property that could be programmed for other city uses, such as park space or affordable housing. The property has frontage on Martin Luther King Jr. Drive and ready access to city utilities.

To develop fair market value for the easement, staff in the City's Real Estate Division used six comparable sales to determine an average price per square foot for land. To reflect the easement value, a percentage of 50% was applied to the amount for a total of $1,113.00. The City also charges a standard real estate transaction fee of $280.00 for a final price of $1,393.00 for the easement, if granted.

Pro:

- The installation of this private sewer service line will allow the developer to build infill homes on Dundee Street and to connect to existing MSD infrastructure. The City of Asheville will have no maintenance responsibility on this sewer line.

Con:

- Granting an easement forfeits the development rights to that limited easement area, but there does not appear to be another feasible way for the developer to access sewer services.

The fiscal impact is unbudgeted revenue of $1,113.00 plus fee of $280.00 to benefit the General Fund.

City staff recommends that the City Council approve a resolution authorizing the City Manager to convey this easement.

RESOLUTION BOOK NO. 38 - PAGE 242

K. RESOLUTION NO. 16-247 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH DR. PAUL MARTIN, MD, D/B/A ASHEVILLE ADDICTION CONSULTANTS, PA, FOR PHYSICIAN SERVICES AT THE CITY OF ASHEVILLE EMPLOYEE HEALTH CENTER

Summary: The consideration of a resolution authorizing the City Manager to enter into a contract with J. Paul Martin, MD, DBA Asheville Addiction Consultants, PA for physician services at the City of Asheville Employee Health Center (Employee Health Center).

In July of 2015, Council authorized a twelve-month contract with Dr. Martin for physician services at the Employee Health Center for a maximum annual contract value of $120,000. In July of 2016, Council authorized a six-month extension to this contract at a value of $60,000 to allow for the solicitation of proposals from physicians or practices to provide professional services.

A Request for Proposals (RFP) solicited offerings from physicians or physician practices to provide professional services at the Employee Health Center. Proposals were received from Dr. Martin (Martin) and Mission Health System, Inc (Mission). Two review panels were convened

to assess the offerings and receive presentations, and these panels included internal and external stakeholders including a community health expert, multiple union representatives, members of the Employee Advisory Committee (EAC), department representatives, senior management, and others.

In the assessment phase, the panels assessed the offerings based on the review criteria stipulated in the RFP, and recommended that both proposals move forward for further consideration. Reference checks were performed for both offerors, and both Mission and Martin passed this step successfully. Finally, there was an analysis of estimated costs. Based on Mission's proposed rate structure which adds variable costs for items identified in the RFP as part of the base scope of work, it has been determined that the total contract costs would be higher for Mission than Martin.

Dr. Martin's offering demonstrated the experience, qualifications, and understanding of the current program, and his rate-based cost proposal devoid of variable cost "extras" will provide the assurance that professional services can be delivered in a predictable and fiscally prudent manner.

For the purpose of delivering physician services at the existing Employee Health Center location, staff recommends the negotiation and execution of a contract with Dr. Martin to provide such professional services at the current service level. Although the proposed contract amount is within the value established in the existing appropriated budget, the contract value is at a level requiring the approval of City Council. Therefore, the recommendation shown below and the accompanying resolution require the consideration of Council.

Mission's proposal features qualified staff and innovative service delivery ideas, including approaches such as telemedicine and expanded service delivery via expanded office hours and geographically dispersed clinics. Mission is already working with the City on key activities such as the on-site delivery of nicotine cessation services. Human Resources (HR) staff is working on the preliminary scope of work for a study of the Employee Health Center, the Asheville Project, and the Wellness Program with a focus on health care outcomes, direct/indirect costs, and delivery mechanisms. The study, led by the HR Manager, will include key input from the new HR Director.

In conjunction with the above-referenced study, staff will explore the innovative ideas offered by Mission by the HR Department as part of a pilot program for expanded service delivery, especially in the areas of after-hours access to health care and geographic expansion of clinic availability. In the current fiscal year, any such pilot program would be paid within the existing departmental budget and within departmental contract approval limits.

The contract with Dr. Martin would support Council's strategic vision in two ways: First, the Thriving Local Economy section indicates "the City values its workers by paying living wages and offering benefits," and the Employee Health Center is a key benefit to staff. Second, the Smart City section indicates "we strive to control our costs and still provide the highest possible level of service," and this contract helps the cost containment effort for our health care program.

Pros:

- Maintains the current service level at the current hourly rate for the current fiscal year (with a COLA in future years), thus containing costs for this key contracted service; and
- Provides time for the proposed assessment of health care outcomes via the existing Employee Health Center & the Asheville Project (including existing program costs), plus an analysis of alternative employee health care delivery options.

Con:

- Postpones expanded service levels, locations, or delivery models.

Funding for physician services is included in the approved FY17 Health Insurance Fund budget, and the proposed expenditures are within the existing budget.

Staff recommends City Council adopt a resolution authorizing the City Manager to negotiate and execute a contract (and any amendments thereto) with J. Paul Martin, MD, DBA Asheville Addiction Consultants, PA for physician services for an initial period of one year with up to two one-year extensions. The contract value should not exceed $60,000 for the half-year period from 01/01/17 to 06/30/17 with subsequent fiscal years having a base value of $120,000 plus an annual cost of living adjustment (COLA).

RESOLUTION BOOK NO. 38 - PAGE 243

L. RESOLUTION NO. 16-248 - RESOLUTION DONATING MICROFILM OF CITY COUNCIL MEETING MINUTES FROM 1849 TO JUNE 24, 2008, TO PACK LIBRARY FOR THE NORTH CAROLINA COLLECTION

Summary: The consideration of a resolution donating microfilm of City Council meeting minutes from 1849 to June 24, 2008, to Pack Library.

The City Clerk's Office has obtained DVD's of all City Council minutes to save the wear and tear of the old minute books. In order to obtain the DVD's the N.C. Dept. of Cultural Resources required the purchase of microfilm before the City of Asheville (City) could purchase DVD's of the City Council meeting minutes from 1849 - June 24, 2008. The City Clerk's Office has DVD's of City Council meeting minutes from June 24, 2008, to present and had purchased same when this option became available.

Because the City does not have a microfilm machine within which to review the microfilm, the City Clerk's Office staff recommends that it is in the City's best interests to donate the microfilm to Pack Library for its North Carolina Collection.

Pros:

- Microfilm would be available for anyone to view.
- Further strengthens the partnership with Buncombe County.

Con:

- None noted.

The approximate value of the donated items is $364.

Staff recommends City Council donate the microfilm of City Council meeting minutes from 1849 to June 24, 2008, to Pack Library for the North Carolina Collection.

RESOLUTION BOOK NO. 38 - PAGE 245

M. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT FOR THE CEDAR STREET BRIDGE REPAIR PROJECT

This item has been withdrawn from consideration.

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Smith moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda "M". This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

III. PRESENTATIONS & REPORTS:

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. BOARDS & COMMISSIONS

Regarding the Asheville-Buncombe Historic Resources Commission, the following individuals applied for a vacancy: Helen Glenn Court, Christopher Brian Cobb, Leslie Humphrey and Kevin Saum. It was the consensus of City Council that this seat be re-advertised in hopes of achieving a more diverse pool of candidates.

Regarding the Homeless Initiative Advisory Committee, the following individuals applied for a vacancy: Dale Davidson, Sarah Lancaster, Emily Whitmire, John Sterling, John Klockner, R. Scott Owen, Kari Korp, Derek Towle, John Rakes, Gene Bell, Jill Moffitt, Beth Russo, Kevin Forner, Kerry Keihn, Gerry Leonard and Val Ball. It was the consensus of City Council that these vacancies be postponed until after the Homeless Initiative Advisory Committee has had an opportunity to make their recommendations.

Regarding the Soil Erosion/Stormwater Review Committee, the following individual applied for a vacancy: Jim Torpey. It was the consensus of City Council to reappoint Pete Hildebrand and re-advertise for the other seat. City Attorney Currin noted that the City Attorney's Office is researching the scope of the Committee and will present any findings to the Boards & Commissions Committee.

RESOLUTION NO. 16-249 – RESOLUTION APPOINTING A MEMBER AND CHAIR TO THE ALCOHOLIC BEVERAGE CONTROL BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Bill Lack as a member and Chair on the ABC Board expires on November 13, 2016. It is the responsibility of City Council to appoint the Chair.

The following individuals applied for a vacancy: Jan Davis, Beau Dean, Tod Leaven, James Ellis, Kevin Saum and Matt Massarelli.

It was the consensus of the Boards & Commissions Committee to appoint Jan Davis as a member and Lewis Isaac as Chair.

Councilwoman Mayfield moved to appoint Jan Davis as a member of the ABC Board to serve a three-year term, term to expire November 13, 2019, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

Councilman Bothwell moved to appoint Lewis Isaac as Chair of the ABC Board to serve at the pleasure of City Council. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 245

RESOLUTION NO. 16-250 – RESOLUTION APPOINTING A MEMBER TO THE HUB COMMUNITY ECONOMIC DEVELOPMENT ALLIANCE BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said there currently exists a vacancy on the HUB Community Economic Development Alliance Board left by Mr. Jerome Jones, until August 22, 2018.

The following individuals applied for a vacancy: Kendra Sherrod, Rita Yerby, Mark Collins, Nick Hinton, Keaton Edwards, Zephyr Jost, Travis Smith, Hunter Goosmann and Tommy Dennison.

It was the consensus of the Boards & Commissions Committee to appoint Mark Collins.

Councilman Smith moved to appoint Mark Collins to serve the unexpired term of Mr. Jones, term to expire August 22, 2018, or until his successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 246

RESOLUTION NO. 16-251 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of DeWayne Barton (representing 28806 or 28728 zip code); expired on July 1, 2016.

The following individuals applied for a vacancy: Carter Webb, Ken Miller and Fred Fisher Caudle.

It was the consensus of the Boards & Commissions Committee, and recommendation from the Neighborhood Advisory Commission, to appoint Ken Miller.

Vice-Mayor Wisler moved to appoint Ken Miller (representing 28806 or 28728 zip code); to serve a three-year term, term to expire July 1, 2019, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 247

RESOLUTION NO. 16-252 – RESOLUTION APPOINTING A MEMBER TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said there currently exists a vacancy on the Public Art & Cultural Commission left by Ms. Alyssa Dreyfus, until June 30, 2018.

The following individuals applied for a vacancy: Matthew Lands, Travis Smith, Shelley Schenker, Susan Dunlap, Chris Patton, Michael Carlebach, Laura Sellers, Emma Hutchens and Micah Mackenzie.

At the recommendation of the Public Art & Cultural Commission, it was the consensus of the Boards & Commissions Committee to appoint Micah Mackenzie.

Vice-Mayor Wisler moved to appoint Micah Mackenzie to serve the unexpired term of Ms. Dreyfus, term to expire June 30, 2018, or until his successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 248

RESOLUTION NO. 16-253 – RESOLUTION APPOINTING A MEMBER TO THE RECREATION BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said there currently exists a vacancy on the Recreation Board left by Ms. Kimberly Reed, until June 30, 2017.

The following individuals applied for a vacancy: Ken Miller, Tiffany DE'Bellott, Ali Mangkang, Beau Dean, Taylon Breeden and Lauren Weldishofer.

At the recommendation of the Recreation Board, it was the consensus of the Boards & Commissions Committee to appoint Tiffany DE'Bellott.

Vice-Mayor Wisler moved to appoint Tiffany DE'Bellott to serve the unexpired term of Ms. Reed, term to expire June 30, 2017, or until her successor has been appointed. This motion was seconded by Councilman Young and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 249

Closed Session

At 5:10 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10 (a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 5:31 p.m., Councilwoman Mayfield moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 5:31 p.m.

Magdalen Bullock
CITY CLERK

Esther Manheimer
MAYOR

Tuesday – December 13, 2016 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized Jeff Staudinger for being awarded the Steven Whitesell Affordable Housing Professional of the Year; and Jon Fillman for being awarded the Certified Festival and Event Executive from the International Festivals & Events Association.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

B. RESOLUTION NO. 16-254 - RESOLUTION AGAINST DISCRIMINATION AND INTIMIDATION

Mayor Manheimer read the following resolution: "Whereas, the City of Asheville takes great pride in being a welcoming and diverse community where all citizens can live and work without fear of physical violence, threats or intimidation; and Whereas, the City of Asheville believes that promoting diversity and inclusion in public policy benefits our community and its citizens in positive ways while the opposite puts the City and its citizens at risk; and Whereas, the City of Asheville is committed to treating every citizen equally and without regard to race, color, creed, religion, national origin, gender (including pregnancy), gender identity or expression, sexual orientation, age, familial status, or disability. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT (1) This Council is dedicated to ensuring that the City of Asheville remains a welcoming and diverse community where everyone is treated equally and with respect, and to that end states that: (a) Hate crimes, threats or intimidation of a criminal nature will not be tolerated; (b) Every citizen of this great City is called upon to demonstrate that intolerance and hatred will not be accepted within our community; and (c) Any person who is a victim of a crime, has witnessed a criminal act, or has information regarding a criminal act is encouraged to contact the appropriate law enforcement agency."

At the request of Councilwoman Mayfield, Director of Communications and Public Engagement Director Dawa Hitch said that the City will make the phone number for people to report observances easily accessible on the City's website.

When Mayor Manheimer asked for public comments, none were received.

Councilman Bothwell moved for the adoption of Resolution No. 16-254. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 250

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON NOVEMBER 8, 2016

B. RESOLUTION NO. 16-255 - RESOLUTION CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL BOND REFERENDUM ON THE BOND ORDERS AUTHORIZING THE ISSUANCE OF $32,000,000 GENERAL OBLIGATION TRANSPORTATION BONDS, AUTHORIZING THE ISSUANCE OF $25,000,000 GENERAL OBLIGATION HOUSING BONDS AND AUTHORIZING THE ISSUANCE OF $17,000,000 GENERAL OBLIGATION PARKS AND RECREATION BONDS HELD FOR THE CITY OF ASHEVILLE, NORTH CAROLINA, ON NOVEMBER 8, 2016

Summary: The consideration of adoption of a resolution certifying and declaring the results of the November 8, 2016, Special Bond Referendum on the Bond Order authorizing the issuance of $25,000,000 Housing Bonds, authorizing the issuance of $32,000,000 Transportation Bonds and authorizing the issuance of $17,000,000 Parks Improvement Bonds.

On August 9, 2016, the City Council conducted a public hearing and adopted a resolution approving the call for referendum on November 8, 2016, for $25,000,000 general obligation housing bonds, $32,000,000 general obligation transportation bonds and $17,000,000 general obligation parks improvement bonds.

The referendum was conducted and the Buncombe County Board of Election has presented their Canvass of Results of the Referendum.

The results are:

33,250 in favor of the housing bonds and 13,442 opposed,
36,151 in favor of the parks improvement bonds and 10,816 opposed,
35,377 in favor of the transportation bonds and 11,289 opposed.

These results will be advertised providing a 30-day period for any action or proceeding to challenge the regularity or validity of this special bond referendum.

This action furthers the City Council's strategic themes set forth in January, 2016, by providing funding to address transportation infrastructure needs, ensuring a high quality of life to the residents of the City of Asheville and addressing the City's affordable housing challenge.

Pros:

- Provides funding for transportation, parks and housing needs as identified in City master plans and Council strategic goals.
- Ensures City's compliance with North Carolina General Statutes.

Con:

- None.

A general obligation bond commits the full faith and credit of the City of Asheville to repayment of the bonded debt. Additional tax levy may be required to fund the debt service over the life of the bonds.

Staff recommends that Council adopt the resolution to certify and declare the results of the special bond referendum.

Assistant City Manager Cathy Ball and Director of Community and Public Engagement Dawa Hitch briefly updated the Council on the General Obligation (GO) Bonds implementation guiding principles of accountability, trust, equity and teamwork. In January 2017, an interim working team will be in place, along with a Council worksession. January-June 2017 the GO bond projects will be included in the 5-year Capital Improvement Plan and Operating Budget. In April Council will hold another budget worksession, with approval of the bond as part of the budget in June.

Councilwoman Mayfield thanked all the voters in Asheville who voted for the bonds.

RESOLUTION BOOK NO. 38 - PAGE 251

C. RESOLUTION NO. 16-256 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH HARPER CORPORATION GENERAL CONTRACTORS FOR MISCELLANEOUS WATER TREATMENT PLANT UPGRADES PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Harper Corporation General Contractors for the Miscellaneous Water Treatment Plant Upgrades Project for the bid amount of $1,539,000 plus a 10% contingency in the amount of $153,900 for a total project budget in the amount of $1,692,900.

On October 4, 2016, the Water Resources Department (Department) issued an Advertisement for Bids for the Miscellaneous Water Treatment Plant Upgrades Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for:

(1) replacement of rate of flow controllers, butterfly valves and powered actuators for Filters 1-6 at the North Fork WTP;
(2) replacement of the backwash rate of flow controller and backwash pipe leak repair at North Fork;
(3) construction of backwash lagoon parshall flume flow meter, RTU and wireless transmitter at North Fork;
(4) construction of backwash lagoon ultrasonic level sensor flow meter, RTU, solar panel and wireless transmitter at the Mills River WTP;
(5) repair of leaks around pipe penetrations in the filter gallery wall at North Fork;
(6) construction of an 8-inch high pressure water line and fire hydrant and a 2-inch water line and yard hydrants at North Fork;
(7) architectural and structural building repairs at North Fork; and
(8) repair to stop a leak around inlet pipe penetration in the clearwell at North Fork.

In response to the Advertisement for Bids, the Department received two bids on October 24, 2016. Pursuant to N.C.G.S. § 143-132, three competitive bids are required for formal construction projects. Upon rebidding the project on October 25, 2016, the department received two bids on November 1, 2016, in response to the second advertisement. Companies responding were:

1. Harper Corporation General Contractors, Greenville SC – bid $1,539,000
2. M.B. Kahn Construction Company, Inc., Columbia SC – bid $1,626,626

Following a review of the bids by City Staff and the project engineers, Brown and Caldwell, Harper Corporation was selected as the lowest responsible, responsive bidder in the amount of $1,539,000. A contingency amount of $153,900 has been added for a total project budget in the amount of $1,692,900.

Pros:

- The upgrades planned for this project will ensure that the treatment plants comply with current and proposed drinking water regulations to improve the reliability of the process and to address the rehabilitation needs of aging facilities.
- This project is aligned with the City and the Department's goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Without routine investment in upgrading and replacing water treatment infrastructure, there are greater risks of potential negative impacts on water quality.

The funding needed for the construction agreement is currently allocated within the Water Treatment Plant Improvements project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project was approximately $1.5 million.

Amount Available for Construction	$2,416,283
Amount Needed for Construction Agreement	$1,692,900
Remaining Project Budget	$ 723,383

The funds remaining in the Project Budget will be used to fund additional water treatment plant construction projects.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Harper Corporation General Contractors for the Miscellaneous Water Treatment Plant Upgrades Project for the bid amount of $1,539,000 plus a 10% contingency in the amount of $153,900 for a total project budget in the amount of $1,692,900.

RESOLUTION BOOK NO. 38 - PAGE 256

D. RESOLUTION NO. 16-257 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO EXTEND THE EXISTING LEASE AGREEMENT WITH DEWINE SEEDS-SILVER DOLLAR BASEBALL FOR USE OF MCCORMICK FIELD STADIUM FACILITY AND PARKING LOT FOR THE ASHEVILLE TOURISTS BASEBALL TEAM

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to extend the existing lease agreement between DeWine Seeds-Silver Dollar Baseball (DeWine Seeds-Silver Dollar) and the City of Asheville (City) for use of McCormick Field stadium facility and parking lot for the Asheville Tourists baseball team for a period of two years.

In 2012, the City entered into a lease agreement with DeWine Seeds-Silver Dollar for the McCormick Field stadium facility and parking lot at 30 Buchanan Place (identified as PIN # 9648-47-8566-00000) for the operation of the Asheville Tourists minor league baseball team through December 2016. Staff from the Parks and Recreation Department and DeWine Seeds-Silver Dollar have discussed a two year lease extension through December 2018 which would continue the (a) annual Lease fee of $1.00 per year; and (b) existing lease terms including the City's obligation to provide general facility maintenance.

In April 2016, a Facilities Need Assessment was completed for the McCormick Field Stadium which outlined specific capital improvements. If the extension is approved, the City and DeWine Seeds-Silver Dollar will discuss the plans for and financing of future improvements, and identify a proposed capital improvement plan and appropriate lease structure for City Council consideration.

Pros:

- DeWine Seeds Silver-Dollar is committed to minor league baseball
- Continues a beneficial use of city property with an existing tenant

Con:

- None

The amendment which extends the existing lease includes an annual lease payment of $1.00

Staff recommends City Council adopt a resolution authorizing the City Manager to execute an extension to the lease agreement between the City and DeWine Seeds-Silver Dollar.

Mr. Tim Sadler felt this would be a good opportunity to work with DeWine Seeds-Silver Dollar regarding a parking deck in the South Slope area.

RESOLUTION BOOK NO. 38 - PAGE 258

E. RESOLUTION NO. 16-258 - RESOLUTION FIXING DATE OF PUBLIC HEARING FOR JANUARY 10, 2017, ON THE QUESTION OF VOLUNTARY ANNEXATION OF PROPERTY LOCATED AT 12 LOOP ROAD PURSUANT TO N.C. GEN. STAT. SEC. 160A-31

Summary: The consideration of a resolution fixing the date of a public hearing on January 10, 2017, for the voluntary annexation of property located at 12 Loop Road in south Asheville.

The property owner, English Oak Industrial LLC, has petitioned the City of Asheville for the annexation of 4.8 acres located at 12 Loop Rd. and identified in the Buncombe County tax records as PIN 9643-87-5405. The property is contiguous to the primary corporate limits of the City of Asheville and is subject to the standards for annexation of contiguous areas contained in North Carolina General Statutes (NCGS) 160A-31.

Pursuant to NCGS 160A-31, such petitions must be investigated by the City Clerk for sufficiency in accordance with state law. This investigation has been completed and the Certificate of Sufficiency accompanies this petition request.

The next step in this process is for the Asheville City Council to fix the date for the public hearing on this matter. Should the City Council decide to proceed with this request, the effective date for the annexation would be January 10, 2017.

Considerations:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Comprehensive Plan in that it supports the strategy of promoting voluntary annexations of developing areas.
- Allows for the subject property to be combined with property already located in the city's jurisdiction, providing frontage on a key commercial corridor.

This request includes the voluntary annexation of 4.8 acres of commercial property into the City which will provide new property tax revenue with only a very small increase to services. There is a commercial retail project proposed for this property which, if developed as currently proposed, would generate approximately $20,000-25,000 in city property tax based on comparable commercial properties in the city.

City staff recommends that City Council adopt the resolution setting the date of January 10, 2017, for a public hearing on the annexation petition.

RESOLUTION BOOK NO. 38 - PAGE 259

F. RESOLUTION NO. 16-259 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH B. ALLEN CONSTRUCTION INC. FOR THE CONSTRUCTION IMPROVEMENTS FOR THE ASHEVILLE WILDLIFE PARK - VISITOR RECEPTION AND WELCOME PLAZA

ORDINANCE NO. 4534 - BUDGET AMENDMENT FOR THE CONSTRUCTION IMPROVEMENTS FOR THE ASHEVILLE WILDLIFE PARK - VISITOR RECEPTION AND WELCOME PLAZA

Summary: The consideration: of 1) a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc. to construct a new Visitor Reception and Welcome Plaza at the Western North Carolina Nature Center (aka Asheville Wildlife Park) in the amount of $1,029,382.00 plus a contingency of $87,000.00 for a total of $1,116,382.00; 2) a budget amendment in the amount of $80,000 from The Friends of the Western North Carolina Nature Center, Inc. to budget an additional contribution toward this project.

The entrance to the Nature Center needs improvements due to the age of the facility as well as the growing visitor attendance at this facility. A new entrance will provide more parking on the entrance level, be more accessible to the visitor and greatly improve the visitor's experience arriving and departing the Nature Center. The improvements include a new visitor center and plaza, restroom improvements, exhibit improvements, a new storage shed, a new parking lot and a network of sidewalks.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received the bids plus alternates.

1. B. Allen Construction, Candler, NC ($1,029,382.00)
2. Carolina Specialties Construction, LLC, Hendersonville, NC ($1,208,964.00)
3. Buchanan and Sons, Inc., Whittier, NC ($1,410,000.00)

After thorough review and evaluation, staff selected B. Allen Construction, Inc., Candler, NC, as the lowest, responsible bidder. The base bid plus alternates accepted was $1,029,382.00.

In January 2016, City Council approved a budget amendment in the amount of $627,000 to budget initial funding from the Friends of the Western Nature Center for this project. Approximately 50 percent of the initial contribution was funded by a grant awarded to the Friends by the Tourism Development Authority in the Tourism Product Development Fund. The remaining 50 percent of the contribution was funded by institutional and donor directed funds. The budget amendment included with this staff report will increase the Friends contribution to this project by another $80,000, to a new total of $707,000. The City's contribution toward the project, which totals $461,197, will come from the Adopted FY 2016-17 Parks and Recreation Department Capital Improvement Budget.

Pros:

- Improves pedestrian and vehicular accessibility and code compliance issues
- Improves the visitor's experience entering and exiting the facility in terms of staging groups, ticketing and animal exhibits
- Provides more ample parking closer to the entrance to the Nature Center
- Provides a new iconic place-making experience entering with the visual backdrop of the barn

- Contributes towards improvements noted in the 2020 Vision Master Site Plan for the Western North Carolina Nature Center

Con:

- During improvements, some modest interruptions in viewing several of the animal exhibits can occur
- There will be an increase in maintenance and utilities for the new visitor center

The chart below summarizes the budget for this project. As noted above, the City's contribution toward the project will come from the Adopted FY 2016-17 Parks and Recreation Department Capital Improvement Budget.

Revenues:	
Friends of the Western NC Nature Center	$707,000
City Contribution	$461,197
Total Revenues	$1,168,197
Expenses:	
Pre-Construction	$51,815
Construction Contract	$1,116,382
Total Expenses	$1,168,197

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract with B. Allen Construction, Inc., to improve the Asheville Wildlife Park – Visitor Reception and Welcome Plaza for an amount of $1,029,382.00 plus a contingency of $87,000.00 for a total of $1,116,382.00; and 2) a budget amendment in the amount of $80,000 from The Friends of the Western North Carolina Nature Center, Inc. to budget an additional contribution toward this project.

RESOLUTION BOOK NO. 38 - PAGE 262
ORDINANCE BOOK NO. 31 - PAGE 7

G. RESOLUTION NO. 16-260 - RESOLUTION ADOPTING THE 2017 CITY COUNCIL MEETING SCHEDULE

Summary: The City Council Formal Meetings will be held at 5:00 p.m. on the 2nd and 4th Tuesdays of each month in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C.

In addition, the City Council Organizational Meeting will be held at 4:00 p.m. on Tuesday, December 5, 2017, in the Council Chamber – 2nd Floor of City Hall Building, Asheville, N.C.

The following meetings are hereby cancelled: Tuesday, July 11, 2017; Tuesday, August 8, 2017; and Tuesday, December 26, 2017.

RESOLUTION BOOK NO. 38 - PAGE 263

H. RESOLUTION NO. 16-261- RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH BUCKEYE BRIDGE, LLC CONSTRUCTION GROUP, INC. FOR THE CEDAR STREET BRIDGE REPAIR PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Buckeye Bridge, LLC Construction Group, Inc. for the amount of $295,685 for the project known as Cedar Street Bridge Repair, City of Asheville ENG-13-14-003.

The City of Asheville (City), in coordination with the N.C. Dept. of Transportation (NCDOT) performs safety inspections on City owned bridges every two years. These inspections are used to help the Public Works Department identify any defects or maintenance issues that arise. The early detection of these issues help with longevity and safe use of the bridges. The Cedar Street Bridge was recently inspected and found to have deterioration that will require immediate repairs.

The scope of this project includes structural repairs to sections of steel girders, bearing beams, and anchor plates, and sections of the concrete piers they rest upon. Preventative maintenance will also be performed, such as restoring the protective coating to steel members, and cleaning and patching the concrete driving surface. This will stop water infiltration and prevent future damage. The guard rail will be replaced and updated to the latest guardrail standard for safety if hit by a vehicle. The general maintenance issues will be performed to help maintain the longevity and usable life of the bridge.

The project was advertised on October 18, 2016, with a bid opening on November 3, 2016, but could not be awarded at that time due to unresponsive bids and formal purchasing requirements for the next highest bidder. The project was re-advertised on November 4th and opened on November 22, with the following results:

Buckeye Bridge, LLC Construction Group, Canton, NC	$295,685
Lee construction of the Carolinas, Pineville, NC	$331,925
NHM Constructors, LLC, Asheville, NC	$491,108

Pros:

- Confirms Council's commitment invest in Asheville's roads and streets.
- Provides safe transportation and access to communities and attractions to maintain a vibrant city.

Con:

- Construction may cause temporary traffic congestion along this corridor.

The $500,000 was budgeted for this project in the Capital Fund. This amount was approved by City Council and included in the Fiscal Year 2016-2017 budget. The $200,000 difference will cover associated railroad fees (including permitting, insurance, and flaggers), and additional remediation/preventative maintenance work that the contractor may identify while working on the bridge. Of the above amount, $34,000 is already set aside for the design engineer to provide on-site inspections of the structural work, and additional design services if needed.

City staff recommends City Council adopt a resolution awarding the contract to Buckeye Bridge, LLC Construction Group, Canton, NC and authorizing the City Manager to execute a contract in the amount of $295,685.00 with Buckeye Bridge, LLC Construction Group. for the project known as Cedar Street Bridge Repair and further authorizing the execution of any change orders to said contract which may arise during execution of said project, up to the budgeted amount.

RESOLUTION BOOK NO. 38 - PAGE 264

I. ORDINANCE NO. 4535 - ORDINANCE AUTHORIZING AMENDMENTS TO THE DEPARTMENT OF WATER RESOURCES WATER POLICIES

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ORDINANCE NO. 4536 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL - WATER RESOURCES DEPARTMENT SECTION

RESOLUTION NO. 16-262 - RESOLUTION AMENDING THE WATER RESOURCES DESIGN & CONSTRUCTION MANUAL

Summary: On August 19, 2016, the North Carolina Supreme Court issued a decision invalidating certain water and sewer "impact fees," which were being charged by the Town of Carthage. See Quality Built Homes, Inc. v. Town of Carthage, ___ N.C. ___, 789 S.E.2d 454 (2016). As a result of this decision, municipalities throughout North Carolina are reviewing their water and sewer fee policies to assure compliance with the Court's decision. In Asheville, the City's Water Department and Finance Department, with the assistance of the City Attorney's Office, undertook an analysis of the current fees, which are a part of the City's Department of Water Resources Water Policies (the "Water Policies"), the City of Asheville Fees and Charges Manual (the "Fees Manual"), and the City of Asheville Water Resources Design & Construction Manual (the "Design & Construction Manual"), in light of the Quality Built decision. In performing this analysis, it was discovered that certain parts of these documents should be amended. Some of these amendments were in response to the Quality Built case, while other amendments are considered to be advisable for clarification purposes and more efficient administration.

I. Overview of Law Relating to Water Fees and the Quality Built Case.

The furnishing of water service by municipalities, and the ability to impose fees relating to the same, is governed by the North Carolina General Statutes. In particular, N.C. Gen. Stat. § 160A-312(a) allows cities "to acquire, construct, establish, enlarge, improve, maintain, own, operate, and contract for the operation of [a water system] to furnish services to the city and its citizens." Such services, may also upon certain conditions, be provided outside a city's corporate limits. N.C. Gen. Stat. § 160A-314(a) provides:

> "A city may establish and revise from time to time schedules of rents, rates, fees, charges, and penalties for the use of or the services furnished by any [water supply or distribution system]."

The North Carolina Supreme Court has long held that fees and charges which are for the use of the water system, and the services provided by a municipality's water department are permitted. See, e.g., Town of Spring Hope v. Bissette, 305 N.C. 248, 287 S.E.2d 851 (1982). Quality Built, however, further explained the scope of what types of fees are lawful under § 160A-314(a).

The impact fees which were being collected by the Town of Carthage in Quality Built were to be used for, among other things, the "future expansion" of the Town's water and sewer systems. The fees had to be paid at the time of subdivision approval, "regardless of whether the landowner ever connect[ed] to the system or whether Carthage ever expand[ed] the system." Quality Built, 789 S.E.2d at 455. The impact fees were likewise in addition to regular water and sewer tap fees and monthly service charges.

In declaring the impact fees invalid, the Court found that the language of § 160A-314(a) only allows a municipality to charge for "the use of or the services furnished by any [water supply or distribution system]." This charging power is "operative in the present tense," and, thus, limits fees to those for "the contemporaneous use of water . . . services - not to collect fees for future discretionary spending." 789 S.E.2d at 458 (emphasis added)). The Court distinguished the power afforded to water and sewer "authorities," which allows fees for services "to be furnished." 789 S.E.2d at 458 (quoting N.C. Gen. Stat. § 162A-88 (emphasis added). The words "to be" are not included in the statutory grant of power to municipalities. The ordinance at issue in Quality Built invoked "prospective charging power," because the fees were for the future expansion of the system, which might not ever occur. The fees were likewise not paid at the time of actual

connection to the system, thus, predated an actual need. The Court did reaffirm its holding in the Bissette case, explaining that fees for "services furnished" does encompass necessary improvements to the water system, so long as these are improvements for an existing system, without which the Town could not continue to provide service.

II. Relevant City of Asheville Water Policy, Fees Manual and Design & Construction Manual Provisions.

The City's Fees Manual contains a section which sets forth the fees charged by the Water Resources Department which are required to obtain, among other things, water connections and water service. Staff's review of these fees indicated that one fee should be removed pursuant to the Quality Built case, and that several other amendments to the Water Policies, Fees Manual and the Design & Construction Manual are also needed to more clearly describe certain fees, explain their purpose and facilitate more effective administration.

A. Pump Station/Control Valve Installation Fee.

Section IV of the Water Policies is entitled "EXTENSION POLICY." Subsection B.5. references a "pump station / control valve station maintenance fee," which requires a pump station/control valve station maintenance fee to be paid for all new pumping stations and control valve installations. This fee is intended to cover the future costs of operating and maintaining the pumps and associated equipment. While this fee is paid at the time of the water tap, it appears to relate to services "to be furnished" in the future. See Quality Built. For that reason, all of this subsection should be removed from the Water Policies.

Subsection A. of Section W8 of the Design & Construction Manual, entitled "WATER BOOSTER PUMP STATIONS," also references a "Pump Station Maintenance Fee" which is required to be paid prior to granting final plan approval. For the reason stated above, the paragraph referencing this fee should be removed from this subsection.

B. Development Fee.

Section VIII of the Water Policies is entitled "CONNECTION AND SERVICE FEES." One of the fees that is currently charged for a new connection is called a "Development Fee." See Water Policies Section VIII B.2., p. 53. That fee is defined as follows:

> Development Fee: In addition to a new Connection fee, a non-refundable development fee in the amount set forth in Schedule I shall also be paid by a Customer for a new Connection. This fee is applied to assist toward defraying the costs associated with expansion of the Water System and water service. A development fee shall not be required if a new Connection is the same or smaller than an existing active Connection for the Premises which is in good repair.

The Water Department Staff, along with its outside accountant, engaged in an analysis to determine how the funds collected as a "Development Fee" are actually expended. That analysis revealed that, although the definition of "Development Fee" states that one of its purposes is "expansion of the Water System," none of the Development Fees are actually applied for that purpose. Instead, these fees are used exclusively for the other purpose in the definition, i.e., "defraying the costs associated with . . . water service." All of the Development Fees collected have been used to defray costs for the current and contemporaneous production and delivery of water and the provision of water service to customers of the City water system, so are lawful under Quality Built. Nonetheless, it is our recommendation that the fees be renamed and redefined to clarify and bring the Water Policies in line with actual practice. In addition, the last sentence of the section should be amended to clearly identify the users who are exempt from this fee. The amended provision states as follows:

System Maintenance and Capital Fee: A non-refundable System Maintenance and Capital Fee in the amount set forth in Schedule I, shall be paid by a Customer for a new Connection. This fee is used to contribute to the expenses incurred for the development and rehabilitation of water system assets, which are critical for the contemporaneous and current production and delivery of water, and provision of water services. Water system assets which are critical for the contemporaneous and current production and delivery of water and provision of water services include, but are not limited to: transmission lines, production facilities, storage reservoirs, and distribution system pump stations. These fees will also be used, in combination with other appropriate sources of revenue, to pay debt service on bonds to fund water system asset projects, which assets are likewise critical for the contemporaneous and current production and delivery of water, and provision of water services. If an existing customer requires a new Connection only to replace an existing Connection, for which a System Maintenance and Capital Fee or equivalent fee was previously paid, and the subject property does not require a larger service Connection than the existing Connection, the System Maintenance and Capital Fee shall not be required.

All other references to the term "Development Fee" in the Water Policies and the Fees Manual should also be revised to instead reference "System Maintenance and Capital Fee." References to the term "Development, Service and Other Fees" should be revised to "Development Review, Service and Other Fees." These additional references are found at page 25 of the Water Policies and at the Water Resources Department table of contents page and pages 141, 143, 147 and 149-52 of the Fees Manual.

A. Technology Fee.

One of the fees in the Fees Manual which is required for a "New Tap and Meter," and a "Drop-In Meter," is a "4% Technology Fee." See Fees Manual pp.149-150.. That fee is intended to cover the present costs associated with processing applications to obtain water service, including but not limited to administrative costs and costs for software to allow for the electronic processing of these applications. This fee, although lawful under Quality Built, is more appropriately classified as a part of "Water Engineering Fees," which is also located on page 150 of the Fees Manual. The Water Engineering Fees section also references a technology fee, but the amounts from the respective sections should be combined and located only in the Water Engineering Fees section. Therefore, the 4% Technology Fee should be removed from the "New Tap and Meter" and "Drop-In Meter" sections. A new total Technology Fee for the above-stated purposes is in the process of being calculated and will be added to the Water Engineering Fees section in the near future.

ORDINANCE NO. 4535 - ORDINANCE BOOK NO. 31 - PAGE 9
ORDINANCE NO. 4536 - ORDINANCE BOOK NO. 31 - PAGE 14
RESOLUTION NO. 16-262 - RESOLUTION BOOK NO. 38 - PAGE 265

J. RESOLUTION NO. 16-263 - RESOLUTION DONATING THE SILENT FILM ENTITLED CONQUEST OF CANAAN, CONSISTING OF FOUR REELS OF 35 MM FILM, TO THE LIBRARY OF CONGRESS

Summary: The consideration of a resolution donating 4 reels of 35mm film, titled *The Conquest of Canaan*, to the Library of Congress for adequate storage and preservation.

Released by Paramount Pictures in August of 1921, the four reels of film consist of a 35 mm black and white silent movie that was based on Booth Tarkington's novel *The Conquest of Canaan*, which was written in 1905. The movie was filmed in and around Pack Square in downtown Asheville, and features scenes of the old courthouse building on Pack Square, First Baptist Church, and the old Swannanoa-Berkeley Hotel building.

The film was later discovered in the 1980s to be in the possession of Russian film company Sovexportfilm by WLOS producer William Banner, who created a television special featuring the film and its history.

The Historic Resources Commission was able to obtain what is thought to be the only remaining copy of the film from Sovexportfilm in 1988. Since obtaining the film, the Historic Resources Commission has overseen reproduction of the film to VHS and compact disc formats.

The historic 35 mm film has been stored at University of North Carolina at Asheville D.H. Ramsay Special Collections since 2003. Because the University of North Carolina at Asheville and the City of Asheville lack appropriate long-term storage facilities, they feel it is in the best interests of the City of Asheville to donate the four reels of film to the Library of Congress for adequate conservation and permanent storage.

Pro:

- The film will be preserved and will be available for anyone to view.

Con:

- None noted.

Invoice dating from September 15, 1988, indicate the film value at $1,260 at the time it was acquired.

Staff recommends City Council donate 4 reels of 35mm film, titled *The Conquest of Canaan*, to the Library of Congress.

Mr. Andrew Fletcher spoke in support of this donation.

RESOLUTION BOOK NO. 38 -PAGE 267

K. ORDINANCE NO. 4537 - TECHNICAL BUDGET AMENDMENT TO APPROPRIATE FUNDING FOR PRIOR YEAR CONTRACTS AND PURCHASE ORDERS THAT ROLLED FORWARD TO FISCAL YEAR 2016-17

Summary: The consideration of a technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to Fiscal Year (FY) 2016-17.

As part of its ongoing operations, the City enters into various contracts and purchase order agreements throughout the fiscal year. When these contracts and purchase orders are entered into, budget funds are encumbered for the full amount of the expected purchase. Often these contract and purchase orders are not fully completed and paid in one fiscal year. North Carolina General Statutes provide authorization for local governments to reserve the unexpended portion of these prior year commitments and roll those budgets forward to the new fiscal year.

As a part of the FY 2015-16 annual audit, staff identified prior year commitments and carry-over appropriations to roll forward to FY 2016-17, and these dollar amounts were deducted from the unassigned fund balance amounts that were reported in the Comprehensive Annual Financial Report. The technical budget amendment will provide authorization to officially appropriate these amounts in the FY 2016-17 budget for each of the City's annual operating funds.

Pro:

- Provides budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2016-17.

Con:

- None.

As noted above this budget amendment simply provides budget authorization for prior year commitments which have already been restricted or assigned in the City's FY 2015-16 financial statements. There is no impact on unassigned/available fund balance in the City's operating funds.

City staff recommends City Council approve the technical budget amendment in each of the City's annual operating funds to appropriate from restricted and assigned fund balance the required budget authorization for prior year contracts, purchase orders, and other carry-over appropriations that rolled forward to FY 2016-17.

ORDINANCE BOOK NO. 31 - PAGE 23

L. RESOLUTION NO. 16-264 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE IN-KIND SUPPORT FOR THE STRATEGIC EVENT PARTNERSHIP WITH THE ASHEVILLE SUSTAINABLE AGRICULTURE PROJECT - 2017, 2018 AND 2019

Summary: The consideration of a resolution authorizing the City Manager to adjust the in-kind support for the strategic event partnership with the Asheville Sustainable Agriculture Project – 2017, 2018 and 2019.

In June, 2016, City Council approved a partnership agreement with the Appalachian Sustainable Agriculture Project (ASAP), a local non-profit organization. Under this agreement, the City committed a value of $16,747 of in-kind resources per year to assist ASAP with the costs of event production. In specific, ASAP is proposing to relocate the Asheville City Market to North Market Street, an effort designed to expand the market presence and scope. In-kind support provided to special events commonly includes permits, reserved property use, police, fire, sanitation services, traffic control equipment, and parking meter closures. However after gaining a more detailed understanding of City policy relating to fees for the closure of parking meters, ASAP asked for additional in-kind support to cover the costs.

ASAP has requested an additional in-kind benefit of $9,360 to cover the parking meter closure fees based on the current number of parking meters within the area of street planned for use, and the City's current fee policy for daily parking meter closures. The Planning & Economic Development Committee indicated that the additional in-kind value, if authorized by City Council, would be specific to the Asheville City Market, at its desired location on North Market Street, and for the express purpose of accommodating the necessity for closure of parking meters during hours of event use.

Pros:

- Allows the City to leverage resources for programming and events that serve a wider and more diverse audience
- Supports local food policy and non-profit organizations

Con:

- Lost revenue for parking fees

Associated expense and revenue impacts for the proposed increase in in-kind are accounted for under existing department budgets. As noted, the specific impact of this adjustment is the loss of $9,360 in revenue in the Parking Services Fund.

The Planning & Economic Development Committee recommends City Council adopt a resolution authorizing the City Manager to adjust the strategic event partnership agreement with the Appalachian Sustainable Agriculture Project to include an additional $9,360 value of in-kind support assigned specifically to fees associated with the closure of parking meters for the Asheville City Market on North Market Street for partnership years 2017, 2018 and 2019.

RESOLUTION BOOK NO. 38 - PAGE 268

M. RESOLUTION NO. 16-265 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ADJUST THE IN-KIND SUPPORT UP TO 10% IN THE EVENT THAT CITY FEES INCREASE OR CITY SERVICE REQUIREMENTS RESULT IN ADDITIONAL COSTS TO EVENTS CONDUCTED UNDER THE 2017-19 STRATEGIC EVENT PARTNERSHIP AGREEMENTS

Summary: The consideration of resolution authorizing the City Manager to adjust in-kind support up to 10% in the event that city fees increase or city service requirements result in additional costs to events conducted under the 2017-19 Strategic Event Partnership agreements.

In June, 2016, City Council approved partnership agreements with 8 local non-profit organizations. Under each agreement, the City committed a specific value of in-kind resources per year to assist the partner organizations produce festivals and special events designed to further City Council's 2036 vision. Staff will monitor and track the utilization of in-kind resources throughout the year for each partnership, working with the partners to manage their approved budgets.

Staff has found that the maximum in-kind amount may be insufficient to cover all City fees and charges for events planned within the year. When a financial gap exists, the partner organization is expected to identify other funding sources or make modifications to their plans. As an organizational partner, the City also works to assist where possible in that process.

It has been a City practice in other contracts to authorize a contingency, allowing for small adjustments. Such adjustments may be needed as a result of increases to City fees and requirements over the next three years, or for increases resulting from event expansion and attendance growth. A contingency reduces staff time and the need to return to City Council in the case of small overages in original budget approvals. The Planning & Economic Development Committee considered this item and voted unanimously to move forward to City Council a recommendation for a 10% contingency within the City's 2017-2019 Strategic Event Partnership Agreements, acknowledging cost increases over 10% will be invoiced to the partner.

Pros:

- Reduces staff time and the need to return to City Council for small overages in original budget approvals
- Tempers the potential that non-profit partners will need to issue reimbursement payments to the City for minor overages
- Moderates the impact of small increases in City fees or city service requirements

Con:

- Lost revenue for permits, parking fees and property use fees

In-kind support and fee discounts result in lost revenue. The impact of this action is estimated to increase lost revenue from $151,854 per year to $167,050 per year.

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution permitting 10% contingency for partnership years 2017, 2018 and 2019.

RESOLUTION BOOK NO. 38 - PAGE 269

N. ORDINANCE NO. 4538 - BUDGET AMENDMENT FOR THE ADVANCED BUILDING AND HVAC CONTROLS PROJECT AT THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment to transfer funds from the General Fund to the Civic Center Fund for the purpose of installing advanced building and HVAC controls at the U.S. Cellular Center for the bid amount of $22,780 plus a 10% contingency in the amount of $2,278 for a total project budget of $25,058.

The Office of Sustainability is charged with leading the City's effort in meeting City Council's Resolution 11-77 which established a 4% annual carbon footprint reduction goal. By identifying energy saving projects and strategically funding them from the Green Revolving Fund (housed in the General Fund), the Office of Sustainability can better achieve this goal.

The current HVAC controls system at the US Cellular Center was installed in the 1980's and has surpassed its useful life. By installing an advanced, web-based controls system, USCC staff will be more able to observe the conditions and control the operations of their facility remotely. In addition to HVAC, this new system will have the ability to integrate lighting controls, door security control, and energy monitoring. The new controls system, especially when paired with upgraded HVAC equipment in the future, will enable substantial energy savings at the City's most energy intensive facility.

The winning bid for the controls upgrade from Haynes Controls, a division of MB Haynes Corporation, was $22,780. Sustainability staff recommend transferring an additional 10% for contingency costs, bringing the total budget transfer to $25,058.

Pro:

- Enables the US Cellular Center staff to more closely monitor and control building operations, increasing the potential for energy savings

Con:

- None can be identified

The funds needed for this project were allocated as an FY17 priority by the Office of Sustainability staff for the Green Revolving Fund.

City staff recommends City Council adopt a budget amendment to transfer funds from the General Fund to the Civic Center Fund for the purpose of installing advanced building and HVAC controls for the bid amount of $22,780 plus a 10% contingency in the amount of $2,278 for a total project budget of $25,058.

ORDINANCE BOOK NO. 31 - PAGE 25

O. RESOLUTION NO. 16-266 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT AND SIGN A GRANT AGREEMENT WITH THE BUNCOMBE COUNTY TOURISM PRODUCT DEVELOPMENT AUTHORITY FROM THE 2015-16 TOURISM PRODUCT DEVELOPMENT FUNDS FOR THE FRENCH BROAD RIVER GREENWAY - WEST

Summary: The consideration of a resolution authorizing the City Manager to accept and execute a grant agreement with Buncombe County Tourism Development Authority (BCTDA) for $700,000 in Tourism Product Development Funds (TPDF).

The purpose of the TPDF Grant is to provide funding assistance for construction projects that will create new and additional lodging room nights in Buncombe County. In 2015, Council approved a TPDF application for up to $2.5 million in grant funds to help construct $5 million worth of Riverfront Destination Development projects.

In response to the TPDF Phase II application, the BCTDA announced an award of $1.7 million to the City of Asheville (City) in late October 2015 for the Riverfront Destination Development Project. An initial grant of $1 million was authorized by City Council with the understanding that a grant for the additional $700,000 was expected from the BCTDA in 2016 when additional funds were available.

The $700,000 grant provides funding for the development of the French Broad River Greenway – West Connector. The grant agreement outlines the required construction start and end dates, the construction cost reimbursement schedule, annual reporting requirements, and other legal requirements.

Pros:

- City Council has identified implementation of riverfront redevelopment capital investments as a key strategic goal for the city
- The TPDF grant award is a significant funding opportunity that leverages the City's investment to move forward on these investments
- The City has shown a commitment to implementing these projects as part of the multi-year Capital Improvement Program (CIP)

Con:

- The grant is a reimbursement grant, which means that for cash flow purposes the City will need to allocate its own capital dollars first and structure its financing to cover these cash needs

Funding from grants and partnerships is an important component of the City's multi-year CIP. This $700,000 grant will be used to provide funding for a key project in the CIP. Dedicated funding for the matching amount is included in the capital program.

City staff recommends City Council authorize the City Manager to accept and execute the grant agreement with BCTDA.

RESOLUTION BOOK NO. 38 - PAGE 270

P. RESOLUTION NO. 16-267 - RESOLUTION APPROVING AMENDMENTS TO THE HOUSING TRUST FUND POLICY

Summary: The consideration of a resolution approving amendments to the Housing Trust Fund Policy.

Housing Trust Fund policy is reviewed periodically to make it responsive to the City's residents' housing needs, the housing market and housing developer demand. The following changes are recommended to the Policy for adoption for the current application cycle.

Priorities Recommendations

Household Income: The development of units serving the lowest income households will have a higher priority.

Multi-modal access: Include access to multi-modal transportation, such as greenways, in the transit corridor priority.

Other Priorities: Remove priority for "large scale development" in light of growing interest in affordable smaller-scale, in-fill development.

Eligible Activities Recommendations

Purchase and Rehab of Existing Housing: Add "purchase" of existing multi-family housing as an eligible activity. Preservation of existing affordable housing, whether subsidized or not, is a critical component of a comprehensive affordable housing strategy.

Container homes, tiny homes, and other innovative housing structures: Add these building types as eligible for Housing Trust Funds.

Affordability Recommendations

Period of Affordability: Establish a minimum 15 year period of affordability for rental housing assisted with Housing Trust Funds.

Maximum Loan Amounts- Maintain the current maximum loan per affordable rental unit of $20,000, but decouple the per-unit request from the maximum loan amount. Raise the maximum rental development loan amount to $1 million.

Interest Rates- Establish a fixed 2% interest rate for all loans this year (except for "Special Term Loans").

Special Terms- Allow for the deferral of principal for the committed term of affordability. For example, LIHTC projects, with a committed term of affordability of 30 years, would have the option of making interest only payments for a term of 30 years. The interest-only option would carry a rate of interest as described above.

Clarify the Fund policy regarding accepting subsidy Vouchers and qualifying for Special Terms: *If units pledged as part of the Special Terms financing are occupied by households without a voucher limiting their personal rent contribution, then the actual rent charged can be no more than the 60% AMI standard as established annually by the City of Asheville.*

Application Process

Third party cost analysis- Instead of at application, require third-party construction cost estimates no later than 14 days prior to loan closing.

Underwriting

Public comment on site plan and elevations- Because public comment is already incorporated into the regulatory process, remove this condition.

90 day commitment- Currently, commitments are for 90 days with staff extensions possible for up to 6 months. Increase the time frame for staff extensions to 12 months from date of loan approval. Additional extensions may be granted by the HCD Committee.

Closing and Funding

Funding land acquisition at closing- Allow funding for land acquisition at closing only if the following circumstances are met: 1) The appraised value of the land is 110% or more of the total of all funds used for acquisition; 2) The land is zoned for the proposed project without additional

permissions needed; 3) All construction financing is committed; 4) The City is in no lower than second security position; 4) a realistic construction schedule, with a start date of no later than three months from closing has been submitted, reviewed and approved by staff prior to closing.

Post-Closing

Worker interviews- Remove this provision from the policy.

The Housing and Community Development Committee reviewed these Policy amendments at their meeting on November 15, 2016, and unanimously recommended approval.

Pros:

- The proposed amendments continue to keep the Housing Trust Fund responsive to the changing needs of the affordable housing marketplace and responsive to developers seeking to create affordable housing.

Con:

- None.

Raising the maximum amount potentially available for a project to $1 million could have an impact on the number of projects able to be funded. However, the anticipated increase in the funds available as a result of the passage of the affordable housing bond could mitigate this.

Staff recommends that Council approve the proposed amendments to the Housing Trust Fund Policy.

Assistant Director of Community & Economic Development Jeff Staudinger responded to questions raised by Council regarding the reasoning behind the minimum 15 year period of affordability.

RESOLUTION BOOK NO. 38 - PAGE 271

Q. RESOLUTION NO. 16-268 - RESOLUTION AUTHORIZING THE PRIVATE SALE OF CITY-OWNED REAL PROPERTY ON PISGAH VIEW ROAD TO ASHEVILLE AREA HABITAT FOR HUMANITY FOR AFFORDABLE HOUSING

Summary: The consideration of a resolution authorizing the private sale of City-owned property on Pisgah View Road to the Asheville Area Habitat for Humanity for affordable housing.

On June 9, 2015, City Council approved the sale of 16 acres owned by the City of Asheville in west Asheville, near the intersection of Pisgah View and Deaverview Roads, to Asheville Area Habitat for Humanity. A Purchase and Sales Agreement between the City and Habitat was executed on October 8, 2015. The approved purchase price was $458,300, with $300,000 to be provided in cash and the remainder to be loaned to Habitat, and subsequently transferred on a pro-rata basis as mortgages on homeowners in the development.

The agreement included two City conditions: that Habitat explore greater density than the 55 units proposed at that time, and that Habitat also explore permanent affordability of all or some of the units. The agreement allowed for Habitat to propose different terms of purchase than indicated above, in light of that investigation and other due diligence Habitat was to perform to determine the feasibility of the project.

Habitat subsequently moved forward with a design and stakeholder engagement process, coordinated by the Asheville Design Center. City staff participated in elements of that process.

As a result of that process, Habitat is now moving forward with site planning for a minimum of 101 units, including duplex and triplex townhouse style units. Andy Barnett, Habitat's Executive Director, has also agreed to participate on a steering committee to explore permanent affordability options.

Habitat has submitted a revised purchase terms proposal. Habitat proposes that the City lend to Habitat the agreed upon entire purchase price of $458,300 at 0% interest and that the loan subsequently be transferred on a pro-rata basis as loans from the City to the new homeowners in the development.

The primary rationale for this is that Habitat estimates that a total subsidy from non-Habitat resources of approximately $1.6 million will be needed to achieve affordability for households at 50%- 70% of median income. By providing this subsidy now in the form of 100% financing of the land, the City can assist Habitat to conserve its other resources for later use, reduce interest costs, and generally lower other subsidy for the project.

The Housing and Community Development Committee reviewed Habitat's revised request at their meeting on November 15, 2016, and unanimously recommended approval.

Pros:

- The new proposed terms of sale will support the construction of over 100 new homes affordable to low-income households;
- The terms will enable Habitat to reduce costs of borrowing, and help produce affordable housing;
- The City funds will be secured by second mortgages that will be due upon sale of the property, and therefore will not negatively affect the affordability of the homes.

Con:

- The original terms called for a cash payment of $300,000 at the time of sale to Habitat. These funds, which were programmed for the Housing Trust Fund, will not be available as projected.

As noted above, anticipated funds to be designated to the Housing Trust Fund will not be available. However, the anticipated increase in the funds available as a result of the passage of the affordable housing bond could mitigate this.

Staff recommends the final approval of the sale of City-owned land located at Pisgah View and Deaverview Roads and acceptance of Habitat's request to finance the purchase price of the Cedar Hill property, to be used 100% for affordable housing for households with income at 80% or less of median income.

RESOLUTION BOOK NO. 38 - PAGE 281

R. RESOLUTION NO. 16-269 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A QUIT CLAIM DEED TO VINOD PATEL FOR PROPERTY LOCATED AT 1103 BREVARD ROAD AND STRADLEY MOUNTAIN ROAD

Summary: The consideration of a resolution authorizing the City Manager to convey a quit claim deed to Vinod Patel for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

The property located at 1103 Brevard Road (PIN 9626-64-8826) is improved with one commercial building and three single family houses on 1.43 acres. At some point, a portion of the property was utilized as a water pump station. This pump station was abandoned in place in 2005 when a new station was installed at a higher elevation. On review of the title to the property

at 1103 Brevard Road, it appears that no easement or conveyance of any kind was ever granted to the City of Asheville for this pump station.

The property is being transferred to a new owner and the purchaser is seeking to remove any claim that the City may have to this abandoned pump station. The Water Department has concluded that the City no longer has any use for the abandoned station at this location and it is fully disconnected from the main water system. Without an easement or deed for the pump station, the abandoned building and historical use represent a cloud on the fee holder's title. To resolve this matter, the City Council may authorize a deed to quitclaiming all government interest in the property.

Pros:

- Resolves ownership issues.
- Removes liability issues associated with abandoned station.

Con:

- None noted.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a quit claim deed to Vinod Patel for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

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S. RESOLUTION NO. 16-270 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH MATTERN AND CRAIG INC. FOR THE NEW LEICESTER HIGHWAY SIDEWALK DESIGN PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Mattern and Craig, Inc. for the amount of $190,310.00 for the project known as New Leicester Highway Sidewalk Design, City of Asheville TR-15-16-001.

This contract will allow for the design of sidewalk alongside New Leicester Highway (US-63), from Patton Avenue to the City limit where, very little sidewalk currently exists. This sidewalk is identified as a needed linkage in the 2005 Pedestrian Plan Update, and the need for sidewalk informal paths visible on the shoulders of the road. Also, existing ART bus stops on the west side of New Leicester Highway are not currently served by sidewalk.

The scope of this project includes the development of design drawings, construction documents and bid documents. The contract provides environmental certifications and documents required by the Federal Highways Administration, and obtains all required State and City of Asheville Permits.

The City of Asheville followed a qualifications based selection process, and requested designers submit Letters of Interest for this project on April 11, 2016. Five responses were received: Davenport Engineering, Mattern and Craig, TGS Engineers, Vaughn and Melton and Wetherill Engineering. A selection team consisting of City staff determined Mattern and Craig to be the most qualified firm to handle this project.

Pros:

- Provides a design and bid documents for the construction of sidewalk in an area with a demonstrated need for safe pedestrian access.
- Designs sidewalk that will provide pedestrian connection to bus stops that are currently not served by a sidewalk.

Con:

- None.

The cost estimate for this design was $280,000, with an additional $42,000 (15%) for contingency, for a total of $322,000. $350,000 was budgeted for the design portion of the New Leicester Highway project in the Capital Fund. This amount was approved by City Council and included in the Adopted Capital Improvement Program.

The difference between the budget amount and the contract amount is $159,690. A portion of this amount will cover the cost of additional Geotechnical and Structural Engineering services to be added after the schematic design phase. These engineering services are required to overcome topographical challenges presented in this corridor, and cannot be estimated until after the initial alignment is selected. Any remaining funds will be used for inspection services during construction.

City staff recommends City Council adopt the resolution awarding the contract to Mattern and Craig Inc. and authorizing the City Manager to execute a contract and any change orders to said contract which may arise during execution of said project up to the project budget amount of $350,000.

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T. RESOLUTION NO. 16-271 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH ESKOLA, LLC. FOR THE WILLIAM DEBRUHL WATER TREATMENT PLANT FACILITY IMPROVEMENTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Eskola, LLC for the William DeBruhl Water Treatment Plant Facility Improvements Project for the bid amount of $171,700.00 plus a 10% contingency in the amount of $17,170 for a total project budget in the amount of $188,870.

On November 3, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the William DeBruhl Water Treatment Plant Facility Improvements Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for removal and replacement of the existing modified bitumen roof of the treatment building and pumping station, the repointing of various cracks and separations within the façade of the treatment facility, and pumping station building, lintel repairs, façade investigation on the treatment building, and the repair of the column support within the filter gallery.

In response to the Advertisement for Bids, the department received three bids on November 18, 2016. Companies responding were:

3. Eskola, LLC, Morristown TN – bid $171,700
4. Rike Roofing Service, Inc., Charlotte NC – bid $198,900
5. Gilbert Engineering Company, Statesville NC – bid $411,000

Following a review of the bids by City Staff and the project engineers, GHD, Eskola, LLC was selected as the lowest responsible, responsive bidder in the amount of $171,700. A contingency amount of $17,170 has been added for a total project budget in the amount of $188,870.

Pros:

- The upgrades planned for this project will address the rehabilitation needs of an aging facility.

- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Cons:

- Without routine investment in upgrading and replacing water treatment infrastructure, there are greater risks of potential negative impacts on water quality.

The funding needed for the construction agreement is currently allocated within the Water Treatment Plant Maintenance project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project was approximately $200,000.

Amount Available for Construction	$200,000
Amount Needed for Construction Agreement	$188,870
Remaining Project Budget	$ 11,130

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Eskola, LLC for the William DeBruhl Water Treatment Plant Facility Improvements Project for the bid amount of $171,700 plus a 10% contingency in the amount of $17,170 for a total project budget in the amount of $188,870.

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U. RESOLUTION NO. 16-272 - RESOLUTION TO ACCEPT FUNDS FROM THE A MONTFORD NEIGHBORHOOD ASSOCIATION TO CONSTRUCT AND INSTALL TWO BUS SHELTERS

ORDINANCE NO. 4539 - BUDGET AMENDMENT FROM MONTFORD NEIGHBORHOOD ASSOCIATION

Summary: The consideration of a resolution to accept privately raised monies ($12,543.12) from the Montford Neighborhood Association to partially fund the construction, and installation of two custom bus shelters; and associated budget amendment in the amount of $25,086.25 to set up the project.

In May 2016, members of the Montford Neighborhood Association approached staff regarding the installation of two bus shelters at the three-way intersection of Montford Ave/ Cullowhee St/ Soco St. There are existing concrete bus shelter pads in these locations that were installed as part of a Traffic and Pedestrian Enhancement project that was completed in 2015. Because these pads are located in the Montford Historic District (MHD), any bus shelters must comply with Historic Resources Commission design guidelines; therefore the shelters must be custom-made as the City's current shelter designs do not comply with the MHD design guidelines.

The Montford Neighborhood Association donated design plans for the two shelters which have been approved by Transit Staff and the Historic Resources Commission, and are currently being reviewed by the Development Services Department. The Montford Neighborhood Association is also offering a donation of $12,543.12 to cover 50% of the cost of construction and installation of the two shelters. This donation has been approved by the board of the Montford Neighborhood Association and is awaiting Asheville City Council approval to accept the funds. The total cost of the project is budgeted at $25,086.25 with remaining funds coming from Traffic Safety funding in the amount of $12,543.13, in the existing Transportation Department General Fund budget.

Pros:

- Improves access to transit and overall quality of service.

- Enhances the neighborhood's sense of place, by conforming to Historic Resources Commission design guidelines.
- Reduces the public cost of the improvements by using private donations to fund part of the project.
- Partnership that allows local residents to help shape the character of their neighborhood.

Con:

- None.

The fiscal impact is in the amount of $12,543.13 from the Traffic Safety fund in the existing Transportation Department General Fund budget.

City staff recommends City Council authorize the City Manager to accept privately raised monies from the Montford Neighborhood Association to partially fund the construction, and installation of two custom bus shelters; and a budget amendment in the amount of $25,086.25 to set up the project in the Transit Capital Projects Fund and appropriate the donations and the City contribution to the project.

Councilman Smith thanked the Montford Neighborhood Association for raising funds for this purpose.

RESOLUTION BOOK NO. 38 - PAGE 286
ORDINANCE BOOK NO. 31 - PAGE 27

V. RESOLUTION NO. 16-273 - RESOLUTION SUPPORTING THE EXPANDED VISION AND CONCEPT OF THE FONTA FLORA STATE TRAIL BEING EXTENDED TO ASHEVILLE VIA MORGANTON AND MARION

Summary: The consideration of a resolution supporting the expanded vision and concept of the Fonta Flora State Trail being extended to Asheville via Morganton and Marion.

In 2015, the NC State Legislature submitted and passed legislation to designate the Lake James Loop Trail in Burke County as a NC State Trail. The NC Division of Parks and Recreation recommended that the concept of the Trail be expanded to extend from Morganton to Asheville to create a regional trail and connection. The Division also suggested that the Lake James Loop Trail be renamed the Fonta Flora State Trail to administratively separate it from Lake James State Park and to reflect the linear nature of the conceptual trail.

To date, the extension of the Fonta Flora State Trail has been adopted by the Cities of Marion, Morganton, Black Mountain, Glen Alpine, and Old Fort. Burke and McDowell Counties have also adopted Resolutions of support for the Trail. Representative partners have approached the City of Asheville staff to ask if the City of Asheville would be in favor of supporting the extension of the trail to the Asheville area.

The State Parks Act (GS 113-44.9) defines the types of units in the State Parks System to include State Parks, State Natural Areas, State Recreation Areas, State Trails, State Rivers and State Lakes.

The proposed Fonta Flora would be a State Trail, not a State Park. Whereas a State Park is operated and managed by the Division of Parks and Recreation, the Fonta Flora State Trail represents a partnership among multiple agencies, landowners and local governments, working together to implement a shared vision. Part of a State Trail may be managed by the Division of Parks and Recreation, but segments of the trail that cross property controlled by others will continue to be managed by those other landowners. NC State Trail designation also gives the NC Division of Parks and Recreation the enhanced ability of the State to help coordinate and facilitate the work of the other partners.

The alignment of the trail would go from McDowell County into Buncombe via the Point Lookout Trail that terminates in Ridgecrest. It would then follow NC 70 and the Swannanoa River to the Asheville area where it could join the Wilma Dykeman Riverway.

There is no request for the implementation of this extension of the Fonta Flora Trail at this time. The trail partners are only seeking a resolution of support for the concept of the extension of the Fonta Flora State Trail to the Asheville area.

Pros:

- Funding from the Park and Recreation Trust Fund exclusively set aside for state trails and parks and the Federal Recreational Trails Grant Program could be available for costs to create, maintain, and manage this extension in city boundaries.
- Authorization of the Fonta Flora State Trail may improve our ability to receive grants.
- Tourism studies have shown that hiking and biking tourists tend to stay in lodging longer and choose to support small businesses more than tourists that arrive in automobiles.
- Asheville would be a destination terminus of a NC State Trail and the intersection of three State Trails – Fonta Flora, French Broad River, and Mountains-to-Sea.

Con:

- There are no negative impacts for this resolution to support.

There is no fiscal impact to support this resolution.

Staff recommends that City Council approve a resolution supporting the extension of the Fonta Flora State Trail to Asheville.

RESOLUTION BOOK NO. 38 - PAGE 287

W. ORDINANCE NO. 4540 - ORDINANCE GRANTING A FRANCHISE TO SLIDR, LLC FOR THE OPERATION OF A LOW SPEED VEHICLE SERVICE WITHIN THE CITY OF ASHEVILLE

Summary: The consideration of an ordinance granting a franchise agreement for the operation of a low speed vehicle shuttle service within the City of Asheville.

Recently, City staff found out that a low speed vehicle shuttle service began operating in Asheville without a franchise agreement. City staff immediately contacted the business owner and a meeting was held on October 26, 2016 that included the business owner, his attorney, the Transportation Department, the Planning Department, and the Legal Department. It should be noted that the business owner was not trying to avoid following the City's regulations; he thought he had already covered all of the bases.

Although a main component of the company's business model is the ability to sell third-party advertising on the outside of the vehicles, the business owner acknowledges that this type of advertising is prohibited by the City's sign ordinance and he wants to proceed with the franchise agreement process. Staff has granted the business owner a temporary approval to operate the service until and if the franchise agreement is approved.

By definition (NCGS # 20-4.01(27)h), a low speed vehicle is a four-wheeled electric vehicle whose top speed is greater than 20 mph but less than 25 mph. It is **not** a golf cart! The vehicle(s) must be equipped with headlamps, stop lamps, turn signal lamps, tail lamps, reflex reflectors, parking brakes, rearview mirrors, windshields, windshield wipers, speedometer, seat belts, and a vehicle identification number. In addition, the vehicle(s) must be insured, registered and licensed in North Carolina.

The business is known as Slidr, LLC and they have five vehicles designated for the Asheville market. Each vehicle has seating for the driver and five passengers and only three vehicles will be operating at the same time because the vehicles must be rotated to allow for recharging. The shuttle service will operate between the hours of 11:00 am and 11:00 pm seven days per week. The City reserves the right to change the hours of operation at its sole discretion with a 30-day notice. The shuttle service will provide **free** point-to-point transportation services (drivers receive their compensation from tips) to its passengers within the coverage area which includes the Central Business District, Biltmore Village, and the River Arts District.

Currently, two low speed vehicle franchise agreements have been approved; however, the Land of Sky Shuttle has not begun operating and the Hilton Garden Inn Shuttle is limited to their guests only.

The business owner has worked closely with the Transportation Department, the Legal Department, and the Asheville Police Department and at this time, all concerns have been addressed. He is very committed for the shuttle service to be successful and he intends to work closely with staff to make any necessary tweaks if needed.

The Public Safety Committee reviewed this franchise agreement on November 28, 2016, and they unanimously endorsed it to move forward to City Council for consideration and approval.

Pros:

- Provides a much needed point-to-point transportation service with the Central Business District, Biltmore Village, and the River Arts District.
- The shuttle service is free (drivers receive their compensation from tips).
- Relieves and/or minimizes traffic congestion.

Con:

- There are no known cons.

There is no known fiscal impact for the subject franchise agreement.

Staff recommends that City Council approve an ordinance granting a franchise agreement to Slidr, LLC for the operation of a low speed vehicle shuttle service within the City of Asheville.

Mr. Mike Trombino, owner of Slidr, said that this is a free on-demand ride service using 100% electric carts operating in a coverage area which includes the Central Business District, Biltmore Village, and the River Arts District. They now operate off a telephone number but soon they will have an app. They have one driver and five passengers and only go 26 miles per hour. Drivers work for tips and the company makes money off their advertising. Drivers are guaranteed a living wage for Buncombe County - $10.09. However, drivers are now averaging between $19-24/hour.

When Councilman Haynes asked if Mr. Trombino would be willing to pay the Just Economics living wage of $13.00 without benefits, he said that if that is the living wage, then he would be happy to guarantee that amount.

Mr. Tim Sadler hoped the City can work with Slidr for an amendment to the franchise agreement to allow advertising on the outside of the vehicle with the contingency of being able to offer free rides.

X. RESOLUTION NO. 16-274 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH 4 SEASONS SITE & DEMO INC. FOR THE RADTIP BUILDING DEMOLITION - PHASE II PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $138,515 with 4 Seasons Site & Demo Inc. for the project known as RADTIP Building Demolition – Phase 2, City of Asheville Project # RAD-16-17-001, and further authorizing the execution of any change orders to said contract which may arise during demolition of said buildings, up to a total amount of $200,000.

The demolition of the buildings at 300 Riverside Drive, Asheville NC 28801 is necessary in order to complete the utility relocations for the upcoming RADTIP project. The project was advertised on November 18, 2016. Bids were opened on November 29, 2016, with the following results:

4 Seasons Site & Demo of Wilmington NC,	$138,515
B Allen Construction of Candler NC,	$143,132
Empire Dismantlement of Grand Island NY,	$146,003
Patton Construction Group of Asheville NC,	$194,920
Dore & Assoc. of Bay City MI,	$220,075
DH Griffin of Asheville NC,	$224,071

The work produced from this contract would demolish vacant buildings in poor condition, make room for necessary RADTIP utility relocations and make space for a future project.

Pros:

- Will demolish vacant buildings in poor condition.
- Will make room for RADTIP utility relocations
- Will create space for a future project.

Con:

- Demolition will be disruptive to adjacent residences and businesses.

The total budget for this portion of the RADTIP project is $200,000.

City staff recommends City Council adopt the resolution awarding the contract to 4 Seasons Site & Demo Inc. for the RADTIP Building Demolition – Phase 2 project and giving the City Manager the authority to execute any change orders necessary to complete the project.

RESOLUTION BOOK NO. 38 - PAGE 288

Y. RESOLUTION NO. 16-275 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT AND CHANGE ORDER TO EXTEND A CONTRACT WITH BULLINGTON CONSTRUCTION INC. FOR THE GUARDRAIL INSTALLATION AND MAINTENANCE CONTRACT FOR FISCAL YEAR 2017

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment and change order to extend the contract between the City of Asheville and Bullington Construction, Inc. for a one year period, in the amount of $99,952.55, and to execute any change orders to the contract which may arise during the contract term. The City Manager is also authorized to extend the contract for one additional, one year period in an amount up to $102,951.13, contingent upon available funding and budgetary approval.

The City of Asheville has a yearly contract for guardrail installation and maintenance. In Fiscal Year (FY) 15-16, the contract amount was for $95,585.00 and did not require going to

Council. That contract had an option to extend the contract for two additional one year periods. The City of Asheville and Bullington Construction, Inc. wish to extend the contract. This adds $99,952.55 to the contract in FY16-17 and $102,951.13 to FY17-18 (a 3% increase per year per the contract) necessitating Council approval. The results of the original bid were as follows:

Bullington Construction, Inc. of Oakboro, NC	$95,585.00
Reynolds Fence and Guardrail, Inc. of Indian Trail, NC	$107,607.50

The work produced from this contract would install new guardrail where needed and repair guardrail that has been damaged.

Pros:

- Will install new guardrail where it is needed and repair guardrail that has been damaged.
- Will make Asheville's roadways safer.

Con:

- Construction may temporarily impede traffic.

The total budget for FY 16-17 is $99,952.55. Funding is included in the Adopted FY16-17 Public Works Budget.

City staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract amendment and change order to extend the contract with Bullington Construction, Inc. for the project known as Guardrail Installation and Maintenance, Project # ST-16-17-002 and further authorizing the City Manager to extend said contract one additional, one year period, contingent upon available funding and budgetary approval.

RESOLUTION BOOK NO. 38 - PAGE 289

Z. ORDINANCE NO. 4541 - BUDGET AMENDMENT FROM U.S. DEPT. OF HOMELAND SECURITY FOR FIRE PREVENTION AND LIFE SAFETY PROGRAM

Summary: The consideration of a budget amendment in the amount of $96,480 to establish a project budget in the Special Revenue Fund funded by a grant from the US Department of Homeland Security and a City match from the Fire Department's General Fund budget.

At its March 22, 2016, meeting City Council approved a resolution authorizing the City of Asheville Fire Department (Fire Department) to apply for a grant from the US Department of Homeland Security to obtain funding for fire prevention and life safety programs, and to accept grant funding if awarded. Homeland Security accepted and reviewed our application and awarded the Fire Department a grant amount $91,886 for equipment and supplies necessary for a comprehensive home fire safety program, fire extinguisher training props, and an inflatable fire safety house. All successful applicants seeking a FP&S Grant shall agree to make available non-federal funds to carry out such activity in an amount equal to and not less than five (5) percent of the grant awarded, or $4,594.

Staff recommends City Council approve a budget amendment in the amount of $96,480 to establish a project budget in the Special Revenue Fund for the grant award ($91,886) plus the City match ($4,594). Staff recommends approval for the following reasons:

- Assist in decreasing the risk of death in home fires and provide greater safety for firefighters.
- The City would be able to utilize grant funds for the purchase of equipment.
- The City would be able to directly improve fire safety in the City of Asheville.

Pros:

- Improved safety and efficiency of firefighters when responding to dangerous environments.
- Decrease the occupant alerting and fire department response times for fires and carbon monoxide incidents in 400 homes by installation of smoke alarms, carbon monoxide alarms, street address identification and stove top fire extinguishing agent.
- Provide fire extinguisher classes to a greater number citizens as well as businesses in our community.
- Enhance the fire safety of our high risk communities which include our children under 6 years of age, persons with disabilities, as well as our older citizens.

Con:

- 5% cost share amount of the total purchase cost required of $4,594.00.

The City match of $4,594 will come from The Fire Department's existing General Fund.

City staff recommends that City Council authorize a budget amendment in the amount of $96,480 to establish a project budget in the Special Revenue Fund funded by a grant from the US Department of Homeland Security and a City match from the Fire Department's General Fund budget.

ORDINANCE BOOK NO. 31 - PAGE 34

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. AUDIT PRESENTATION

Chief Financial Officer and Director of Finance and Management Services Barbara Whitehorn said that this is the consideration of a motion to accept the Fiscal Year (FY) 2016 Comprehensive Annual Financial Report (CAFR) and the results of the FY 2016 annual external audit of the City's financial statements.

Cherry Bekaert has provided the City with an unmodified, or "clean," opinion that the financial statements are fairly presented in conformity with generally accepted accounting principles. This opinion is the highest form of opinion that the external auditors can express on the presentation of the City's financial statements.

The independent audit firm also conducts an analysis of the City's compliance with various federal and state laws, regulations, contracts and grant agreements and reviews the City's accounting and administrative controls

Cherry Bekaert found no instances of deficiencies in internal control that they would consider material weaknesses and no material weaknesses or significant deficiencies in internal control over compliance with federal and major state programs.

Pro:

- City received an unmodified opinion on financial statements and no findings on *internal control, stewardship, accountability and program compliance with federal and state awards.*

Con:

- None noted.

Mr. Eddie Burke, CPA, Audit Partner with Cherry Bekaert LLP, reviewed with Council the Fiscal Year 2016-17 audit which consisted of reviewing the City's major assets, liabilities and other areas within the financial statements issued by management for accuracy and consistency with General Acceptable Accounting Principles. He then reported on the role of the external auditor, the key highlights, internal controls, significant audit areas and financial results. In summary, (1) clean opinions (2) No Adjusted Journal Entries and three Proposed Adjusting Journal Entry; (3) good internal controls; (4) no management letter comments; and (5) full cooperation with management.

It was the consensus of Council to accept the 2016 Comprehensive Annual Financial Report.

B. UPDATE ON WNC FIRES

Fire Chief Scott Burnett briefly updated City Council on the WNC fires. He said that this has been an unprecedented firefighter season. In Western North Carolina there were approximately 65,000 acres burned in November 2016. That compares to hundreds of acres that typically burn during our fall wildfire season. There were over 12 Code Red air quality days in Asheville. Even though Asheville did not have a significant wildfire event (thanks to the efforts of our firefighters), we were impacted and able to assist our neighbors. We had a number of Asheville firefighters that assisted in 20 fires outside of our area during November, 2016 (roughly 20,000 hours combined in and outside City). He said there is only one fire in Clay County which is 95% contained.

C. STRATEGIC PRIORITIES OF CITY COUNCIL UPDATE

The update for the Strategic Priories of City Council were provided to the Council and the public on the website.

D. FINANCE UPDATE

The financial information in this report reflects the City's overall financial position for fiscal year through September, 2016.

"Amendments. There were no budget amendments in the General Fund during the first quarter.

Revenues. Through September 30, 2016, the City has collected $9.0 million in General Fund revenue, which represents approximately 8% of the total General Fund revenue budget. As noted during this year's budget process, the City recently switched to a 90-day accrual period for sales tax and state utility tax revenue to be consistent with other comparable-sized cities in North Carolina. As a result, the September payments from the State of North Carolina for both of these revenue sources, which used to be included in first quarter revenue reports, were accrued back to last fiscal year. Therefore, first quarter General Fund revenues are lower than in prior reports. In addition, staff has less current year trend data in which to make year-end projections, so current year estimates for sales taxes and state utility taxes are based primarily on FY 2015-16 year end revenue collections. With this limited data, Budget staff is currently projecting that FY 2016-17 General Fund revenue will finish the year very close to budget, at $110.25 million.

Expenditures. General Fund expenditures through September 30, 2016 totaled $24.3 million or 21% of budget, which is typical for this point in the fiscal year. In addition to the actual expenses above, departments have another $4.1 million in purchase orders and contracts encumbered against the revised budget. Factoring in these encumbrances along with the actuals expenses, approximately 24% of the expenditure budget is committed at the end of the first quarter. Personnel expenses, the largest component of the General Fund budget, are on budget through the first quarter. It should be noted that even though overall personnel expenses are on budget, expenses in the Fire Department are running approximately $700,000 ahead of budget at the end of the first quarter. Overall, staff is projecting that FY 2016-17 expenditures (including actual expenses and encumbrances) will finish the year at $110.67 million.

Fund Balance. The City began FY 2016-17 with unassigned fund balance of $18.0 million, after subtracting out the $960,000 fund balance appropriation included in the adopted budget. Based on current revenue and expenditure projections for FY 2016-17, staff estimates that unassigned fund balance at June 30, 2017 will increase slightly to $18.1 million or 16.4% of estimated expenditures."

E. HAYWOOD STREET COMMUNITY VISIONING PROCESS

Mr. Andrew Fletcher, Chair of the Haywood Street Advisory Team, provided a brief update from the Asheville Design Center regarding the community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in Downtown Asheville.

In October, the Advisory Team presented Council with an extensive list of potential temporary installations to activate the Haywood & Page properties. At Council's request, the team has refined their list, proposing the following unanimous recommendations for temporary installations and amenities at the Haywood & Page properties:

- Open markets;
- Mobile food vending;
- Interactive public art;
- Performance space compatible with the surrounding neighborhood;
- Moveable seating;
- Raised garden beds.

The Advisory Team has expressed a willingness to work with City staff to help identify partner organizations that would make these installations more feasible.

The Advisory Team has agreed to a schedule that will result in presenting their final vision to Council at their meeting scheduled for March 28, 2017. Prior to producing the final deliverable, they plan to hold a public meeting at the US Cellular Center to present the team's vision (or alternate visions) and provide the public a final opportunity for feedback. The Asheville Design Center anticipates organizing that public meeting towards the end of February or beginning of March.

After Council thanked the Task Force and the Asheville Design Center for their time and energy, it was the consensus of Council to have the Task Force work expeditiously with City staff to help identify partner organizations that would make these installations more feasible; implementation plans; etc, after which Council can give direction to the City Manager on the funding and management of the area aspects of the area.

F. HOMESTAY PERMITTING UPDATE - TWELVE MONTH REVIEW

Site Planning & Development Division Manager Chris Collins said that this report is an update on the Homestay Permitting Process enacted via a wording amendment that was adopted on November 17, 2015. The data in this report spans a time frame from November 18, 2015, to November 28, 2016.

Due to strong demand for homestay lodging, City Council passed a text amendment to Section 7-16-1(c)(9) to modify the requirements for a Homestay. Staff from the Development Services Department (DSD) has been charged with providing quarterly updates of Homestay permit activity and Short Term Rental enforcement. To date DSD has provided two updates to Council. The first update was March 22, 2016 and the second update was July 26, 2016. Due to the high level of interest generated around short-term vacation rentals the City Manager requested DSD provide updates in the form of a memo on a monthly basis. The last memo was provided on October 18, 2016.

In July of this year, Council allocated additional resources to the Development Services Department to facilitate the permitting of homestays and the enforcement of illegal short-term rentals.

The City hired one full-time staff member whose primary focus was to manage the Homestay permit process and to actively regulate and enforce illegal short-term vacation rentals. On October 26, 2015 the City hired a Development Review Specialist (DRS) to undertake this effort. The direct costs associated with this position include:

	FY16-FY17 YTD*	FY17 Est
Personnel (Dev. Review Specialist)	67,319	72,632
Operating (Vehicle)	809	2,000
TOTAL	**$68,218**	**$74,632**

**This represents November 2015-October 2015*

It's worth noting that in addition to the DRS numerous other City staff have committed valuable time and resources to managing Homestays and the enforcement of illegal short-term vacation rentals. This includes:

1. City Attorney (2)
2. Planning and Urban Design (1)
3. Development Services (2.5)

The time and resources spent on this effort by the additional staff listed above is variable and as such it is not possible to accurately estimate what the additional costs are but I do believe the costs have been significant this past year given the amount of time spent on tasks such as:

- Ordinance changes
- Records request
- Lawsuits
- Staff reports

On November 10, 2016 city staff began using a database provided by Host Compliance, a third party service engaged in identifying the addresses of properties advertising short term rentals on websites such VRBO, AirBnb and Homeaway. The use of a third party vendor also has a significant cost savings to the city as compared to hiring another FTE. It is worth noting that DSD has hired one part-time Administrative Associate to assist with the growing records

management component associated with this process. The table below shows the updated costs associated with managing the program moving forward:

Resources	Costs
Personnel: 1. DRS 2. Admin Assistant (0.5 FTE)	 72,632 20,000
Operating: 1. Host Compliance Contract 2. Vehicle	 26,370 2,000
TOTAL	**$121,002**

A year contract with Host Compliance would cost $26,370 compared to a $74,632/yr. for one additional DRS which amounts to an annual savings of approximately $50,000/yr.

The DSD began receiving applications for Homestay permits under the new provisions on November 18, 2015. Through November 28, 2016, there have been 164 applications submitted for the Homestay permits. The properties subject to these applications have been primarily focused within a few neighborhoods. However, it can be noted that the geographic distribution of homestay permits has been somewhat more widespread than originally reported.

When the July update was made, it was noted that homestay permit locations were trending into areas east and west of downtown Asheville as well as north. The above map shows this trend toward a more geographically even distribution of homestay permits continuing. The table below (figure two) contains further information related to changes Homestay permitting thus far.

Number of Applications Submitted	**164** ↑
Number of Permits Issued	**148** ↑
Homestays Providing Off-Street Parking	**72%** ↓

Enforcement - In addition to the one full-time Development Review Specialist position employed by the City for permitting Homestays and enforcing illegal short-term rental activity, the City has added a part-time Administrative Assistant position and partnered with a third party software service for assistance in identifying the addresses of violating properties advertising on web sites such as AirBnB and Homeaway.

In July of this year, staff reported a total of 68 total enforcement cases. As of November 28, 2016, that number has risen to 143 total enforcement cases representing a 47% increase in enforcement cases over a four (4) month period. Of those 143 enforcement cases, 52% have been proactively initiated by City Staff. Because City Staff has been successful helping those who can resolve violations by coming into compliance with regulation, only 11 citations have been issued. The table below highlights a selection of detailed results of enforcement cases:

Resolution of Case	Percentage of Cases
Homestay Permit Issued	7%
Violation Corrected (change of use in an allowed zoning district, change to 30 day minimum rental, etc)	10%

Invalid Complaint	10%

As previously mentioned On November 10, 2016, city staff began using a database provided by Host Compliance, a third party service engaged in identifying the addresses of properties advertising short term rentals on websites such VRBO, AirBnb and Homeaway. In its early stages, this tool has identified 915 properties advertising as short term rentals within the Asheville City Limits. Host Compliance has successfully identified physical addresses for 66% of these listings (approximately 604). While results must still be curated and verified by city staff, the use of this service has allowed staff to issue over 15 NOV's to violating properties during the 9 business days between activation of the software and November 28, 2016. The acquisition of this software service has enabled staff to overcome one of the previously listed concerns which was the "adaptation of rental listing website by actions such as the removal of all location identification information from advertisements".

Additionally, a part-time Administrative Assistant position has been added to assist the Development Review Specialist with filing, communications and paperwork associated with homestay permits and violation enforcement. The position was filled on November 28, 2016. This additional staff resource should aid in the expedient processing of both permit applications and notices of violation.

Staff Concerns - Through the administration of the revised permitting program, staff has encountered many different scenarios through homestay applications and enforcement. Included among these concerns are:

- Possible false representation of residency;
- Floorplans not representing legally permitted building work;
- Accurately identifying livable space and unit separation; and
- Continuing press and recognition of the value of the short-term rental market in Asheville.

Next Steps - With further resources in place in the form of additional staff and third party address identification services, a substantial increase in enforcement activity is expected to occur (as can be seen by the increase in the number of NOV's issued in November). Many of these enforcement actions may be eligible to gain compliance through homestay permitting which will, in turn, create an expected substantial increase in homestay permits applied for an issued.

Staff will continue to work with the Host Compliance software service while diligently verifying supplied data to identify properties that are possibly in violation and those which may have the opportunity to gain compliance through Homestay permitting or other means.

When Vice-Mayor Wisler asked when people are contacted about a violation do they understand it's a non-permitted use, Mr. Collins said that they come across people who are unaware that it's illegal or unaware that it can be obtained legally, or just someone who is aware of the law but are continuing to do it because there is a lot of income involved.

Mayor Manheimer said that the City can charge an administrative fee for the permitting that covers the cost for the staffing to administer the program, but if there are any fines received for violations, under the North Carolina Constitution, those fines must be remitted to the North Carolina School System.

Councilwoman Mayfield asked that the total amount collected (broken down by the amount forwarded to the School System and the administrative portion) be included in the reports to Council.

Councilman Bothwell noted that the permitting fees on homestays do not cover the enforcement of short term rentals.

It was the consensus of Council to have an update on homestay permitting every six months.

G. ACCESSORY DWELLING UNIT TASK FORCE REPORT

Mr. Ed Manning, Task Force Facilitator and Executive Director of Leadership Asheville, said that the Accessory Dwelling Unit (ADU) Task Force was charged with developing recommendations for City Council on whether or not to use accessory dwelling units as short term rentals in our community and if so, under what conditions and/or restrictions. He then described the process used to facilitate group discussion and development of the task force recommendations. While the task force did not reach a unanimous decision, it did accomplish some key results (1) collaborative recommencations; (2) a list of concerns; and (3) the list of stakeholders identified. Of note, the task force did not assign any weight to stakeholder concerns prior to evaluating the ideas. It is the opinion of the facilitator, that City Council members should assign a weight to each stakeholder's concern based on their knowledge of the strategic direction of the City and use that weighted list of concerns to evaluate which idea best meets the needs of our community at large.

Mr. Carter Webb presented the super majority idea - Core Idea 1, as follows:

"Our Task Force recommendation ("Core Idea 1") was designed to address the concerns of the following stakeholders: Accessory Dwelling Unit ("ADU") owners, tourists, neighborhoods, City staff, City Council, renters, potential home-buyers, homeless, hotels, bed and breakfast operators, property managers and investors, homeowners, and businesses – current and those seeking to relocate to Asheville.

It is imperative to the local economy for the residents of Asheville to be able to have an affordable place to live. Moreover, we felt that it was equally important for the neighborhoods of Asheville be able to maintain the unique character and charm that so many currently have. Our Task Force strongly feels that allowing an ADU to be considered 'Homestay' operation (as the term is defined in Chapter 7, Article II, Section 7-2-5 of the Code of Ordinances of the City of Asheville) negatively affects the community. Under this Core Idea 1, ADU owners still have the ability to have a steady income stream even without being able to rent the ADU short-term. We believe that the Core Idea 1 is the best option for the City of Asheville to meet the majority of the concerns of the stakeholders listed above.

The purpose of Core Idea 1 is to increase the supply of affordable housing for all Asheville residents through existing programs. These existing programs support the creation and preservation of affordable housing, to include an 'Accessory Dwelling Unit' – as the term is defined in Chapter 7, Article II, Section 7-2-5 of the Code of Ordinances of the City of Asheville – for Asheville citizens of all income levels and will expand other programs to meet the growing need for stable, affordable and long-term housing in the city for its residents. These existing programs will do the following:

1. Inform the citizens of Asheville about the current affordable housing situation within the City of Asheville;
2. Educate the citizens of Asheville regarding the city's role and the support the city has provided to create affordable housing for its citizens;
3. Distribute information to the public about existing and new opportunities within the city that will add affordable housing and will help build financial security for current and prospective property owners; and
4. Offer appropriate resources to individuals to assist them with effective ways to search for safe and affordable housing.

These programs will prioritize and balance economic opportunity and growth with neighborhood stability, harmony and character, but will not undermine the character of Asheville's neighborhoods by permitting short-term lodging.

It is the Task Force's suggestion that City Council consider the following proposals to give the community the ability to continue to provide safe, equitable, diverse and affordable housing opportunities to city residents:

1. Prohibit the use of an ADU as part of a 'Homestay' operation by doing each the following:

    i. Proactively enforcing violations by increasing fines for violations; and
    ii. Educating the public that an ADU use as a Homestay is illegal in residentially zoned areas.

2. Develop a public relations campaign, city-wide, with the purpose of informing the public about Asheville's housing situation and why City Council voted to prohibit the use of an ADU as part of a Homestay Operation with the listed reasons and supporting data:

    i. Provide details regarding the need for more affordable housing, including specifics about the upcoming ballot on the 2016 Bond Referendum for $25 million in housing affordability bonds that would provide support for the Housing Trust Fund (the "HTF") and would enable the city of Asheville to repurpose city-owned land for development that supports housing affordability;
    ii. Provide specific information about how an ADU used as part of a Homestay operation removes that ADU from the rental housing market thereby providing less affordable housing to residents of the city; and
    iii. Show detailed information about how tax dollars are being allocated for affordable housing.

3. Provide incentives to residents to develop an ADU for the sole purpose to rent long term by some of the following:

    i. Use the HTF to encourage residents to upgrade or create ADUs to be used as long term rentals;
    ii. Provide low interest construction loans to residents to build an ADU on their property to be used as a long term rental;
    iii. Award subsidies to residents who offer affordable ADU units to tenants;
    iv. Waive city permit fees to create an ADU unit to be used as a long-term rental or in the alternative, reduce the amount of the fees it takes to obtain such city building permits; and
    v. Provide an approval process by the city to allow more off-street parking for residents of an ADU.

4. Facilitate city-wide programs or seminars to grow the housing economy from the "bottom up" such as the following:

    i. Schedule seminars to be taught by trained professionals on city ordinances to teach residents how to follow the law as a landlord and allow for some form of certification process; such seminars are a requirement for any the HTF loan recipient;
    ii. Educate and inform residents about the benefits of using an ADU as a long term rental option;
    iii. Partner with local non-profit organizations to develop an on-going

support system for landlords to foster successful outcomes;

iv. Design an ADU road-map similar to the City of Asheville Restaurant Startup Guide with the purpose to help residents maneuver through the development and approval process and provide links to appropriate resources; and

v. Partner with local non-profit organizations to provide educational programs for ADU tenants to inform them of their responsibilities and rights.

5. Educate citizens on legal short term rental options including the following:

   i. Homestay program pursuant to Chapter 7 of the Code of Ordinances of the City of Asheville; and
   ii. Change of use permits in commercial districts where lodging is permitted.

6. Encourage Neighborhoods to discuss and plan for ADU development similar to the 'Plan on a Page' process currently in place. Ask neighborhood associations to discuss how ADUs would fit on individual homeowner's properties and within the context of their neighborhood.

7. Develop a "Create an ADU" presentation by doing the following:

   i. Use national and international examples of well-designed, well-planned, and well-built ADUs (both free-standing as well as part of existing homes) for a "road show" to take to target residents in the city – such as homeowners, neighborhood associations, and trade associations;
   ii. Recruit and train ADU supporters to assist the City of Asheville to develop and implement presentations; and
   iii. Educate the community about the benefits of creating ADUs."

Mr. Jackson Tierney presented the minority idea - Core Idea 2, as follows:

"The inclusion of ADUs in Homestay rules seeks to expand an economic opportunity to Asheville residents that allows them to benefit from, and support, the existing tourism industry. The greatest benefit of ADUs is their flexibility of use as the needs of the property owners evolve over time. The more use options there are for ADUs, the greater the incentive is for property owners to undertake the investment in and building of ADUs, which will add to the diversity of housing stock and provide for greater neighborhood resiliency.

The integrity of neighborhoods will be preserved by limiting the number of ADU homestay permits and by ensuring they are operated safely and in accordance with applicable building codes. Permit holders will be present during operation and held to strict adherence to homestay rules. Permit will be revoked if found to be in noncompliance.

In concert with these revised homestay rules, the city will advance programs to support the creation of ADUs and promote long-term rental options. These programs will educate and inform citizens about: the current state of housing in Asheville, existing and new opportunities that add housing and build financial security for current and prospective property owners, and provide training resources on how to manage successful long-term rental units.

Allow ADUs as STR homestays with the following conditions:

1. Limit the number of ADU homestay permits.
   - Cap on total number of ADU homestays by Census Tract
   - Cap on total number of ADU homestays city-wide

- Distance separation
- Permits must be renewed yearly, but cannot exceed X consecutive years by the same ADU location
- Permits not eligible for persons owning an ADU less than X years, or having built an ADU and possessing its C.O. for less than X years
- Provide neighborhood overlays to opt out of ADU homestays

2. ADU homestays will be operated safely, in compliance with building codes and equitably as compared to other lodging options:

   A. The ADU homestay owner or operator shall maintain liability insurance on the property, which covers the ADU homestay use and ADU homestay guests.
   B. The ADU homestay owner or operator must pay any applicable taxes, including occupancy and sales taxes, to the appropriate governmental entity.
   C. The ADU homestay shall comply with all current and applicable building codes.
   D. The ADU homestay must be reviewed annually and inspected for compliance with this subsection.
   E. Permit revocation after three verified violations.

3. The homestay operation shall be managed and carried on by a person who: 1) is a full-time resident of the property; and 2) is present during the homestay term for the entire time lodgers are staying at the property. To be a "full time resident," the person must reside on the property on a permanent basis, and it must be the person's primary home. For purposes of this homestay ordinance, a person can only have one primary, full time residence, and the homestay must be operated from that primary, full time residence. In order to be "present during the homestay term," the full time resident shall be at the property overnight and not away on vacation, visiting friends or family, travelling out of town for business or personal reasons, etc. during the homestay term. The host may be subject to a fine should an issue arise and they are not on the premises or cannot be within a reasonable time. However, the full-time resident may be temporarily absent from the property for purposes related to normal residential activities such as shopping, working, attending class, etc. A minimum of two documents establishing proof of residency shall be supplied from an approved list of documents. Only one homestay shall be permitted per lot/parcel. Homestay permits shall be limited to one per person, at any given time. A picture of the valid homestay permit shall be included on all public advertising pages.

4. All ADU homestays shall require off street parking, including ADUs within one mile of the CBD.

5. Develop program of education and incentives to encourage ADU owners to rent their units long-term (greater than 30 days):

   A. Use city Housing Trust Fund (HTF) to upgrade existing "in-law apartments" to create ADUs with legal provision so they are used as long-term rentals for set period.
   B. Incentivize ADUs to be constructed by reducing city fees with legal provision so they are used as long-term rentals for set period.
   C. Offer landlord classes focused on long-term rentals for small sized structures."

Councilman Bothwell said that in the voting method Mr. Manning wanted to find people who could live with and support one or the other core ideas. He has heard from one member of the Task Force that although he said he could live with the idea, he could not support Core 1. Mr. Manning said the question to the members was "could you live with and support" and all those who could live with and support to raise their hands. He then simply counted the hands raised.

When Vice-Mayor Wisler asked if there was any discussion on what the potential numbers might be in the "X" conditions in Core 2, Mr. Jackson said that they did not spend a lot of time on that. They did throw out some numbers for the feel or sense of what they were talking about.

In response to Councilwoman Mayfield, Mr. Jackson explained the policy objective behind the cooling off period for new homeowners with existing ADUs or homeowners who build new ADUs.

Ms. Kelly Prime, Task Force member, said that the focus lately on the vote itself is a little bit of a red herring. The Task Force decided to submit to Council both Core Idea 1 and Core Idea 2. Focusing on the vote and decision-making between those two is side-tracking. She felt Council should focus on the hard work of the Task Force.

Mr. John Farquhar, Task Force member but speaking as an individual representing himself and other private citizens, talked about the Portland experience and an alternative compromise to move forward: (1) set up 18 month pilot program; (2) keep room homestays; (3) add ADU homestays; (4) reaffirm ban on whole house short term rentals (STR); (5) permit ADU homestays in accordance with existing homestay rules; (6) do not add any additional restrictions; (7) work with Airbnb to insert permit facsimile and report non-compliance (8) allow up to 150 ADU homestay permits on a first-come first-service basis; (9) at end of pilot period, analyze - number, type and source of neighborhood complaints; (10) GIS location of permits; (11) rental market conditions in Metro Asheville; (12) survey results of ADU owners and neighbors; and (13) based on information collected, expand, contractor sunset ADU homestays (data driven decision making). He felt the benefits would be to (1) accelerate Council initiative to encourage ADU construction and increase housing density; (2) provides a data-rich framework for future decision-making; (3) reduces enforcement cost; (4) keeps more tourist dollars - and multiplied spending - in Asheville; and (5) blunt future whole-house STR actions (ADU hosts were significant movers/contributors to the STR lawsuit).

The following individuals voiced their various opinions regarding the issue of ADUs as homestays, along the process used for decision-making and voting by the Task Force.

Dan Rogers, representing the Asheville Bed & Breakfast Association
Rob Neufeld
Casey Campfield, downtown business owner
Tim Sadler
Michael Smith
Individual that runs a homestay
Individual representing more than 100 full-time Asheville residents and active voters
Brandee Boggs
North Carolina Green Party Co-Chair but individual representing himself
Wendy Dean, member on the Task Force, but speaking as an individual
David Rodgers, member of the Task Force
Greta Bush, member of the Task Force
Jane Mathews, member of the Task Force

Councilman Bothwell appreciated the effort made by members of the Task Force; however, he felt the process was deeply flawed for a number of reasons including the methodology, the exclusion of participants, misinformation and a lack of content. He then read

the following statement: "First and most obvious is the reported vote from the Task Force. On Council we can't vote yeah and nay on the same question. Participants were permitted to vote twice, both for legalization and for maintaining the ban on Short Term Rental of Accessory Dwelling Units. Some participants don't seem to understand the vote or the voting method and the lack of transparency is troubling. The results presented were made to appear objective but the interpretation appears to be entirely subjective. At least one participant felt he was misled in the process.

"Secondly, the most critical affected parties were excluded from the discussion. We created a $500 per day fine, boosted enforcement with an extra $120,000, and then asked STR operators to come in and discuss their business. As a practical matter that means they had to quit renting or risk prosecution. Nor could they solicit letters of support from neighbors who were perfectly happy with the STR next door.

"The whole debate has been conducted in the shadow of the Bowen Report which indicated a 2014 rental vacancy rate of 1 percent. But that information was already dated when Mr. Bowen delivered it in January 2015. It has become less and less accurate every month since. Mr. Bowen said a 4-6 percent vacancy rate is normal in a healthy market. In the third quarter of this year one industry analysis shows a 6.8 percent vacancy rate. As measured by Mr. Bowen's yardstick we now have an excess of rental units. Elimination of a few dozen Short Term Rentals had nothing to do with that change.

"Finally this task force did not consider the context of their deliberations. A major driver of the debate is concern expressed by those who say that STRs are a threat to neighborhoods. If that is the issue, then we on Council need to decide how we can best address threats to neighborhoods with the resources we have available. If identifying the most urgent neighborhood problems had been the function of the task force it might have identified barking dogs or gas powered leaf blowers, noise from the stump grinder on Riverside, or parking problems or the need for a new leaf vacuum truck, or any number of things.

"As Chair of the Public Safety Committee I would say the most serious neighborhood problem in Asheville is the fact that we led the state in pedestrian deaths. We have been reminded of that with two cyclists hit in recent weeks and the tragic death of two children crossing a road which has no marked crossings. Judging by the signs around town that urge drivers to slow down, I'd say concern about speeding is widespread. A pedestrian struck by a car going 20 mph has a 95 percent chance of survival. At 40 mph the survival rate goes down to 10 percent. Why do I mention that? Not far from where I live, Barnard Avenue is a cut through between W.T. Weaver Boulevard and Edgewood Road. As more people discovered it, a lot of outsiders began to use it at alarming speeds. Recently the City installed 8 speed bumps and traffic has calmed remarkably in just a few weeks. Most cars are now traveling at the posted speed of 20 mph. Transportation Director Ken Putnam tells me that each speed bump cost is $2,500, so that a $20,000 improvement for that neighborhood.

"The additional STR enforcement money, $120,000, would cover 8 speed bumps in 6 more neighborhoods. We can't afford to put sidewalks on every street like Barnard, but we can afford some traffic calming there. It would be great to give Ken Putnam the resources he needs to address a long list of other streets that need calming.

"So as a Council member who needs to make the best choices for our City, I ask myself, is a neighbor who hosts well-behaved short term guests in an Accessory Dwelling Unit the bigger threat to a neighborhood? Or is it strangers racing through at breakneck speed? We could put down speed bumps in six more neighborhoods each year instead of chasing down your next door neighbor who rents some rooms. Or we could direct that money to sidewalks on Lakeshore or Haw Creek, or install pedestrian crossings on Fairview Road where those two children died. I a clear on the choice I would make for my own neighborhood.

"Here's were I come down. The reported Task Force vote was questionable and contradicted by participants. It did not include substantive input from the most affected parties. It operated under the misapprehension that the 2014 rental housing crisis is ongoing. And in consideration of a purported negative impact on neighborhoods it did not consider the big picture of how the City ought to apportion limited rescurces to address the most serious problems in the community. Finally I note that when the City ran a survey on our website, 77 percent of respondents favored adding Accessory Dwelling Units to the Homestay program, and in testimony before Council a majority of speakers agreed.

"It is time for this Council to make a decision that should have been made a year ago and I believe something like the Portland solution is the best path forward.

"Therefore," Councilman Bothwell moved to instruct staff to prepare the regulatory changes needed to make Short Term Rental of Accessory Dwelling Units legal in the City of Asheville. This motion was seconded by Councilman Haynes.

When Councilwoman Mayfield asked how many ADUs have been built since November, 2015, City Manager Jackson said that he wou'd provide that information to Council.

In response to Councilwoman Mayfield, City Attorney Currin said that she has reached out numerous times to New Orleans regarding their Airbnb enforcement; however, to date she has not had a response.

In response to Mayor Manheimer, City Attorney Currin said that the suggestion to have the Airbnbs give Asheville $1 per night for the affordable housing trust fund would be something she would have to research, as it might be viewed as a tax.

Councilwoman Mayfield said that Council has been provided with a lot of information that will need to be considered; therefore, she was not prepared to vote on a motion at this time.

Councilman Smith respected all of the voices coming forward to deal with this situation across the nation. We are deep in a housing crisis. For those people behind Core 1, there are ideas around incentivizing ADUs for long-term rentals are very appealing. Some of that work has started at the City Council Housing & Community Development Committee already and they have provided some excellent ideas that they will pursue. He said that we are getting an update on the Bowen Report this month. Long term renters are being evicted from ADUs to make room for tourists. He felt that if we proceed with Councilman Bothwell's motion, there would be enforcement at all. The idea of an 18-month pilot program is good, but he felt that we should start with an 18-month pilot program for incentives for long-term rentals for ADUs in our neighborhoods. He felt we need to start addressing our housing crisis for the residents of the City of Asheville before we start talking about how we make sure tourists have a place to stay in our neighborhoods.

Vice-Mayor Wisler said that Council intentionally set up the Task Force with a balance of voices. Until we get to a program that feels closer to the balance of all stakeholders, she was not willing to take away enforcement of the regulations because it will be difficult to begin the enforcement again. She was though, willing to continue to look at the various alternatives to better balance the stakeholders.

Councilman Bothwell said that the point of creating a license system is that we can recover the cost, so we would replace the $120,000 with the fees paid by people who get licenses. Also, he agreed we are not at the point of taking away the regulations, but if we agree to move toward making them legal, we can then embrace the ideas from different cities and find the best answers. As long as they remain illegal he didn't think we will make any progress.

Councilman Haynes felt that Councilman Bothwell's motion is not to end enforcement, but it's moving forward in supporting ADUs as short term rentals.

On behalf of Council, Mayor Manheimer thanked the Task Force for their work and commitment to this process. In terms of process she liked the idea of a Task Force because it allows a group of balanced thinkers to dissect a complicated issue. Because of that, she felt it was important for Council to support the Task Force recommendation. One of her concerns is that there would be so much disruption on what process was used so as to invalidate the Task Force recommendation but most of the Task Force spoke at this meeting. She felt there was a slim majority of those that want to maintain prohibiting ADUs from becoming homestays. She liked the recommendation about teaching people how to do ADUs and that is something the City can certainly do. To her, this is a fluid and evolving issue. Her vote in support of the Task Force recommendation is not closing the door forever on this discussion. She is deeply concerned about people being able to afford to live in their homes and using this as a way to do that, balanced with people who are needing a home and looking to an ADU as their affordable home. She would be willing to revisit this issue because it is quickly evolving.

Councilman Young didn't think Councilman Bothwell's motion invalidates the recommendation of the Task Force. Because it is just a recommendation, he felt it was Council's responsibility to make the tough decisions and choose to follow those recommendations or go in a different direction.

Councilwoman Mayfield agreed that Council needs to focus less on the vote and the process (even though transparency and a good solid process is key) but more on the work of the Task Force.

At the suggestion of Councilman Smith, Mr. Randall Barnett said that it was his understanding that all Task Force members voted twice on a sliding scale. He voted to support Core Idea 2 and could he live with Core Idea 1.

At 8:00 p.m., Vice-Mayor Wisler called the question.

The motion made by Councilman Bothwell and seconded by Councilman Haynes failed on a 3-4 vote, with Mayor Manheimer, Vice-Mayor Wisler, Councilwoman Mayfield and Councilman Smith voting "no."

Councilwoman Mayfield moved to continue this conversation in the realm of the City Council Housing & Community Development Committee.

At the suggestion of Mayor Manheimer, it was the consensus of Council to place this item on the January 10, 2017, agenda and that Council be prepared to recommend further steps.

Councilwoman Mayfield then withdrew her motion.

Closed Session

At 8:05 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10 (a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: City of Asheville vs. The State of North Carolina. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To consider the qualifications, competence, performance, character, fitness, or conditions of

appointment of an individual public officer or employee. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(6); and to prevent the disclosure of information that is confidential pursuant to N.C. Gen. Stat. § 160A-168, the Personnel Privacy Act. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:40 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE DEVELOPMENT

RESOLUTION NO. 16-276 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR THE SKYLAND EXCHANGE DEVELOPMENT

Community Development Analyst Chris Hnatin said that this is a public hearing to consider approving a land use incentive grant for the Skyland Exchange (Hathaway Development). This public hearing was advertised on December 2, 2016.

The developer of Skyland Exchange, Hathaway Development, has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015. Hathaway Development is developing a 14.32 acre site, located on Miami Circle in South Asheville. The developer estimates a total development cost of $32,710,837 and an improvement value of $36,190,837. The project consists of 290 residential rental apartments, with 10% units (29 units) proposed affordable (80% AMI or less). The site is within 0.25 miles of transit and 0.5 miles of schools; the job centers in Biltmore Park, is over 1 mile.

The project, as presented to staff, meets the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing

The proposed project will provide 290 units with 29 units (10%) being affordable to households earning 80% or less of the average median income, and the developer has committed to the affordability period of 15 years. This project qualifies for 20 points in this category.

Superior locational efficiency

200

The proposed project is within 0.5 miles of a school in T.C. Roberson; the project is also within .25 mile of an existing bus-stop served, but is not served by a one-half hour ART transit frequency (1.5 hour frequency). HCD Committee has recommended points for the proximity to transit despite the 1.5 hour route frequency; the site is not within 1 mile of a job center (1.8 miles to Biltmore Park). The project scores 5 points in this category.

The Housing and Community Development Committee reviewed the application at their meeting on September 16, 2016. The HCD Committee recommended an additional 5 points for transit access, and recommends approval of the project with a total of 30 points. This would make the project eligible for a three-year Land Use Incentive Grant.

At the October 18, 2016 HCD meeting, Chairman Smith noted that he would like to change his previous vote on the LUIG application for Skyland Exchange Project, which had been considered at the September 16, 2016 HCD meeting, and received a unanimous vote to recommend to City Council 30 points for the LUIG application. As per the minutes of the October 18, 2016 HCD meeting, "It is noted that Gordon Smith would like to change his vote on the LUIG application for Skyland Exchange during the last meeting. The initial vote was to add points for transit, but {he} would like to change vote to remain within policy. This would change the 30 points awarded to 25 points." There was no formal reconsideration of the previous vote by the full committee; however, the October minutes reflect Councilman Smith's comments.

Pros:

- The proposed project will provide affordable rental housing to 29 households earning 80% or less of area median income, for a period of 15 years;
- The proposed project is in close proximity to schools and transit;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Cons:

- The project has been approved for Conditional Zoning, with 10% of the units to be built pledged as affordable. Staff notes that successful affordable housing agreements often combine financial incentives with regulatory agreements.

The current assessed value of the two parcels is $1,007,100 ($244,300 and $762,800). The developer's estimate of improvement value is $32,710,837 with a completed estimated project taxable value of $36,190,837. The current annual city tax, based on current assessed value, is $4,783.73. The annual estimated city tax post completion, based on the developer's estimate of value is $171,906.48; therefore, the estimated annual Land Use Incentive Grant would be $167,122.75, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 3 years, the estimated Grant would be $501,369. The subsidy per affordable unit would be $17,289. The subsidy amount per affordable unit/year of affordability would be $1,153.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Stormwater Plan Review Fee, and Water Service Connection Fee is $89,344. The value of each 10% of eligible fee rebates would be $8,934. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 30 point level (30%), the fee rebate would be $26,802.

The total estimated Land Use Incentive Grant benefit over 3 years is $528,171, which equals $18,213 subsidy per unit, and $1,214 subsidy per unit per year of affordability.

Staff recommends that Council approve the request of Skyland Exchange for a Land Use Incentive Grant.

In response to Vice-Mayor Wisler, Assistant Community & Economic Development Director Jeff Staudinger said that the City regularly combines incentives of various natures in order to create an incentive for affordable housing development in the private sector. He said that she saw no problem in moving the conditional zoning process and requests for land use incentive grants process concurrently through the Council process.

Mayor Manheimer opened the public hearing at 8:52 p.m.

Mr. Chris Day, with Civil Design Concepts, explained their request for the grant and asked City Council for their support.

It was noted that Mr. ViJay Kapoor provided written comments since he was unable to attend the meeting. Briefly, he said "The possibility that tax breaks were available never came up during discussions with the St. Barnabas parishioners, at the Planning & Zoning Board or at City Council. As a taxpayer, it outrages me that my tax dollars might subsidize a project that displaced poor, vulnerable families with young children – the same families that the City's affordable housing programs are trying to help."

Mayor Manheimer closed the public hearing at 8:58 p.m.

Councilman Smith said that he could only support the 25 point level because it goes outside of Council's policy regarding transit routes.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 16-276 at the 30 point level. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Smith voting "no".

RESOLUTION BOOK NO. 38 – PAGE 290

B. PUBLIC HEARING TO CONSIDER REZONING 90 ASHELAND AVENUE AND 202 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; 206 ASHELAND AVENUE, 216 ASHELAND AVENUE, 222 ASHELAND AVENUE AND 90 SOUTHSIDE FROM OFFICE BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; AND A PORTION OF 88 SOUTHSIDE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT; AND AN AMENDMENT TO THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

ORDINANCE NO. 4542 - ORDINANCE TO REZONE 90 ASHELAND AVENUE AND 202 ASHELAND AVENUE FROM REGIONAL BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; 206 ASHELAND AVENUE, 216 ASHELAND AVENUE, 222 ASHELAND AVENUE AND 90 SOUTHSIDE FROM OFFICE BUSINESS DISTRICT TO CENTRAL BUSINESS DISTRICT; AND A PORTION OF 88 SOUTHSIDE FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO CENTRAL BUSINESS DISTRICT

ORDINANCE NO. 4543 - ORDINANCE AMENDING THE OFFICIALLY ADOPTED HEIGHT ZONE MAP

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to rezone 90 Asheland Avenue and 202 Asheland Avenue from Regional Business District to Central Business District; 206 Asheland Avenue, 216 Asheland Avenue, 222 Asheland Avenue and 90 Southside from Office Business District to Central Business District; and a portion of 88

Southside from RM-16 Residential Multi-Family High Density District to Central Business District; and an amendment to the officially adopted Height Zone Map. This public hearing was advertised on December 2 and 9, 2016.

The City of Asheville is initiating the review of a rezoning for multiple parcels along the east side of Asheland Avenue from Office Business (OB), Regional Business (RB) and Residential Multi-Family High Density (RM-16) to Central Business District (CBD). This review includes an amendment to the height zone map to apply the intermediate height limit to all properties included in the rezoning.

The area proposed for rezoning consists of ten separate PINs on seven parcels along the east side of Asheland Avenue. The lots are developed with a variety of commercial and office uses and range in size from 0.37 acres to 1.57 acres in size.

The parcels are zoned Office Business, Regional Business and one is a portion of a split-zoned area zoned RM-16. There is CBD zoning to the east and north. The west side of Asheland Avenue (not under consideration for rezoning at this time) has Office Business and Regional Business zoning and Office Business continues to the south.

As described in the sections on plan compliance and recent zoning actions below, staff has been anticipating an expansion of the CBD zoning in this area and was originally pursuing rezoning both sides of Asheland Avenue. However, after meetings with the Downtown Commission, Design Review Committee and community representatives from the South French Broad Neighborhood group, the west side of the corridor is not proposed for any zoning change at this time. From the discussions with the aforementioned groups, as well as staff analysis of the limitations to development potential on these parcels, and the potential impacts on the surrounding single-family neighborhood, it was agreed that more time is needed to evaluate the possible expansion of the CBD in this area and whether or not the current CBD regulations are appropriate. Additionally, this corridor is included in the upcoming South Slope Visioning Study Area and more input on appropriate zoning, development or uses directly adjacent to the residential neighborhood may be gleaned from that process.

Along the eastern side of Asheland Avenue, the properties all abut CBD zoning; the concerns relating to rezoning the west side of the corridor are not applicable to these parcels.

Most recently, the property at 200 Asheland was rezoned from RB to CBD in 2015. Multiple other parcels in the vicinity have been similarly rezoned in 2013 and 2014. There have been several Level II projects approved in the vicinity for residential development (88 Southside, 2016; 185 Coxe Avenue, 2015).

Approval of the rezoning proposal requires an amendment to the Downtown Height Zones map and these parcels would be placed within the Intermediate Height Zone. Asheland Avenue is already considered a Key Pedestrian Street. Extension of the context transition edge is not applicable along the majority of the area as there is no adjacent residential zoning (with the exception of 88 Southside Avenue). Any future development would be required to comply with Central Business District design requirements and review standards.

The Downtown Commission (DTC) has discussed this proposal over multiple meetings and unanimously supported the request to rezone these parcels along the east side of Asheland Avenue and apply the intermediate height zone at their meeting on October 14, 2016.

Staff and members of the DTC held a meeting with Asheland Avenue property owners in January 2014 and met with community residents in July and September 2016.

At their meeting on November 2, 2016, the Planning & Zoning Commission voted unanimously in support of this effort. At the meeting, one property owner included in the rezoning

spoke in support. No other communication has been received as of the writing of this report.

Zoning in this area includes CBD to the north and east, OB to the south, and OB and RB to the west. The area is developed with a mix of uses including medical and other offices, residential and some manufacturing and distributive businesses. Uses currently on these sites are allowed in the CBD and considered compatible with the surrounding area.

Design standards mandated by the city's Unified Development Ordinance (UDO) would require that any future development be pulled up towards and activated with the street rather than set back with parking in the front. The maximum height permitted (145 feet) would be significantly greater than current zoning (60 to 80 feet) but is less than the properties adjacent to the west along Coxe Avenue, which are within the tallest height zone.

There are policies throughout the *Asheville City Development Plan 2025* supporting the need for higher-densities and a mix of uses, especially concentrating development in downtown and areas close to the CBD for this type of development. CBD zoning allows for a greater variety of uses and higher residential densities while maintaining and requiring design elements that will encourage multi-modal transportation and an urban form of development that is more amenable to the pedestrian experience.

The Land Use & Transportation section contains a specific goal to "continue to look for opportunities to expand the boundaries of the CBD to areas appropriate for that type of development".

The *Downtown Master Plan* recommends strategies for the continued vitality of the downtown and specifically included this section of Asheland Avenue as an area for expansion of the CBD due to its proximity to the CBD, wide right-of-way and potential for urban growth. A number of maps in the plan expanded beyond the current CBD boundary because these edge areas were noted as having that potential to grow and improve following an urban development pattern.

The proposal aligns with the 2036 Council visions in the following areas: (1) *A Well-Planned and Livable Community* - through the enhanced design standards that accompany development with the CBD zoning designation; (2) *Transportation and Accessibility* – due to the requirements for wider sidewalks, pedestrian-friendly design and urban streetscape possibilities; and (3) *Thriving Local Economy* - from the wider mix of uses and opportunities for more intense development (including a higher residential density)

Considerations:

- Expansion of the CBD is generally recommended in the *2025 Development Plan* and specifically recommended along Asheland Avenue in the *Downtown Master Plan*
- Five similar requests have been approved in this immediate location since 2013, leading to staff and the Downtown Commission pursuing a multi-parcel rezoning effort
- While staff was originally pursuing rezoning both sides of Asheland Avenue to CBD, discussions and analysis have shown that the western side may need a new or separate zoning designation to better balance the goals of the City and development potential with limiting negative impact to adjacent residential neighbors

Staff recommends approval (1) of the proposed rezonings, finding that the proposal to expand the CBD is consistent with City-adopted plans and strategic goals for development in this area as well as following similar rezoning actions in the immediate vicinity; and (2) the amendment to the officially adopted map pertaining to the Central Business District - Height Zone Map.

Mayor Manheimer opened the public hearing at 9:03 p.m. on the rezoning and the amendment to the height zone map; and when no one spoke, she closed the public hearing at 9:03 p.m.

Mayor Manheimer said that members of Council have previously received copies of the ordinances and they would not be read.

Councilman Smith moved to approve the zoning map amendment to rezone 90 Asheland Avenue and 202 Asheland Avenue from Regional Business District to Central Business District; 206 Asheland Avenue, 216 Asheland Avenue, 222 Asheland Avenue and 90 Southside from Office Business District to Central Business District; and a portion of 88 Southside from RM-16 Residential Multi-Family High Density District to Central Business District; and an amendment to the officially adopted Height Zone Map and find find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) multiple adopted plans support expansion of urban zoning and development in this location; and (2) properties along the block have been rezoned in a piecemeal fashion and this effort creates a consistent and contiguous expansion of the CBD. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE NO. 4542 - ORDINANCE BOOK NO. 31 - PAGE 36
ORDINANCE NO. 4543 - ORDINANCE BOOK NO. 31 - PAGE 40

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PINNACLE LANDSCAPES, LLC, FOR THE CONSTRUCTION OF PRITCHARD PARK IMPROVEMENTS

BUDGET AMENDMENT FOR PRITCHARD PARK IMPROVEMENTS

Director of Parks and Recreation Roderick Simmons said that this is the consideration of: 1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of $194,349.00 plus a contingency of $38,000.00 for a total of $232,349.00; and 2) a budget amendment in the amount of $232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received 2 bids plus alternates but one bid was deemed non-responsive.

1. Pinnacle Landscapes, LLC, Asheville, NC ($194,349.00)

After thorough review and evaluation, staff selected Pinnacle Landscapes, LLC, Asheville, NC, as the lowest, responsible bidder. The base bid plus alternates accepted was $194,349.00.

Recognizing Pritchard Park is a highly utilized park and an integral part of downtown Asheville's vibrancy, communication efforts have been diverse. Information regarding the scope of the project and potential impacts on park use was shared with key stakeholders to include City Council's Downtown Commission, Asheville Downtown Association and Downtown Asheville Residential Neighbors (DARN). Stakeholder feedback will be used to minimize impacts once

project work begins. Information has also been shared through the City's news site and social media with regular updates scheduled through the completion of the project.

The Parks and Recreation Department's Adopted FY 2016-17 General Fund included $650,000 for maintenance projects. Funding for the Pritchard Park improvements will come from that budget. Due to the size of the project, Finance staff is recommending that a separate project be established in the City's General Capital Project Fund. The budget amendment will establish this project by moving budget from the General Fund to the General Capital Projects Fund. This includes $232,349.00 to be applied for the cost of the Pritchard Park Improvements for a total base bid with alternates of $194,349.00 plus a contingency of $38,000.00.

Pros:

- Improves security in this urban park via lighting and appropriate plantings
- Improves the conditions and provides protection for the health of the existing trees
- Improves the appearance and place making qualities of this prominent park

Cons:

- While portions of the park will remain open to the public during the construction of the park, it will be necessary to close some areas of the park periodically
- There will be a modest increase in maintenance relative to the existing conditions which is currently being contracted annually with a landscape contractor

The $194,349.00 plus a contingency of $38,000.00 to support Pinnacle Landscapes, LLC contract for the Pritchard Park Improvements is budgeted in the Parks and Recreation Department operating budget as part of the maintenance budget. Due to the nature and size of the project, Finance staff recommends the project be budgeted in the General Capital Projects Fund rather than the General Fund. A budget amendment is required to create a budget in the General Capital Projects Fund.

Mr. Steven Lee Johnson, from Sitework Studios, said Pritchard Park is a heavily used urban park and the landscape of Pritchard Park has gradually declined over the last 15 years since it was initially constructed. There is a need to address security by providing additional lighting, more regulation signs and a landscape that increases visibility. The health of the existing trees and landscape beds have declined and will be improved via air spading the compacted soils, providing master arborist care for all of the existing trees, installation of an irrigation system and an ornamental fence to protect the landscape. The appearance of the park will be improved with attractive landscape plantings, additional ornamental boulders for seating, stone pavers, decorative tiles for the columns and a new drinking fountain and benches. There will only be modest repairs to the existing park concrete sidewalks and brick walls. Portions of the park will remain open to the public during the construction of the park but will be necessary to close some areas of the park periodically. He said that they anticipated construction early next year with final completion in May. He did note that sections will be closed as needed; and said the community can look forward to a lush, urban park that everyone can enjoy.

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of $194,349.00 plus a contingency of $38,000.00 for a total of $232,349.00; and 2) a budget amendment in the amount of $232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

There was a brief discussion, initiated by Councilman Bothwell, about the fence limiting people from getting into the shade in the Park, and the need to be sensitive to the homeless population who utilize the public space.

Councilman Smith then moved to approve the resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville, with an additional "Whereas" to the resolution to read as follows: "Whereas, the City promotes inclusion and diversity of its citizenry;". This motion was seconded by Councilman Bothwell.

After reviewing the rendering of the fenced areas, Councilman Smith withdrew his motion as he felt we should open up a little more of the space and not fence the entire grassed areas.

Mayor Manheimer questioned how we can make sure our parks are healthy, but accessible.

In response to Councilwoman Mayfield, Mr. Johnson said that he was not aware of any homeless advocates showing up at any of the commission meetings where this project was discussed.

It was the consensus of Council continue this matter until the January 24, 2017, meeting so that (1) the matter can be reviewed by the Homeless Initiative Advisory Committee; (2) staff look at bringing the fencing closer around the trees; and (3) additional renderings from the ground level be provided of various vantage points.

B. RESOLUTION NO. 16-277 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A PARTNERSHIP AGREEMENT WITH ASHEVILLE BUNCOMBE PRESCHOOL PLANNING COLLABORATIVE

ORDINANCE NO. 4544 - BUDGET AMENDMENT FOR THE PARTNERSHIP AGREEMENT WITH ASHEVILLE BUNCOMBE PRESCHOOL PLANNING COLLABORATIVE

Councilman Smith moved to recuse Vice-Mayor Wisler from participating in this matter due to a conflict of interest. This motion was seconded by Councilman Bothwell and carried unanimously.

Councilman Gordon Smith said that he invited Jennie Eblen and Melissa Baker from the Asheville Buncombe Preschool Planning Collaborative (ABPPC) to present to the Housing and Community Development Committee at their November 15, 2016, meeting. The Collaborative requested $4,000 of City funds to assist their efforts.

The service contract with ABPPC is an unbudgeted expense. If Council supports the $4,000 agreement, action to be taken would include a budget amendment and an appropriation from fund balance, in addition to authorizing the City Manager to enter into the partnership agreement.

The Housing and Community Development Committee recommended 2-1 to request City Council to enter into a partnership agreement with ABPPC.

Councilman Smith explained that their request of $4,000 of City funds is to assist their efforts to create a collective plan for ensuring that every 3- and 4-year old in Asheville and Buncombe County has access to affordable, high quality preschool. Their estimated budget for the planning process is $43,240 and their Steering Committee requests that each of the organizations currently engaged in the planning effort consider making a contribution to help support the planning process. By supporting this exciting new initiative we will be making a smart investment in our children and our community.

In response to Councilman Young, Ms. Jennie Eblen, Co-Chair of the Steering Committee, said that they have not yet discussed about how the partnership relates to the

funding aspect. She said that there is not really a formal partnership. The partnership is those organizations at the table that are trying to create the plan to increase access for early education. There is not a correlation between the funding and being a partner. The partner is more of those at the table. Being a partner does not require the funding. They do have another ongoing planning phase that they have not sought funcing for. This particular funding will go to support a consultant and administrative support. It might be a potential that they would ask their partners again to support a next phase. Implementation, several years from now, will be large amounts of money and that will not be asked to be furnished by the partners at this time.

Councilwoman Mayfield said that we have been receiving requests outside of our strategic partnership process. She suggested that in our budgeting for next year that we consider reserving some of our strategic partnership funds so that we have money that is available for requests like this that come in not on our regular schedule.

Councilman Smith agreed with Councilwoman Mayfield and felt that the City's once a year allocation calendar doesn't match up with the realities of organizations with their own timetables.

It was the consensus of Council to start this review of process at the Governance Committee.

Councilman Smith moved for the adoption of Resolution No. 16-277 for allocating $4,000 from the general fund. This motion was seconded by Councilman Young.

Councilman Young felt this is an important step toward making sure everyone has some sort of access to early childhood education and specifically pre-k for 3 and 4 year olds. He believed there is a $6,000 gap so he would like to ask for a friendly amendment to provide the amount of $6,200.

Ms. Eblen said that is the gap in this planning phase. She said that they have also made a request to the County and all their partner organizations. Most of the non-profits have not been within their calendar year budget. She said that this phase ends in May of 2017, and there is another very significant phase which is going out to the community and we don't have the funding for that. Any monies that we receive that we did not receive in this phase will go into the next phase.

Councilman Smith moved to amend his motion to $6,200.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 16-277 for allocating $6,200 from the general fund. This motion was seconded by Councilman Young and carried unanimously on a 6-0 vote (with Vice-Mayor Wisler being recused).

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Councilman Smith moved for the adoption of Ordinance No. 4544 for allocating $6,200 from the general fund. This motion was seconded by Councilman Young and carried unanimously on a 6-0 vote (with Vice-Mayor Wisler being recused).

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C. RESOLUTION NO. 16-278 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SOLICIT QUALIFICATIONS FROM PROFESSIONALS TO

EVALUATE AND ADVISE CITY COUNCIL ON THE DESIGN OF THE I-26 CONNECTOR PROJECT

Mayor Manheimer said that the NCDOT Merger Team has selected Alternative 4B as the preferred alternative for the I-26 Connector Project. In the coming months, the city will continue work with the NCDOT to review possible design enhancements that would minimize the overall footprint of the project and its impact on the City of Asheville, its residents, and economy. To insure the current plan is ultimately acceptable to the City of Asheville and its residents, it is vital that the broad range of environmental and community impacts of the I-26 Connector project be identified, explained to the public, and fully understood by the council to guide the City in its work with NCDOT.

Additional technical expertise is now needed to advise the council and city staff on policy recommendations, as the scope and complexity of the project, is beyond the routine transportation planning that occurs in a City of the size of Asheville.

Council is requesting retention of a consulting firm or firms with the multi-disciplinary skills and technical expertise to evaluate the design of the I-26 project to determine if the City's goal of minimizing the footprint and impacts of Alternative 4B can be accomplished, taking into account federal and state highway design parameters and exceptions. Additionally, the consulting firm will be expected to advise the City on other suggestions and options that should/could be considered feasible, and the various trade-offs involved in each identified suggestion or option.

Multi-disciplinary expertise would include but not be limited to: review and analysis of roadway design and engineering; review and analysis of noise studies and mitigation; review and analysis of traffic forecasts and simulations; review and analysis of NCDOT's construction plans and inherent assumptions (inherent assumptions include roadway design, lane closures, blasting, retaining walls, construction-related impacts, etc.); pedestrian and bike connectivity and accessibility; greenway planning and connectivity; and stormwater mitigation.

If approved, staff would develop a request for qualifications and process for selecting the most qualified consulting firm or firms to perform these services. Staff would anticipate completing the selection process in March 2017.

The authorization for a not-to-exceed contract along with a budget amendment would be on Council's agenda for approval no later than April 2017.

When Mayor Manheimer asked for public comment, no one spoke.

Councilwoman Mayfield moved to for the adoption of Resolution No. 16-278. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 292

D. ORDINANCE NO. 4545 - BUDGET AMENDMENT TO ACCEPT FUNDS BY BUNCOMBE COUNTY FOR THE AFRICAN AMERICAN HERITAGE COMMISSION

Mayor Manheimer said that at its meeting on November 15, 2016, the Buncombe County Commissioners approved funding in the amount of $10,000 to support the African American Heritage Commission's efforts to commemorate the contributions of the African American community in Buncombe County and Asheville. The African American Heritage Commission has made a similar request of the City of Asheville in the amount of $10,000. The total amount will be used to fund a facilitated planning and visioning process to develop a project that will commemorate African American heritage in Asheville and Buncombe County.

This action complies with the City Council's vision of a Diverse Community and aligns with the strategic goal to; "In partnership with others, participate in community dialogue and potential strategies to honor history and contributions of the African American community in Asheville, beginning with a community led effort to install a monument to African American heritage"

If City Council supports accepting the $10,000 from the Buncombe County Commissioners and the City's match of $10,000, action to be taken would include a budget amendment to accept the County funds and direction from Council on the City's funding sources for the match.

City Manager Jackson said that actions by Council to support this matter will be to accept the County's $10,000 support along with the City's match of $10,000 from fund balance as a budget amendment.

African American Heritage Commission Chair Sasha Mitchell thanked City Council for their support.

When Mayor Manheimer asked for public comment, no one spoke.

Councilman Bothwell moved to for the adoption of Ordinance Book No. 4545. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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E. RESOLUTION NO. 16-279 – RESOLUTION APPOINTING MEMBERS TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Scott Rogers, David Nash and Hilliard Carlisle as members on the Homeless Initiative Advisory Committee, expire on November 1, 2016. In addition, there currently exists a vacancy left by Amy Upham until November 1, 2018.

The following individuals applied for a vacancy: Dale Davidson, Sarah Lancaster, Emily Whitmire, John Sterling, John Klockner, R. Scott Owen, Kari Korp, Derek Towle, John Rakes, Gene Bell, Jill Moffitt, Beth Russo, Kevin Forrer, Kerry Keihn, Gerry Leonard and Val Ball.

At the recommendation of the Homeless Initiative Advisory Committee (HIAC), it was the consensus of the Boards & Commissions Committee to appoint Gene Bell, John Rakes and Dale Davidson to the HIAC. It was also their recommendation to re-advertise for the homeless/formerly homeless seat.

Vice-Mayor Wisler moved (1) to appoint Gene Bell and John Rakes to serve as members of the Homeless Initiative Advisory Committee, terms to expire November 1, 2019, or until their successors have been appointed; (2) to appoint Dale Davidson to serve the unexpired term of Ms. Upham, term to expire November 11, 2018, or until his successor has been appointed; and (3) to re-advertise for the homeless/formerly homeless seat. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:45 p.m.

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Magdalena Bouldson
CITY CLERK

Edith E. Marks
MAYOR

Tuesday – January 10, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: Councilman Brian D. Haynes

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING 2017 AS "LAND OF THE SKY ASSOCIATION OF REALTORS YEAR"

Mayor Manheimer read the proclamation proclaiming 2017, as "Land of the Sky Association of REALTORS Year" in the City of Asheville. She presented the proclamation to Mr. Randall Barnett, Mr. Terry Horner, and others, who briefed City Council on some activities taking place during the year.

B. PROCLAMATION PROCLAIMING JANUARY 14-16, 2017, AS "DR. MARTIN LUTHER KING JR. DAYS"

Mayor Manheimer read the proclamation proclaiming January 14-16, 2017, as "Dr. Martin Luther King Jr. Days" in the City of Asheville. She presented the proclamation to Ms. Oralene Simmons who briefed City Council on some activities taking place during the days.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON DECEMBER 13, 2016

B. SECOND READING OF ORDINANCE NO. 4540 - ORDINANCE GRANTING A FRANCHISE TO SLIDR, LLC FOR THE OPERATION OF A LOW SPEED VEHICLE SERVICE WITHIN THE CITY OF ASHEVILLE

This item was adopted on its first reading on December 13, 2016.

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C. RESOLUTION NO. 17-280 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED, ACCEPT FUNDING FROM THE DUKE ENERGY WATER RESOURCES FUND

Summary: The consideration of a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Water Resources Fund in the amount of $90,000.

On December 15, 2016, City staff received an invitation from the Duke Energy Water Resources Fund -managed by the North Carolina Community Foundation- to apply for the 2017 funding cycle. Submittals are due on January 20, 2017. This invitation came because the City

submitted a successful Letter Of Intent to the program in October 2016. If awarded, $30,000 or less of the funds would be used to offset the cost for a storm water management device on the French Broad River Greenway West Bank, a project that will be constructed as part of the TIGER VI program between 2017-2020; the remaining ($60,000) funds would be used to hire a firm to develop a Restorative Landscape Plan for the River Arts District Transportation Project (RADTIP) area. The plan's purpose would be to increase riparian sustainability and create a riverfront landscape environment (wildlife habitat, erosion and storm water management, shade for citizens, urban garden opportunities) that greatly improves on what is currently planned. This plan would acknowledge that while the RADTIP and other City plans call for two major storm water management devices, a pollinator garden, and required street trees and landscaping, that there are gaps in addressing water quality, tree canopy, and other environmental issues in this area. The scope of work would include an inventory of existing trees and vegetation, an analysis of the current plans including tree removal and new landscape designs to be installed via RADTIP street designs, boat ramp designs, and parking lot designs; and an area wide landscaping plan that focuses on how to deliver the plan via community partnerships. RiverLink, Asheville Greenworks and Boy Scouts of America Daniel Boone Council have met with staff and expressed an interest in being partners in this project.

The Riverfront Commission adopted the following recommendations to Council for 2016, as part of the publication of their 2015 Annual Report:

- Recommendation 3: Focus on water quality. This will require coordination with local governments, the state of North Carolina, and not for profits like RiverLink and Greenworks.
- Recommendation 4: Continue and Improve on Flood mitigation and flood hazard mitigation strategies.

Staff presented the idea to the Planning and Economic Development Committee of City Council on September 20, 2016. While no official vote was called, members expressed support for staff to submit a Letter of Intent, and were told that any decision to apply for the grant would come to the full Council for consideration.

Pro:

- Helps further Council and Community goals with no impact to City budget

Con:

- Requires City staff management/use of human resources (opportunity cost).

No additional City funds are required to match this grant. If awarded, there would be a positive impact to the City's budget in the amount of $90,000.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Water Resources Fund in the amount of $90,000.

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D. RESOLUTION NO. 17-281 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH AAR ROOFING & SHEET METAL OF NC FOR THE BINGHAM ROAD ROOF REPAIRS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with AAR Roofing & Sheet Metal of NC (Contractor) for the Bingham Road Roof Repairs Project for the base bid amount of $646,645 plus a 10% contingency in the amount of $64,665 for a total project budget in the amount of $711,310.

On November 14, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the Bingham Road Roof Repairs Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for replacement of approximately 51,000 Square Feet of single ply membrane roofing, tapered insulation, roof accessories, and associated flashings and trim at the new Water Maintenance / Meter Services Facility located at 200 Bingham Road in Asheville.

In response to the Advertisement for Bids, the department received four bids on December 6, 2016 as summarized below:

1. AAR Roofing & Sheet Metal of NC, Kernersville NC – base bid $646,645
2. Benton Roofing, East Flat Rock NC – base bid $683,589
3. Eskola, LLC, Morristown TN – base bic $686,500
4. Frizzell Construction Company, Bristol TN – base bid $783,000

Following a review of the bids by City Staff and the project architects, McMillan Pazdan Smith, the Contractor was selected as the lowest responsible, responsive bidder for the base bid amount of $646,645. A contingency amount of $64,665 has been added for a total project budget in the amount of $711,310. A potential saving of $207,247 may be realized if upon removal of the existing roofing material it is discovered that the roof is pitched. A pitched roof will allow tapered insulation to be removed from the project cost.

Pros:

- This project will replace the existing, leaking roof at the Water Maintenance / Meter Services Facility.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's property and infrastructure through Capital Improvement Projects, in order to provide a high quality of life.

Con:

- If the roof is not replaced, it will continue to leak, compromise the structural integrity of the Facility, and possibly lead to health concerns from mold.

The funding needed for the construction agreement is currently allocated within the 200 Bingham Maintenance Facility project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project was approximately $500,000.

Amount Available for Construction	$1,700,000
Amount Needed for Construction Agreement (includes contingency)	$ 711,310
Remaining Project Budget for Phase II (Customer Services move)	$ 988,690

The funds remaining in the Project Budget will be used to fund Phase II of the Project, the relocation of the Customer Services Division to 200 Bingham Road. Based upon project design estimates, the remaining project budget is not anticipated to support the completion of the Phase II construction of Bingham Rd. Current estimates suggest that Phase II of this project will cost $1.8 million with a budget balance of $988,000. Staff will continue to value engineer construction phases where possible and include capital budget revisions in the Fiscal Year 2018 budget process for City Council consideration.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with the Contractor for the Bingham Road Roof Repairs Project for the base bid amount of $646,645 plus a 10% contingency in the amount of $64,665 for a total project budget in the amount of $711,310.

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E. RESOLUTION NO. 17-282 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH T&K UTILITIES INC. FOR THE VAULT AND METER RENEWALS PHASE II PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with T&K Utilities, Inc. for the Vault and Meter Renewals Phase II Project for the bid amount of $487,350 plus a 10% contingency in the amount of $48,735 for a total project budget in the amount of $536,085.

On November 22, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the Vault and Meter Renewals Phase II Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the demolition and renewal of 10 large water customer connections, including vault and meter, with all related appurtenances and materials required in order to complete the work.

In response to the Advertisement for Bids, the department received 3 bids on December 21, 2016, which are summarized below:

1. Cooper Construction, Flat Rock NC – bid $488,241
2. T&K Utilities, Asheville NC – bid $487,350
3. Thomas Construction, Johnson City TN – bid $564,040

Bids were reviewed by City staff and the project engineers, Cavanaugh and Associates, P.A.. Upon completion of this review T&K Utilities, Inc. was selected as the lowest responsible, responsive bidder for the bid amount of $487,350. A contingency amount of $48,735 has been added for a total project budget in the amount of $536,085.

Pros:

- This project will replace existing substandard and failing large water meters and vaults with new metering infrastructure designed and constructed in accordance with the City of Asheville standards.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's property and infrastructure through Capital Improvement Projects, in order to provide a high quality of life.

Cons:

- Not completing this work will neglect a situation which presents a safety hazard to staff who are required to enter these vaults
- A vault failure could damage water infrastructure and impede water supply to one of the businesses served by these large meters.

The funding needed for the construction agreement is currently allocated within the Meter/Vault Repair project in the Water Resources Capital Improvement Projects fund. The engineer's estimate for this project is approximately $500,000.

Amount Available for Construction	$1,124,485
Amount Needed for Construction Agreement (includes contingency)	$ 536,085
Remaining Project Budget	$ 588,400

The funds remaining in the Project Budget will be used to fund future Vault and Meter Renewals.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with T&K Ut lities, Inc. for the Vault and Meter Renewals Phase II Project for the bid amount of $487,350 plus a 10% contingency in the amount of $48,735 for a total project budget in the amount of $536,085.

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F. RESOLUTION NO. 17-283 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED, ACCEPT FUNDING FROM THE N.C. GOVERNOR'S HIGHWAY SAFETY DWI TASK FORCE GRANT

Summary: The consideration of a resolution authorizing the City Manager to make an application to the North Carolina Governor's Highway Safety Program (Governor's Highway Safety Program) for a one year 25% State/75% Local matching fund grant to enable continuation of the multi-jurisdictional DWI Task Force involving the Asheville Police Department (Police Department) and Buncombe County Sheriff's Office (BCSO).

In both the City of Asheville (City) and Buncombe County (County), the number of impaired drivers has been a serious concern to citizens and law enforcement for many years. In an effort to combat impaired driving incidents within the City and County, the Governor's Highway Safety Program granted the Police Department a four year grant in October 2013. Following the development of the Asheville Buncombe DWI Task Force in August 2014, 920 Driving While Impaired arrests have been made and 54 Drug Evaluations have been conducted on impaired drivers.

Based on the success of the program, the Governor's Highway Safety Program recommended the Police Department continue its efforts of reducing DWI related collisions and educating the public regarding the dangers of impaired driving. Since the four year grant will expire in September 2017, the Governor's Highway Safety Program has offered to continue the grant on an annual basis at a 25/75 partnership where the program would provide 25% funding and the City and County providing 75% funding. Under the grant, which operates on a federal fiscal year October 1 to September 30, the DWI Task Force would continue to conduct targeted DWI enforcement and provide educational events for the public throughout Asheville and Buncombe County. Additionally, a member of the task force serves as an active participant and Board Member for Buncombe County Sobriety Court. If approved, the funding would be support one Asheville Police Sergeant, three Asheville Police officers and two Buncombe County Deputies as follows:

Source	Percent	Amount
Governor's Highway Safety Program	25%	$100,583
City	75% combined	$200,493
County		$101,255
TOTAL (October 2017 through September 2018)	100%	$402,331

During its December 13, 2016, meeting, the Finance Committee reviewed and recommended City Council consideration and approval of this grant opportunity.

Pros:

- Receipt of grant funds used to match 25% of the costs of salary and benefits to officers participating in the DWI Task Force.
- Potential reduction in impaired driving collisions, injuries and deaths throughout Asheville and Buncombe County.

Cons:

- Funding of $200,493.75 from the City's general fund in FY 2018.

- Funding from NCGHSP is evaluated annually and not fully guaranteed beyond this year.

The general fund impact to continue funding salaries and benefits for one sergeant and three officers for the DWI Task Force would be approximately $200,493 in FY 2018. The FY 2017 City contribution is budgeted at $133,662, so the increase for FY 2018 will be $66,831.

FY 2018	$200,493

City staff recommends City Council adopt a resolution authorizing the City Manager to apply for grant funds through the North Carolina Governor's Highway Safety Program.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. HOUSING AUTHORITY'S FAMILY SELF-SUFFICIENCY PROGRAM

Chief Operating Officer David Nash briefed Council on the Housing Authority's Family Self-Sufficiency Program. Ms. Katelyn Mattox and Ms. Shaunda Sandford each briefed Council on a success story.

In response to Councilman Young, Mr. Nash said that 200 residents out of 1400 have enrolled in the program. He did note though that not all complete the program.

Council spoke in support of this amazing program that is changing people's lives and making a significant impact on City residents.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Councilman Bothwell moved to continue this public hearing until June 13, 2017. This motion was seconded by Councilman Young and carried unanimously.

B. PUBLIC HEARING TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY LOCATED AT 12 LOOP ROAD

ORDINANCE NO. 4546 - ORDINANCE EXTENDING THE CORPORATE LIMITS OF THE CITY OF ASHEVILLE TO INCLUDE PROPERTY LOCATED AT 12 LOOP ROAD

When Mayor Manheimer asked to be recused from this item and the following conditional zoning public hearing due to the applicant being a client of her law firm, Vice-Mayor Wisler moved tor recuse Mayor Manheimer from participating in this matter. This motion was seconded by Mr.

Young and carried unanimously. At this time, Mayor Manheimer handed the gavel over to Vice-Mayor Wisler to preside of the meeting and left the room.

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to extend the corporate limits of the City of Asheville to include property at 12 Loop Road. This public hearing was advertised on December 30, 2016.

The property owner, English Oak Industrial LLC, has petitioned the City of Asheville for the annexation of 4.8 acres located at 12 Loop Road and identified in the Buncombe County tax records as PIN 9643-87-5405. The property currently supports two non-residential structures. The property is contiguous to the primary corporate limits, and qualifies for annexation by petition as set forth in North Carolina General Statutes (NCGS) 160A-31 and N.C. General Assembly Session Law 2005-139.

Pursuant to NCGS 160A-31, a public hearing must be held prior to adopting an ordinance for voluntary annexation. If City Council decides to proceed with this request, the effective date for the annexation would be January 10, 2017.

Considerations:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Comprehensive Plan in that it supports the strategy of promoting voluntary annexations of developing areas.
- Allows for the subject property to be combined with property already located in the city's jurisdiction, providing frontage on a key commercial corridor.

This request includes the voluntary annexation of 4.8 acres of commercial property into the City which will provide new property tax revenue with only a very small increase to services. There is a commercial retail project proposed for this property which, if developed as currently proposed, would generate approximately $20,000-25,000 in city property tax based on comparable commercial properties in the city.

City staff recommends that City Council adopt the ordinance annexing the property at 12 Loop Road.

City Attorney Currin noted that a Certificate of Sufficiency has been prepared by the City Clerk that will be incorporated into the record.

Vice-Mayor Wisler opened the public hearing at 5:31 p.m. and when no one spoke, she closed the public hearing at 5:31 p.m.

Vice-Mayor Wisler said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved for the adoption of Ordinance No. 4546. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused.)

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C. PUBLIC HEARING TO CONSIDER THE CONDITIONAL ZONING OF 12 LOOP ROAD, 352 AIRPORT ROAD AND A PORTION OF 360 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR A 7.5 ACRE COMMERCIAL RETAIL DEVELOPMENT

ORDINANCE NO. 4547 - ORDINANCE TO CONDITIONALLY ZONE 12 LOOP

ROAD, 352 AIRPORT ROAD AND A PORTION OF 360 AIRPORT ROAD FROM HIGHWAY BUSINESS DISTRICT TO HIGHWAY BUSINESS DISTRICT/CONDITIONAL ZONING FOR A 7.5 ACRE COMMERCIAL RETAIL DEVELOPMENT

Vice-Mayor Wisler noted that Mayor Manheimer has been recused from participating in this matter.

Principal Planner Shannon Tuch said this is the consideration of an ordinance to conditionally zone 12 Loop Road, 352 Airport Road and a portion of 360 Airport Road from Highway Business District to Highway Business District/Conditional Zoning for a 7.5 acre commercial retail development. Also included in the development is a large parking field, new driveway entrances, sidewalk, landscaping and other related site improvements. This public hearing was advertised on December 30, 2016, and January 6, 2017.

Ms. Tuch said that the site is located at the intersection of Airport Rd. and Loop Rd. According to the survey submitted, the entire project area is 7.6 acres; however, the 4.8 acre parcel located at 12 Loop Rd. is located outside of the city's jurisdiction in Buncombe County and is currently zoned Employment (EMP). The property has mild to moderate topography with clear and easy access from either Airport Rd. or Loop Rd. The project area is located above 2220' in elevation, however, the average natural slope for all three properties is less than 15% and therefore not subject to the city's steep slope development standards. The PINs are 9643-87-7350, 9643-87-5114 and 9643-87-5405 and the owners are English Oak Green LLC, Southridge Assoc. LLC and English Oak Industrial LLC.

Per UDO Sec. 7-5-9(b) the overall project would be categorized as a Level II project, should all of the project be in the city's jurisdiction. However, this application is seeking a conditional zoning in order to adopt a site specific development plan that: 1) would consolidate the project onto one parcel, and into one jurisdiction and zoning designation should a voluntary annexation be approved and, 2) seek relief from sidewalk and landscape standards.

The existing structures are proposed to be demolished and removed in order to make room for a new commercial retail development with a large 72,000 s.f. building (with two tenants) and two smaller outparcels on Airport Rd. The project is described in two phases with Phase I including the large retail structure and a small 5070 s.f. retail structure located on one of the two outparcels along with the large majority of the proposed parking. The second phase shows a small, high-turnover fast food restaurant that is approximately 2000 s.f. on the second outparcel located at the intersection of Airport Rd. and Loop Rd. Overall, the project requires three large retaining walls ranging in height with maximum heights of 17', 20' and 17' respectively.

The overall project area includes a well defined entrance on Airport Rd., as well as a secondary customer entrance on Loop Rd. Two additional service entrances are located further north on Loop Rd. A traffic signal is proposed at the intersection of Loop Rd. and Airport Rd. and would provide easier (especially left turn) movements during periods of high traffic volumes. Off-street parking is located primarily in a large parking field in front of the large retail anchor and provides 266 spaces total, including 10 accessible spaces and 14 bicycle spaces (5% of total).

Sidewalks are required as part of this project and are typically required on all road frontages, including both Airport Rd. and Loop Rd. New sidewalk is shown on Airport Rd. and on Loop Rd. up to the secondary customer entrance. A modification waiving the requirement for the remaining sidewalk on Loop Rd. is being requested.

This commercial project requires a moderate amount of landscaping including: Street buffer, street trees, parking lot landscaping, building impact landscaping, and retaining wall landscaping/screening. The conditional zoning request includes relief from a number of different landscape standards in order to achieve both the proposed tenant's minimum parking needs and

to reserve opportunity for two small outparcels. See *Conditions* below for itemized list of modifications requested.

Open space is required at a rate of 15% of the total project area, which is approximately 49,423 s.f. As designed, the project provides 50,137 s.f. and satisfies this requirement.

This proposal was approved with conditions by the Technical Review Committee (TRC) on October 17, 2016 and requires review by the City Council and Final TRC prior to zoning approval.

At the Planning & Zoning Commission meeting on November 2, 2015, the Commission voted unanimously (7:0) with the condition that three additional tree islands are added to the parking lot, that permeable paving (or other accommodation for the tree's root zones) be used around the islands, and that large maturing trees are substituted for the small trees shown in the islands. The applicant/developer agreed to these changes. Additionally, one member of the public spoke requesting consideration of "net zero" construction but with no specific recommendation.

The applicant wishes to conditionally rezone the entire site, including the proposed annexation area once in the city's jurisdiction, to HB-CZ to allow site specific plan approval of a large retail center which also includes modifications from some basic development requirements.

This project includes a number of recommended conditions found in the B1-Conditions list. Special conditions that result in a modification or reduction to development standards include:

1. Reducing the number of trees located in interior islands from 38 to 21 (overall parking requirements are satisfied). *Updated site plan reduced request from 24 trees per the original plan.*
2. Waiving the requirement for a 20-foot wide interior parking island with landscaping and walkway.
3. Allowing perimeter runs of parking spaces without a tree island (one island required every 15 spaces, two islands missing)
4. Locating parking spaces further than 60-feet from a tree (17 spaces are further than 65-feet from a tree). *Updated site plan reduced request from 52 spaces per the original plan.*
5. Allowing planting island sizes to fall below 200 s.f. per island, and below an average width of 10' and a minimum width of 5'.
6. Providing a gap in street tree spacing that is greater than 65-feet (gap of approximately 100+ feet at loading dock entrance).
7. Reducing the required sidewalk requirement on Loop Rd. (approximately 670 linear feet beyond the customer entrance is required).

A separate but simultaneous application for a voluntary annexation for the upper portion of the site has been submitted. The annexation of this 4.8 acre parcel (PIN 9643-87-5405) is a proposed condition of the site plan approval of the project and must be approved prior to Council review of the conditional zoning for the entire site.

An amendment to a conditional zoning for property on Rockwood Rd. was approved in January 2015 to allow a 7-story hotel.

A zoning text amendment to require an airspace study and approval by the Federal Aviation Administration (FAA) for projects of a certain scale/height that are in proximity to the airport was approved in September 2016 and applies to this project.

The property is zoned HB and is flanked on the east and west sides by more HB zoning.

The property to the north and south are outside the city's jurisdiction and are zoned Employment (EMP) by Buncombe County. Uses along the Airport Rd. corridor include a mix of commercial retail and service uses along with light warehousing, assembly and manufacturing.

The Asheville City Development Plan 2025 highlights the importance of economic growth and the use of zoning tools to support and encourage private investment through development and redevelopment.

The development/redevelopment of the Airport Rd. project area most closely aligns with the 2036 Council vision goal of a ***Thriving Local Economy*** where zoning tools are utilized to support growth and development.

This request includes the voluntary annexation of 4.8 acres of commercial property into the City which will provide new property tax revenue with only a very small increase to services.

Considerations:

- Elements of this proposal support city adopted goals and plans, however, other applicable goals may not be fully satisfied (i.e. ***A Well-planned and Livable Community*** or ***A Clean and Healthy Environment***).
- Land uses proposed are permitted uses in the existing HB zoning district.
- Overall project scale falls within the range of a Level II and would not normally require Council approval.
- Site plan approval includes a request to modify (reduce or waive) several development standards, necessitating the CZ.
- The applicant has a choice to vest a similar development plan for the upper 4.8 acres through Buncombe County but prefers to have the property developed under one jurisdiction.
- Landscape reductions are proposed to be mitigated through the use of pervious paving or other strategies in key areas to improve plant health *(see Required Reviews above for the Planning & Zoning Commission's recommended conditions).*
- Landscape reductions could be reduced or eliminated through the removal of the outparcel development making room for parking and internal landscaping.
- The request to waive the sidewalk requirement along Loop Rd. could be eliminated by paying a fee-in-lieu of sidewalk.
- Conditional zoning request includes the voluntary annexation of 4.8 acres of commercial property.

While this proposal complies with certain aspect of the Comprehensive Plan and other adopted plans, and supports certain strategic goals including an important goal for orderly growth and development; the plan, however, falls short in other ways by failing to meet the city's minimum technical standards. Staff concurs with the Planning & Zoning Commission's recommended conditions to improve the tree canopy coverage and tree health, and feels that these conditions will help move the project closer to compliance and the intent of the landscape ordinance.

When Councilman Bothwell asked that kind of material would be used for the pervious parking lot, Ms. Tuch said that the applicant has not decided at the time the plans were submitted for Council's review.

In response to Councilwoman Mayfield, Ms. Tuch said that the applicant has requested a waiver of the required sidewalk requirement on Loop Road in addition to the fee in lieu of waiver.

When Councilwoman Mayfield asked about the traffic impact study, Ms. Tuch said that there were no issues, but it did warrant a signal at Loop Road and Airport Road. The N.C. Dept. of Transportation has already agreed.

Regarding traffic studies generally, Councilwoman Mayfield asked if the studies require the engineers to look at the traffic impact of their development only or other pending developments in the surrounding area for a cumulative impact. Ms. Tuch said that it is her understanding that the engineers do look at other developments proposed.

Councilwoman Mayfield noted that there will be accessible pedestrian signals at the traffic light. She asked for the pedestrian signals be the kind that you don't have to push to get a walk signal. Ms. Tuch said that the Transportation Department will have to address that detail.

Councilwoman Mayfield said that we have a transit line along Airport Road and suggested we add a condition for the developer to add a pad for a bus stop in the future. Ms. Tuch said that the Transportation Department will need to address that detail as well.

Mr. Greg Edney, applicant, said that he would be happy to make the space available for a bus stop pad. He also said that he would ask the traffic engineer to add the motionless pedestrian signal. He has asked for the voluntary annexation and conditional zoning of the property in order to have it in one jurisdiction.

Vice-Mayor Wisler opened the public hearing at 5:47 p.m. and when no one spoke, she closed the public hearing at 5:47 p.m.

Vice-Mayor Wisler said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Young moved to conditionally zone 12 Loop Road, 352 Airport Road and a portion of 360 Airport Road from Highway Business District to Highway Business District/Conditional Zoning to allow for the development of a commercial retail center with associated site improvements, with the following two conditions: (1) Installing a signal that does not require the pedestrian to push the button to get a walk signal; and (2) if the Transportation Department anticipates a need for a transit stop in this area that the applicant would be willing to pave out a bus pad; and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following way: 1) uses zoning tools to support economic growth along an active commercial corridor. This motion was seconded by Councilman Bothwell and carried unanimously (Mayor Manheimer recused).

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At this time, Mayor Manheimer re-entered the room and Vice-Mayor Wisler handed the gavel over to her to preside over the remainder of the meeting.

D. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4414) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET

ORDINANCE NO. 4548 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING (ORDINANCE NO. 4414) IN THE URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR CHANGES TO THE CONDITIONS FOR DEVELOPMENT OF A MIXED USE PROJECT AT THE PROPERTY LOCATED AT 146 ROBERTS STREET

Urban Planner Jessica Bernstein said that this is the consideration of an ordinance to amend a previously approved conditional zoning (Ordinance No. 4414) in the Urban Place District/Conditional Zoning for changes to the conditions for development of a mixed use project

at the property located at 146 Roberts Street. This public hearing was advertised on December 30, 2016, and January 6, 2017.

The project site consists of two separate parcels with a combined area of approximately 3.26 acres and frontage on Roberts Street, Clingman Avenue Extension and Park Avenue (north) in the River Arts District. The main parcel for development is 2.88 acres in size and the second parcel (0.379 acres) is located across Roberts Street to the south. The parcels (previously zoned CI and River) were conditionally rezoned to Urban Place by City Council in 2013.

The project was first approved by City Council on October 22, 2013, under Ordinance no. 4241 and later modified under Ordinance 4414 on May 26, 2015.

Summary of Changes - The applicant is proposing an AMENDMENT to the previous approval. The project is for the construction of a mixed-use development including residential and retail with parking, both structured within the development as well as a separate surface lot.

	Proposed Change	***2015 Approval***	***Additional Information***
Gross Floor Area	408,400 SF	421,489 SF	3.1% decrease
Residential Density	235 (138 1bd, 97 2bd)	243 (146 1bd, 97 2bd)	3.3% decrease, reducing by 8 units
Retail	17,872 SF	19,378 SF	7.8% decrease, eliminated retail from Clingman Avenue
Office	None	8,789 SF	100% decrease, use eliminated
Building Height on Clingman Avenue	50 feet	60 feet	One-level eliminated, Roberts Street unchanged
Parking	394 spaces (334 garage, 20 Roberts Street lot, 8 on-street, 32 "surface")	375 spaces (343 garage, 24 Roberts Street lot, 8 on-street)	Added 19 parking spaces; 5% increase

The design and site layout is essentially unchanged from the previous approval. The project provides one large building on a base of structured parking. There are two levels of parking and four levels of retail and residential spaces but with the existing grade change on site, the overall height varies. The building is reduced to 50 feet on Clingman and remains 68 feet from Roberts Street.

The access is unchanged from the previous proposal - there are two access points into the site, one two-way driveway from Roberts Street and the other two-way driveway from Clingman Avenue. The parking lot has two single-access driveways off Roberts Street. New sidewalks are shown along both sides of Roberts Street (6.5 feet along surface parking and 10 feet along building side) as well as the project frontage on Clingman Avenue and widths range from 7.5 to 12 feet. Additionally, the project has been designed to incorporate areas of pedestrian amenities both at the corner of Clingman and Roberts.

This project incorporates parking in several locations; there is a 334-space parking structure within the development *(previously 343 spaces)* with an additional 32 in an exposed surface lot accessed from the lower level in the garage; the separate parcel across Roberts Street to the south is shown as a standalone parking lot with 20 spaces (2 HC accessible) and approximately 8 on-street spaces will be delineated through streetscape enhancements *(for a total of 394 spaces)*. Bike parking is also included throughout the site.

Landscaping is required on the site and includes street trees along all road frontages, building impact plantings, parking deck and dumpster screening and parking lot landscaping with a street buffer. Open space is also required in this zoning district, equal to 5% of the lot area. There was an approved condition related to landscaping which remains with this amendment.

Urban Place zoning includes specifics for building design and includes well-defined operable entrances at regular intervals, fenestration requirements for the ground and upper levels and treatments to break up long façades. The previous approval included two variances related to distance between entrances and amount of fenestration; these variance approvals remain in place with this amendment.

The current proposal includes the following conditions that will need to be approved by City Council. *The only new or modified conditions relate to density and retaining wall screening.* All others are unchanged but still carry over to this approval.

1. **Density** - The maximum density allowed by right in Urban Place is 64 units per acre, or 209 units for this site. The applicant is requesting an additional 26 units (a 12% increase - up to approximately 72 units per acre). Five percent of the units will be designated as affordable by the City's standards. ***This condition is slightly changed from the 2015 approval due to the reduction in residential units.*

2. **Building Size** – For buildings exceeding three stories, the maximum footprint is limited to 50,000 square feet with a maximum gross floor area of 200,000. The proposed footprint of the building is 82,531 SF and the gross floor area is 408,400 SF. This condition is a result of building upon a base of structured parking. ***This condition is similar to the 2015 approval.*

3. **Sidewalks** - Sidewalks in the Urban Place District are required to be a minimum of 10' in width. Sidewalks are shown down to 6.5 feet along Roberts Street adjacent to the surface lot but a minimum of 10 feet along the building side and between 7.5 -12 feet along Clingman Avenue. There is an existing 5' sidewalk along Park Avenue which will remain. ***This condition is the same as in the 2015 approval.*

4. **Landscaping** – The applicant is requesting to greatly reduce parking deck landscaping requirements based on the existing site conditions where a grade change effectively shields the exposed deck levels and creates challenges to planting. ***This condition is the same as in the 2015 approval.*

5. **Setback** on Roberts Street - The maximum front setback is 15' and there is an area along Roberts Street that exceeds this standard. ***This condition is the same as in the 2015 approval.*

6. **Retaining Wall Screening** - The amendment includes a wall of approximately 25 feet in height at the northern edge of the interior parking area. Vegetative screening requirements apply to walls over 20 feet but due to the location and configuration of the parking and site; the applicant is requesting to include a creative aesthetic screening treatment.

The Urban Place zoning district was created to foster "higher density, mixed-use development that is economically viable, pedestrian oriented, visually attractive and contributing to the place making character of the City...to enhance the streetscape and offer a wide range of complementary land uses and employment opportunities...[and] intended in areas where the appearance of the built environment is important to the vitality of the area." Additionally, the zoning district was created with areas along the French Broad River in mind. The proposed amendments are in line with the Urban Place zoning district.

This amendment was approved with conditions by the Technical Review Committee on December 5, 2016, and received unanimous support by the Planning & Zoning Commission at their meeting on December 7, 2016. Approval by City Council and Final TRC review is required prior to issuance of a zoning permit

Staff has received comment from adjacent property owners and businesses concerned about access to their properties throughout the construction process as well as maintaining as much on-street parking along Clingman Avenue Extension as possible.

The compatibility for this development was evaluated in detail with the previous approvals; the proposed amendment modifying details of the development can be considered minor and does not impact the high level of compatibility as previously reviewed.

This proposal is aligned with numerous aspects of the *City Development Plan 2025* as previously reviewed and the amendment as proposed does not impact the compliance with adopted plans.

The proposal aligns with the 2036 Council vision in the following areas: (1) *A Well-Planned and Livable Community; (2) Transportation and Accessibility; and (3) Quality Affordable Housing.*

Considerations:

- The amendment eliminates an entire use previously included in the proposal.
- City goals support mixed-use, infill development, especially providing residential uses in a walkable location proximate to transit and the Central Business District.
- Streetscape improvements will enhance the pedestrian experience along Roberts Street and Clingman Avenue Extension.
- All previous conditions as noted in the B.1 list still apply as well as variances previously approved.

Staff recommends approval of the amendment to the previously approved project for the construction of a mixed-use development, including the conditions as proposed by the applicant as detailed above. While the office component is eliminated with this amendment, the amount of office space included the previous plan was minor and the various other modifications with this amendment are not significant and do not greatly alter the look or use of the project site.

Councilman Young wondered since there is a reduction on the number of units, will there be a reduction in affordable housing units. Ms. Bernstein explained that the developer is still committing to 5% affordable units - 12.

In response to Councilwoman Mayfield, Ms. Bernstein explained some of the creative treatments to mitigate the visual impact on the wall, noting that it will not be seen from the outside.

City Manager Jackson said that there is a possibility that the land use incentive grant may have to come back for Council for ratification. Assistant City Attorney Jannice Ashley explained the standards used for the land use incentive grant and that the Community Development Division will review grant and standards to see if it will have to come back to Council for ratification of if any changes can be handled administratively.

When Councilman Smith asked if the developer agreed to siting a grocery use in the retail portion, Ms. Bernstein said that it is something they have talked about but it was not written in as a condition. He said that part of the City's Food Action Plan is to be able to promote grocery uses in food deserts.

Mayor Manheimer opened the public hearing at 6:02 p.m. and when no one spoke, she closed the public hearing at 6:02 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to recommend approval of the conditional zoning amendment request for RAD Lofts, LLC for property located at 146 Roberts Street from Urban Place Conditional Zone (UP-CZ) to Urban Place Conditional Zone (UP-CZ) including the requested conditions and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The proposal supports the strategies found in the City's comprehensive plan on encouraging mixed-use development, especially in areas walkable to downtown and proximate to transit; (2) The proposal supports the goal found in the City's comprehensive plan of pursuing more intense infill development where appropriate; and (3) The design and uses create a pedestrian-oriented streetscape along Roberts Street and part of Clingman Avenue Extension. This motion was seconded by Councilman Young and carried unanimously.

ORDINANCE BOOK NO. 31 – PAGE 59

E. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 192 HAYWOOD STREET

Due to Councilman Haynes absence, Councilman Young moved to continue this public hearing to January 24, 2017. This motion was seconded by Councilman Bothwell and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. DISCUSSION ON WHETHER TO HAVE STAFF DEVELOP AN OUTREACH PLAN TO DETERMINE THE LEVEL OF INTEREST OF THE COMMUNITY ON POTENTIAL CITY RE-DISTRICTING

Mayor Manheimer said that in June then-Senator Tom Apodaca pushed forward legislation to mandate Asheville split into six districts. That bill failed. However, she felt it was appropriate to look at the issue. Cities can initiate a re-districting process and make the decision on a Council level or put it out for a referendum. She said that this discussion will be about whether or not to initiate an outreach program to gauge the interest level in our community for districts. In conjunction with that outreach program, she asked that if the community is interested, they be asked whether they would prefer a Council decision or take the issue to the voters. Personally she didn't see a downside asking staff to look into the issue.

Councilwoman Mayfield agreed to look into the issue.

Councilman Bothwell could support a community discussion; however, he remained convinced that Asheville is too small a city to break into districts. He felt our principal interests are in common across the 85,000-90,000 people in Asheville and he didn't think we have treated different areas of the City differently when appropriating sidewalk money, parks, etc.

Vice-Mayor Wisler felt it was a good idea to gauge the community's interest on this topic.

Councilman Smith was interested in making sure the process can accurately gauge the community's interest. He wanted to be confident of the will of the voters. He felt this would be

helpful to the legislature to know that the City has considered this option so if they decided to deliberate it again we can provide them with more information.

When Councilwoman Mayfield suggested we do official polling similar to the bonds, Councilman Smith felt the education piece that was inherent in the bond polling is more difficult to do with this because of the variety of options and prospectives on the pros and cons.

It was the consensus of Council to direct staff to develop an outreach plan as soon as possible to determine the level of interest of the community on potential City re-districting.

Councilman Young felt that individual Council member's preferences need to be separately distinguished from the process to make sure that it is completely unbiased.

City Attorney Currin said that her office will work with the Community & Public Engagement Division to simplify as much as possible what the potential options are.

B. BOARDS & COMMISSIONS

Vice-Mayor Wisler said that the Asheville City Board of Education will be selecting a new superintendent and they are putting together a community advisory team to help with the selection process. They have asked that there be a representative of City Council on that team. She said that she would be happy to take on that responsibility and it was the consensus of Council to appoint her to that seat.

Regarding the Board of Electrical Examiners, since there were no applicants for the seat of a licensed engineer, it was the consensus of re-advertise for the vacancy.

Regarding the Asheville-Buncombe Historic Resources Commission, the following individuals applied for the vacancy: Christopher Cobb, Leslie Humphrey, Kevin Saum, Wayne Wheeler, Gerry Leonard and Ed Flowers. It was the consensus of Council to interview Gerry Leonard, Wayne Wheeler and Ed Flowers.

Regarding the Asheville Area Riverfront Redevelopment Commission, the following individuals applied for a vacancy: Steve Winter, Nick Hinton, Gerry Leonard, Catherine Rosjford, Darren Green, Shelley Schenker, Jeffrey Horner, Janet Lynn Whitworth, Jerry Sternberg and Viola Spells. Councilman Smith moved to (1) reappoint Cindy Weeks and Carleton Collins; and (2) appoint Darren Green. This motion was seconded by Councilman Young and carried on a 6-1 vote, with Councilman Bothwell voting "no." After a brief discussion, Councilman Smith withdrew his motion. It was then the consensus of Council to interview Darren Green and Jerry Sternberg. Councilman Bothwell moved to reappoint Cindy Weeks and Carleton Collins. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION NO. 17-5 – RESOLUTION APPOINTING MEMBERS TO THE BOARD OF ADJUSTMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Board of Adjustment.

The terms of Douglas Hattaway (Regular), Pratik Bhakta (Alternate), Mac Swicegood (Alternate) and David Brown (Regular) as members on the Board of Adjustment expire January 21, 2017.

The following individuals applied for the vacancies: Paul Wilczynski, Jonathan Tokay, Richard Carpenter and Misty Miller. Mr. Bhakta (currently an Alternate) was interested in serving as a Regular member.

From the recommendation of the Boards & Commissions Committee, Councilman Smith moved to (1) appoint Pratik Bhakta from an Alternate seat to a Regular seat, to serve a three-year term, term to expire January 21, 2020; (2) appoint Paul Wilczynski (Alternate) to serve a three-year term, term to expire January 21, 2020; (3) appoint Misty Miller (Alternate) to serve a three-year term, term to expire January 21, 2020; and (3) appoint Richard Carpenter (Regular) to serve a three-year term, term to expire January 21, 2020. All appointments are until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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RESOLUTION NO. 17-6 - RESOLUTION APPOINTING A MEMBER TO THE FIREMEN'S RELIEF FUND

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Firemen's Relief Fund.

The term of Barbara Whitehorn expired on January 1, 2017.

No individuals applied for the vacancy.

From the recommendation of the Boards & Commissions Committee, Councilman Smith moved to reappoint Barbara Whitehorn to serve an additional two-year term, term to expire January 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38– PAGE 303

RESOLUTION NO. 17-7 - RESOLUTION APPOINTING A MEMBER TO THE METROPOLITAN SEWERAGE DISTRICT BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing a member to the Metropolitan Sewerage District Board.

The term of Esther Manheimer will expire on January 19, 2017.

The following individuals have applied for the vacancy: John Brigham and Jim Torpey.

From the recommendation of the Boards & Commissions Committee, Councilman Bothwell moved to reappoint Esther Manheimer to serve an additional three-year term, term to expire January 19, 2020, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38– PAGE 304

RESOLUTION NO. 17-8 – RESOLUTION APPOINTING MEMBERS TO THE SOIL EROSION/STORMWATER REVIEW COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Pete Hildebrand and Ter Mc Spinner as members on the Soil Erosion/Stormwater Review Committee, expire on November 1, 2016.

The following individuals applied for a vacancy: Jim Torpey, Catherine Rosjford and Rusty Bryant.

On November 8, 2016, Vice-Mayor Wisler moved to reappoint Pete Hildebrand to serve an additional three-year term, term to expire November 1, 2019, or until his successor has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to appoint Catherine Rosjford to serve a three-year term, term to expire November 1, 2019, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

The Boards & Commissions Committee suggested revisiting the stormwater ordinance to see exactly what the scope of the Soil Erosion/Stormwater Review Committee's scope of work entails. Councilwoman Mayfield said she talked to the Chair of the Sustainability Advisory Committee on Energy and the Environment (SACEE), which is prepared to have the broad issue of stormwater referred to them. If, however, the Soil Erosion/Stormwater Review Committee's mandate is expanded to consider stormwater policy, then SACEE would be happy to turn that issue over to it. Councilwoman Mayfield suggested consideration an ordinance amendment to expand the scope of Soil Erosion/Stormwater review Committee and its members. She would like to move on that quickly

Vice-Mayor Wisler invited Councilwoman Mayfield to the next Boards & Commissions meeting and discuss t at that level to determine how to move forward.

RESOLUTION BOOK NO. 38- PAGE 305

RESOLUTION NO. 17-9 - RESOLUTION APPOINTING MEMBERS TO THE SUSTAINABILITY ADVISORY COMMITTEE ON ENERGY & THE ENVIRONMENT

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Sustainability Advisory Committee on Energy & the Environment (SACEE).

The terms of Mindy Fisher, Duncan McPherson and Sonia Marcus (expertise in field of energy management) expired on December 31, 2016.

The following individuals have applied for the vacancy: April Brown, Emily Boyd, Amanda Fairley, Michael Whitmire, Kenneth Dierks, Anne Keller, Travis Smith, Gerry Leonard, Catherine Rosjford, Andrew Mayronne, Lateef Cannon, Zephyr Jost, Maggie Gulick, Larry Haas and Usula Jorch.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to (1) reappoint Sonia Marcus (expertise in field of energy management) to serve an additional three-year term, term to expire December 31, 2019, or until her successor has been appointed; and appoint Maggie Gulick and Anne Keller to each serve a three-year term respectively, terms to expire December 31, 2019, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38– PAGE 306

RESOLUTION NO. 17-10 – RESOLUTION APPOINTING MEMBERS TO THE TREE COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Tree Commission.

The terms of Debbie Emmons and Mike Keaton expired on December 31, 2016.

The following individuals applied for the vacancies: Shawn Swartz, Ed Macie and Susan Sertain.

From the recommendation of the Boards & Commissions Committee, Councilwoman Mayfield moved to appoint Ed Macie and Shawn Swartz to each serve a three-year term, terms to expire December 31, 2019, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 307

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Timothy Sadler urged Council to track and stop using spray foam insulation in City buildings due to its flammability. He also congratulated the City on the N.C. Supreme Court's ruling allowing the City to retain their water system.

Mayor Manheimer congratulated our legal team on their long, hard fight to retain the water system. She also thanked the NC League of Municipalities and other cities who stood by the City on the water issue.

Closed Session

At 6:28 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10 (a) (3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Alison Rose Kern vs. the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 6:35 p.m., Councilman Bothwell moved to come out of closed session. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:35 p.m.

Magdalen Bowlson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – January 24, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING FEBRUARY 12, 2017, AS "INTERNATIONAL DARWIN DAY" IN THE CITY OF ASHEVILLE

Councilman Bothwell read the proclamation proclaiming February 12, 2017, as "International Darwin Day" in the City of Asheville. He presented the proclamation to Erin Schultz, and others.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 10, 2017

B. RESOLUTION NO. 17-11 - RESOLUTION APPOINTING THE TRANSIT COMMITTEE CHAIRPERSON, OR THE CHAIRPERSON'S DESIGNEE, TO SERVE AS THE URBAN TRANSIT REPRESENTATIVE ON THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION BOARD

Summary: The consideration of a resolution appointing the Transit Committee Chairperson, or the Chairperson's designee, to serve as the Urban Transit Representative on the French Broad River Metropolitan Planning Organization Board.

The French Broad River Metropolitan Planning Organization (MPO) is a partnership between local and state government that makes decisions about transportation planning in urbanized areas and meets planning requirements established by Federal authorizing legislation for transportation funding. Local governments belonging to the MPO include Buncombe, Haywood, Henderson, Madison and Transylvania Counties, and Asheville, Biltmore Forest, Black Mountain, Canton, Clyde, Flat Rock, Fletcher, Hendersonville, Laurel Park, Maggie Valley, Mars Hill, Mills River, Montreat, Waynesville, Weaverville, and Woodfin.

When the MAP 21 Transportation Bill was approved in 2013, MPOs with populations of over 200,000 were required to include transit representation on their governing boards. At that time, the French Broad River MPO Board adopted a resolution setting up two seats for transit representatives on the French Broad River MPO Board, one to rotate between agencies receiving Urban/5307 funding, and another one to rotate between agencies receiving Rural/5311 funding. Currently, Henderson County and the City of Asheville are the only two beneficiaries of Urban/5307 funding.

The Regional Transit Operators group recommended drawing lots to decide on the first round of agencies to nominate a representative; Henderson County was selected to nominate an

urban transit representative two years ago and Haywood County was asked to nominate a rural representative. The two-year cycle is up and now it is time for the City of Asheville to nominate an urban transit representative and for Buncombe County to nominate a rural transit representative to the FBRMPO Board for a two-year cycle. The term of this position will begin in January 2017 and will end in December of 2018.

The Transit Committee reviewed this action at their meeting on November 15, 2016, and recommended that the Transit Committee Chairperson, or the Chairperson's designee, serve as the Urban Transit Representative.

The Multi-Modal Transportation Commission reviewed the Transit Committee's recommendation at their meeting on December 14, 2016, and unanimously approved it.

Pros:

- Gives the City of Asheville an additional voting member on the MPO Board.
- Improves the multi-modal "voice" on the MPO Board.

Con:

- There are no known cons to the recommended action.

There is no known fiscal impact for the recommended action.

Staff recommends that City Council approve a resolution appointing the Transit Committee Chairperson, or the Chairperson's designee, to serve as the Urban Transit Representative as a voting member on the French Broad River Metropolitan Planning Organization Board for a two-year term beginning in January 2017 and ending in December 2018.

RESOLUTION BOOK NO. 38 - PAGE 308

C. RESOLUTION NO. 17-12 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A DONATION BY THE ASHEVILLE BREAKFAST ROTARY CLUB OF AN AUDIO FREQUENCY INDUCTION LOOP SYSTEM FOR USE IN THE COUNCIL CHAMBER

Summary: The consideration of a resolution authorizing the City Manager to accept an Audio Frequency Induction Loop System ("AFILS") hearing system for Council Chamber.

In August of 2016, Mr. Carl Chesnick of All Ears Hear Here reached out to the City Clerk's office to donate an AFILS hearing system on behalf Asheville Breakfast Rotary Club, to be used in the City Hall Council Chamber. The AFILS system is a tool for people with hearing loss. It is a wire that can be tied into the existing PA system and it will work for hard of hearing people who have a t-coil app installed on their hearing aid device. The loop system runs inside the existing cable housing, and therefore will not be visible or alter the Council Chamber.

The AFILS system works by running a low current of electricity through a "loop" of wire, producing a temporary magnetic field. Small antennae in hearing aids called Tele-Coils are able to decipher this signal wirelessly, and the wearer is able to hear sound directly in his/her ears corrected for their individual hearing loss. The technology is internationally recognized and standardized to work with any make or model of tele-coil equipped hearing aid. Approximately 80% of hearing aids today use tele-coil equipped hearing aids, and this number continues to grow.

The donated equipment has a total value of approximately $5,000. This equipment was purchased by the Asheville Rotary Club and has since been authorized to donate the equipment

to the City of Asheville. Mr. Chesnick of All Ears Hear Here has agreed to work with City Staff to install the system at no cost.

Pro:

- The loop system will help hard of hearing visitors to better hear and engage in Council meetings.

Con:

- None noted.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept an Audio Frequency Induction Loop System ("AFILS") hearing system for Council Chamber donated by the Asheville Rotary Club.

RESOLUTION BOOK NO. 38- PAGE 309

D. RESOLUTION NO. 17-13 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A QUIT CLAIM DEED TO OMKAR HOTELS INC. FOR ANY CLAIM THAT THE CITY HAS ON REAL PROPERTY LOCATED AT 1103 BREVARD ROAD AND STRADLEY MOUNTAIN ROAD

Summary: The consideration of a resolution authorizing the City Manager to convey a quit claim deed to Omkar Hotels Inc. or current owner for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

The property located at 1103 Brevard Road (PIN 9626-64-8826) is improved with one commercial building and three single family houses on 1.43 acres. At some point, a portion of the property was utilized as a water pump station. This pump station was abandoned in place in 2005 when a new station was installed at a higher elevation. On review of the title to the property at 1103 Brevard Road, it appears that no easement or conveyance of any kind was ever granted to the City of Asheville for this pump station.

The property is being transferred to a new owner and the purchaser is seeking to remove any claim that the City may have to this abandoned pump station. The Water Department has concluded that the City no longer has any use for the abandoned station at this location and it is fully disconnected from the main water system. Without an easement or deed for the pump station, the abandoned building and historical use represent a cloud on the fee holder's title. To resolve this matter, the City Council may authorize a deed to quitclaiming all government interest in the property.

Pros:

- Resolves ownership issues.
- Removes liability issues associated with abandoned station.

Con:

- None noted.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a quit claim deed to Omkar Hotels Inc. or current owner for any claim that the City has on real property located at 1103 Brevard Road and Stradley Mountain Road.

RESOLUTION BOOK NO. 38- PAGE 310

E. RESOLUTION NO. 17-14 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT DUKE ENERGY CAROLINAS, LLC, REIMBURSEMENT GRANT FUNDS FOR A SINGLE PORT PLUG-IN

ELECTRIC VEHICLE CHARGING STATION IN THE RANKIN PARKING GARAGE

ORDINANCE NO. 4949 - BUDGET AMENDMENT FOR A SINGLE PORT PLUG-IN ELECTRIC VEHICLE CHARGING STATION IN THE RANKIN PARKING GARAGE

Summary: The consideration of a resolution authorizing the City Manager to accept Duke Energy Carolinas, LLC reimbursement grant funds for a single port Plug-in Electric Vehicle Charging Station in the Rankin Parking Deck; and a budget amendment in the amount of $10,000 in the Parking Services Fund to budget the reimbursement grant.

This project is designed to provide direct financial support to Duke Energy customers, the City of Asheville, that wish to install and own electric vehicle charging stations. The City of Asheville was approved by Duke Energy for installation of a single port plug-in EV charging station in the Rankin Parking Deck.

The total cost for the project is $20,000. Duke Energy has agreed to reimburse the City of Asheville for the cost incurred to produce, construct and install a single port charging station in the Rankin Parking Deck in the amount of $10,000. Thus initial cost of installation of the Plug-in EV charging station would be incurred by the City, from the parking services enterprise fund. Once the project is completed, documentation will be submitted to Duke Energy for the maximum reimbursement amount of $10,000.

Pros:

- Provides more access to EV charging stations in the COA parking decks
- Helps to meet City's carbon reduction goal while leveraging private funds

Con:

- None can be identified

As noted above the total cost of the project is $20,000, with the reimbursement grant covering $10,000 of the cost. The City will cover amounts that exceed the grant limit of $10,000 from the parking services enterprise fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept $10,000 in reimbursement grant monies from Duke Energy Carolinas, LLC; and a budget amendment in the amount of $10,000 in the Parking Services Fund to budget the grant.

RESOLUTION BOOK NO. 38 - PAGE 311
ORDINANCE NO. 31 - PAGE 64

F. RESOLUTION NO. 17-15 - RESOLUTION AMENDING THE 2017 CITY COUNCIL MEETING SCHEDULE

Summary: (1) City Council will hold a worksession to hear an update on the implementation of the bonds on Tuesday, February 7, 2017, at 2:30 p.m. in the First Floor North Conference Room of City Hall, Asheville, N.C.; (2) City Council will hold a joint worksession with the Buncombe County Board of Commissioners on Tuesday, February 7, 2017, at 4:00 p.m. at 200 College Street, Asheville, N.C.; and (3) City Council will hold their annual retreat on Friday, February 17, 2017, beginning at 8:30 a.m. in Overlook Hall (300 Field Drive) at the UNC-Asheville Campus, Asheville, N.C.

RESOLUTION BOOK NO. 38 - PAGE 312

G. RESOLUTION NO. 17-16 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH CIVIL DESIGN CONCEPT, P.A., FOR THE CARRIER PARK VELODROME SAFETY PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment with Civil Design Concept, PA, to increase the existing contract in the amount of $25,292.08 by an additional $72,080.00 for a total project budget of $97,372.08 for the project known as Carrier Park Velodrome Safety.

The Parks and Recreation Department awarded the Engineering Design Services Contract to Civil Design Concepts, PA of Asheville, NC for the renovations of the Carrier Park Velodrome through qualified based selection process in 2013 (RFQ). Under the existing contract Civil Design Concepts prepared preliminary design studies, construction documents, and cost estimates for the project.

As the project now moves to permitting, bidding, and construction additional engineering services are required. Civil Design Concepts has presented a scope of work and fee proposal for engineering services associated with the Velodrome Safety Project and will provide engineering clarifications, contract administration, construction observation/reporting, inspection, materials testing, development of record drawings. Direct oversight and management by the engineer of record is encouraged, to provide continuity and compliance with engineering drawings by the contractor through construction.

Scope of Work: Velodrome resurfacing and amenities, replace lights

Project Budget: $1.1 million. Estimated project cost will be determined during the final architectural and engineering design phase.

Tentative Project Timeline:

Final Architectural and Engineering Design	February 2017
Permitting	March 2017
Request for Construction Bid	April 2017
Construction Begin	Fall 2017
Construction Complete	Fall 2017

Pros:

- Continued use of the engineer of record, Civil Design Concepts, PA, as the most qualified engineering firm to assist with the contracting and construction phases of the project.
- Reduces staff time required to manage and inspect the project.

Con:

- None

Funding for these additional services is already included in the adopted Parks and Recreation Capital Improvement Budget.

Staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract amendment with Civil Design Concepts, PA to increase the existing contract in the amount of $25,292.08 by $72,080.00 for a total project budget of $97,372.08 for the project known as Carrier Park Velodrome Safety and further authorizing the execution of any change orders to said contract which may arise during execution of said project up to the budgeted amount.

RESOLUTION BOOK NO. 38 - PAGE 313

H. RESOLUTION NO. 17-17 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN A CONSTRUCTION AGREEMENT WITH NORFOLK SOUTHERN CORPORATION RELATED TO THE CONSTRUCTION OF THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to sign a construction agreement with Norfolk Southern Railway Company related to the construction of the River Arts District Transportation Improvement Project (RADTIP), with an estimated cost of $828,951.

The RADTIP project will re-construct a 2.2 miles of roadway within the River Arts District and will add sidewalks, bike lanes, on-street parking, a greenway, storm drainage, landscaping and other amenities. Construction is scheduled to begin later in 2017.

Portions of the RADTIP project cross over or are adjacent to railroad facilities owned by Norfolk Southern. In order to construct the project, the City must enter into a construction agreement with Norfolk Southern. The agreement lays out terms and conditions for construction, and includes a force account estimate of the cost of work to be performed by the Railway, including flagging services and inspections throughout the duration of the project. In the agreement, the City agrees to reimburse Norfolk Southern for the actual cost of the work. The cost estimate is as follows:

Construction Engineering		87,929
Accounting		2,097
Flagging Services		248,932
Communications Changes		50,000
Signal and Electrical Changes	88,000	
Track Work		351,993
TOTAL		$ 828,951

Pro:

- This work is necessary for construction of the RADTIP.

Con:

- None

The funds for Norfolk Southern reimbursements are budgeted as part of the construction budget for RADTIP in the City's Capital Improvements Program.

Staff recommends City Council adopt a resolution authorizing the City Manager to sign a construction agreement with Norfolk Southern Railway Company related to the construction of the RADTIP project, with an estimated cost of $828,951.

RESOLUTION BOOK NO. 38 - PAGE 314

I. ORDINANCE NO. 4550 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF REVENUE FOR SUPPLEMENTAL PUBLIC, EDUCATIONAL AND GOVERNMENTAL ACCESS CHANNEL FUNDING

Summary: The consideration of a budget amendment in the amount of $27,582 in the Special Revenue Fund to budget supplemental Public, Educational and Governmental (PEG) Access Channel funds from the North Carolina Department of Revenue.

PEG funding is distributed on a quarterly basis by the North Carolina Department of Revenue. The state distributes $4 million annually as PEG funding. Every quarter, $1 million is distributed with funds divided equally among certified PEG channels.

In 2016 the average quarterly distribution of PEG funds was $6,896 per channel, or $27,582 per year. The City of Asheville met certification criteria in 2016 and is eligible for quarterly allocations of $6,898 or $27,582 per year. The first distribution became available in December 2016.

To be eligible for supplemental PEG funding, a qualifying channel must be operated by a county or city for at least 120 continuous days and:

- Have scheduled programming for at least eight hours a day.
- Not repeat more than fifteen percent (15%) of the programming.
- Not contain more than fifteen percent (15%) of character-generated programming content.

PEG funds can be used only for maintenance expenditures that finance day-to-day operations of a PEG channel. Examples of these expenditures may include, but are not limited to:

- Video production / streaming equipment
- Computer / technology
- Renovation and construction of facilities
- Office furniture

Plans for the City of Asheville's PEG funding may include, but are not limited to video post-production equipment (e.g., computer workstation) and secure external storage for media files.

Pros:

- Investments in Government Channel equipment will support compliance with records retention requirements set forth by the North Carolina Department of Cultural Resources.
- Investments in Government Channel equipment will improve the quality of programming and maximize efficiency in post production work.

Con:

- Acceptance of funding requires administrative work to process funding and track compliance with requirements.

Acceptance of the funding will result in $27,582 of outside revenue. In the last few years, Government Channel equipment investments have come from the Communication and Public Engagement Division's general fund budget leaving few funds for investments in public engagement activities outside of the Government Channel. This outside funding will allow the general fund budget to be allocated towards more professional and inviting public engagement opportunities for the Asheville community.

City staff recommends City Council adopt a budget amendment in the amount of $27,582 in the Special Revenue Fund to budget supplemental PEG funding from the North Carolina Department of Revenue.

ORDINANCE BOOK NO. 31 - PAGE 66

J. RESOLUTION NO. 17-18 - RESOLUTION AUTHORIZING THE MAYOR AND CITY MANAGER TO SIGN AN AMENDMENT TO THE 2012 MUNICIPAL RECORDS RETENTION AND DISPOSITION SCHEDULE

Summary: The consideration of a resolution authorizing the Mayor and City Manager to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

On October 9, 2012, City Council adopted Resolution No. 12-228 approving the 2012 Municipal Records Retention and Disposition Schedule issued September 10, 2012, by the N.C. Dept. of Cultural Resources, Division of Archives and History.

This fourth amendment (dated October 1, 2016) amends Standard 6 (Emergency Services and Fire Department Records) and Standard 9 (Law Enforcement Records).

Pro:

- Promotes municipal records management

Con:

- None noted

Staff recommends City Council adopt a resolution authorizing the Mayor and City Manager to sign an amendment to the 2012 Municipal Records Retention & Disposition Schedule.

RESOLUTION BOOK NO. 38 - PAGE 315

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. ASHEVILLE POLICE DEPARTMENT UPDATE

Police Chief Tammy Hooper updated Council on the following items of interest: Property and Evidence; Matrix Recommendations/ Multi-Year Work Plan; Recruitment Plan; 2016 Crime Trends; and Community Policing/ Trust Building Efforts.

She explained the property and evidence room, showing a chart of items purged, with a backlog of 25% yet to be researched/inventoried. Target for completion is June 30, 2017.

The matrix recommendations/multi-year work plan (completed in July, 2016) included: The APD Multi-Year Work Plan Fiscal Year 2017- Fiscal Year 2019: (1) Formulated through a collaborative internal process; (2) Focus areas are strongly influenced by SOP and Matrix Report as well as ensuring alignment with the City Council's 2036 VISION; (3) Maximizes the Police Department's ability to effectively manage resources, provide accountability, and adapt to change; and (4) A guiding document that is constantly reviewed, updated and aligned with our community's values.

In 2016, the APD implemented a Recruitment Plan to guide in actively recruit, hire, train, and promote a qualified workforce that mirrors the community we serve. (1) Out of 560 police officer applicants, 36 were hired (6.4%) (26 were white males, 7 were white females and 3 were Latino males); (2) Attended more than 15 recruiting events in North Carolina, South Carolina and Tennessee; (3) Engaged community partners; (4) Advertised nationally among a network of minority outlets; and (5) Maximize efforts to increase African American applicants and hires.

Part 1 Crime in 2016 increased 1% compared to 2015. (A) Slight reduction in Property Crime; (2) Overall increase driven by Aggravated Assaults (a) Domestic Related Aggravated Assaults increased by 33% (i) Attributable to increased reporting consistent with changes in practices by LE and service providers, as well as advent of Family Justice Center (b) Non-Domestic Aggravated Assaults increased by 22% (i) Significant increase in gun related crimes; and (c) Both Domestic and Non-Domestic above 5 year averages.

Using maps of Asheville, she showed the crime trends for 2016 - Part 1 crimes 3646 (downtown highest area); Violent Part 1 crimes 471 (downtown highest area); Property Part 1 crimes 3175 (downtown highest area); and Vehicle wrecks 7844 (I-240 at Tunnel Road is the highest area).

Regarding accountability, credibility and community trust, the APD has and will continue to implement programs, training and initiatives to promote accountability and strengthen relationships between the department and diverse communities: (1) Body Worn Camera Program; (2) Use of Force Policy Revision; (3) Officer Training – Crisis Intervention Training (CIT), ICAT, Racial Equity Training (REI); (4) Continued partnerships with community members and groups; and (5) Working to mentor youth.

For 2017 and beyond, (1) Complete inventory and purge of Property and Evidence room; (2) Accomplish goals and objectives in the Multi-Year Plan; (3) Increase recruiting efforts to hire, train, and promote a qualified workforce that mirrors the community we serve; (4) Partner with community to reduce crime and violence and improve quality-of-life through evidence based strategies; (5) Police in an equitable manner that reflects community values; and (6) Enhance community policing and trust through programs, training and initiatives that promote accountability and strengthen relationships.

Chief Hooper responded to Councilman Bothwell when he asked about the actual number of applicants hired vs. the number who applied. Chief Hooper explained that there are several steps in the process and each step of the way they lose applicants.

In response to Councilman Smith, City Manager Jackson said that they will highlight staffing needs in the Police Department (downtown and traffic patrol) in the upcoming budget process.

Councilman Smith suggested we ask for the N.C. Dept. of Transportation's help to make the traffic hotspots safer.

Councilwoman Mayfield asked for accident data on the Jeff Bowen Bridge.

Mayor Manheimer noted that the City will be part of a meeting with the Housing Authority to talk about public housing and the kinds of partnerships and other things that we can do to address crime in public housing.

B. COMPREHENSIVE PLAN PROGRESS

Director of Planning & Urban Design Todd Okolichany updated City Council on the Comprehensive Plan process. He provided a brief overview of the six principles of sustainability that are the unifying themes of the plan - (1) a livable built environment; (3) harmony with the nature environment; (3) a resilient economy; (4) interwoven equity; (5) a healthy community; and (6) responsible regionalism.

Goals of the Plan include (1) highlight key aspirations, challenges, and opportunities; (2) set principles and priorities about where the City should devote energy; (3) create a unified vision that integrates existing planning; (4) create a resource to help guide decision-making; (5) design a user-friendly documents; (6) outline specific goals and strategies; (7) develop a high-level

methodology for measuring the City's progress; and (8) balance the big ideas with core service delivery.

The Comprehensive Plan is a tool that the City uses to establish a high-level vision to guide city policy decisions over a 10-15 year period. The update to the Comprehensive Plan, titled, *Living Asheville: a Comprehensive Plan for our Future,* will provide a visionary framework to help guide Asheville's long term development and provide an essential tool that will be used across the City's many departments to guide future decision making.

The Assessment Report provides the background information for development of the Comprehensive Plan. It explains what a Comprehensive Plan is and the purpose, as well as the process for its development. It also includes an overview of existing plans and their progress to date, peer city review with benchmarking and metrics, and preliminary economic and transportation analyses.

He then reviewed community engagement efforts to date, a review of the project timeline (final plan proposed to be completed in the Fall of 2017), and a review of the Assessment Report, developed by Skidmore Owings and Merrill for the project.

Mr. Okolichany responded to various questions/comments from the Council regarding the Plan update and assessment report summary, some being, but are not limited to: clarification of the percentage of vacant homes that are seasonal; define fixed route transit; does household income only include wages; where is the assessment plan located on-line; in the sections regarding transit, please use "elective riders" instead of "choice riders" and use "transit dependent riders" instead of "captive riders;" when you compare the growth rate of the City to the metro area, is there anyway to quantify the impact of the restraint on annexation; request to see the Lee Walker Heights initiative and the vision for economic mobility and economic opportunity regarding public housing reflected in the Plan; request to see large goals regarding equity reflected in the Plan; greenways should be seen as transportation corridors and recognize that they are part of the broader transportation strategy; need to set some big goals on how we are going to get some of the N.C. Dept. of Transportation managed corridors up to the standards the people of Asheville want; have the zoning language match the principles around infill and affordability; if there is going to be a goal to increase residential presence in downtown, we need to look at capping short-term rentals in the Central Business District; request to see the land assemblage and land banking in some of our affordability efforts; request for update on bolstering local business and discouraging national chains in downtown; request to make sure that the neighborhood plans are reflected in this document; and error on the affordability by sub-district chart on page 115.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER REZONING 4 SCOTTISH CIRCLE, 6 SCOTTISH CIRCLE, 8 SCOTTISH CIRCLE, 9 SCOTTISH CIRCLE, 11 SCOTTISH CIRCLE, 15 SCOTTISH CIRCLE AND A PORTION OF RIGHT-OF-WAY ON SCOTTISH CIRCLE FROM OFFICE II DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

ORDINANCE NO. 4551 - ORDINANCE TO REZONE 4 SCOTTISH CIRCLE, 6 SCOTTISH CIRCLE, 8 SCOTTISH CIRCLE, 9 SCOTTISH CIRCLE, 11 SCOTTISH CIRCLE, 15 SCOTTISH CIRCLE AND A PORTION OF RIGHT-OF-WAY ON SCOTTISH CIRCLE FROM OFFICE II DISTRICT TO RS-8 RESIDENTIAL SINGLE-FAMILY HIGH DENSITY DISTRICT

Urban Planner Shannon Tuch said that this is the consideration of an ordinance to rezone 4 Scottish Circle, 6 Scottish Circle, 8 Scottish Circle, 9 Scottish Circle, 11 Scottish Circle, 15 Scottish Circle and a portion of right-of-way of Scottish Circle from Office II District to RS-8

Residential Single-Family High Density District. This public hearing was advertised on January 13 and 20 2017.

Ms. Bernstein said that applicant (Darren Poupore, agent) is requesting a rezoning of a private road right-of-way and six single family home parcels located on Scottish Circle in south Asheville from Office II District (O2) to RS-8 Residential Single Family High Density District (RS8).

Project Information:

PIN	Address	Owner
9655-01-3113	4 Scottish Circle	Patrick & Karen Davis
9655-01-3221	6 Scottish Circle	Jerrel & Alfred Bruno
9655-01-3227	8 Scottish Circle	Regina Candler
9655-01-4372	9 Scottish Circle	Darren Poupore
9655-01-4369	11 Scottish Circle	Frederick & Michelle Koon
9655-01-3349	15 Scottish Circle	Michael, Timothy & Rita Conway
9655-01-2373	Scottish Circle (portion of ROW)	Harrell & Associates, Realtors (HOA)

The area of the subject property is approximately 1.40 acres, containing six single family home lots and a portion of the private right-of-way for Scottish Circle. The property was originally developed in 2005 by assembling multiple parcels into a new 3.7 acre, single family subdivision containing 17 home sites and new road. The parcels range in size from .13 acres to .23 acres and all have frontage on Scottish Circle. Ten of the 17 parcels are zoned RS8, four are split zoned RS8/O2 and three are zoned O2.

The applicant has requested a standard rezoning from Office II zoning district to Residential High Density Single-Family (RS8) zoning district. Approximately 2/3 of the original subdivision was already zoned RS-8 while the remaining 1/3 was zoned O2. Single family development is permitted in the O2 zoning district so no rezoning was required at the time of development. The owners included in this request would prefer to amend their zoning so that it would be consistent with the rest of the community. One property owner, the owner of 2 Scottish Circle, has elected to not join the request at this time and is not included in the application for rezoning.

The purpose of the RS8 zoning district is to allow for higher density single family home development where public infrastructure is sufficient to support such development, and to stabilize and protect the district's residential character. The purpose of the O2 zoning district is to support the development of small to medium scale office uses compatible with the use and scale of adjacent properties. All six properties have already been developed for single family homes and all comply with the RS8 zoning for lot size and dimensions. The same properties, however, do not comply with the lot size, lot width and building setbacks for the O2 zoning district. The public record is unclear on how the lots were originally created under the existing O2 zoning and these lots may have been permitted in error. This rezoning will correct the non-compliance of the O2 and O2/RS8 split-zoned parcels (save one).

The subject properties are surrounded on three sides (north, west, south) by other RS8 zoned property, most of which have been developed for medium to low density single family homes. The east side of the community is bordered by O2 zoning which allows for small-medium sized office uses and light commercial/service uses. Approximately 260 linear feet of the eastern boundary is undeveloped. Should the subject properties be rezoned, any future development of the adjacent O2 property would be required to install buffers or orient the structures to the street

which would be more reflective of, and compatible with, the single family development pattern that already exists.

At their regular meeting on January 4, 2017, the Planning & Zoning Commission voted unanimously in support of the group rezoning request (7:0). After the Planning & Zoning Commission meeting, one inquiry from a representative for the adjacent O2 zoned property to the east inquired about potential impacts on developing the non-residential property when adjacent to RS8 zoning.

The Asheville City Development Plan 2025 encourages compatible "adaptive reuse, redevelopment and infill development" and states, "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure". Given that these properties are already developed for single family uses, and have been developed under the RS8 zoning standards, staff feels this rezoning would help brings these properties into alliance with the goals of the Comprehensive Plan.

This action aligns with the 2036 Council Vision in the following area: *A Well-Planned and Livable Community* – the proposed rezoning promotes thoughtful resident-led planning that will result in a zoning designation that is compatible with the existing development pattern.

Considerations:

- This rezoning would correct the existing non-compliant lot sizes, lot widths and setbacks.
- This rezoning would resolve the undesirable split-zoned condition of three properties (one remains).
- The RS8 designation is consistent with the single family home development that has already occurred.
- This rezoning is being considered at the request of the homeowners.
- The RS8 designation affords a small amount of protection to the property owners by ensuring buffering or building orientation that may help mitigate the impact of future O2 development.

Based on the above findings and the analysis provided in the report, staff finds this request to rezone 4, 6, 8, 9, 11, and 15 Scottish Circle, in addition to the O2 zoned portion of the private right-of-way (PIN 9655-01-2373) from O2 to RS8, to be appropriate and consistent with the context of the neighborhood and broader city goals.

Mr. Darren Poupore, property owner and President of the Homeowners Association, asked for the Commission's support to rezone the entire area to residential in order to maintain their small neighborhood. They felt that the rezoning will ensure some protection of buffering. There is now an undeveloped lot zoned Office II District adjacent to their property, with a full tree buffer now. Since their rezoning application submitted in October has been proceeding through the process, City staff has recently received plans for a 48-unit apartment complex on this undeveloped adjacent lot. Because their property is currently zoned Office II, the tree buffer requirement is not required because the developer's plans were submitted prior to Council vote on this rezoning request. It was his understanding when City staff asked the developer to keep the tree buffer, he declined. Because their application was delayed one month in the City process due to an error in legal noticing at the Planning & Zoning Commission hearing level, and since their application has been going through the process since October, they asked that City Council intervene and ask the developer to reconsider the tree buffer (especially since it's existing).

In response to Mayor Manheimer, Ms. Tuch said that the apartment complex is a Level II development and will not come to Council for review. The plans only show a partial buffer, not a full one.

Councilman Bothwell said that the tree canopy in Asheville is a big concern for the Tree Commission. The Commission is working on trying to make developers analyze existing tree covers on their property prior to any development.

Mayor Manheimer opened the public hearing at 6:20 p.m., and when no one spoke, she closed the public hearing at 6:20 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the rezoning request from Office II District to RS-8 Residential, Single Family, High Density District to assign a zoning designation that is more compatible with the existing single family development pattern, and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: the rezoning will, 1) protect the existing residential character by guiding compatible infill development; and, 2) resolve an existing non-compliant situation. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ORDINANCE BOOK NO. 30 - PAGE 68

B. PUBLIC HEARING TO CONSIDER THE ISSUANCE OF A CONDITIONAL USE PERMIT FOR PROPERTY LOCATED AT 192 HAYWOOD STREET

Mayor Manheimer said that this public hearing was continued from January 10, 2017, meeting.

City Clerk Burleson administered the oath to anyone who anticipated speaking on this matter.

City Attorney Currin reviewed with Council the conditional use process which is a quasi-judicial permit hearing. At this public hearing, all the testimony needs to be sworn and due process protections afforded to the applicant.

After hearing no questions about the procedure, Mayor Manheimer opened the public hearing at 6:47 p.m.

Urban Planner Sasha Vrtunski submitted into the record City Exhibit 1 (Affidavit of Publication), City Exhibit 2 (Certification of Mailing of Notice to Property Owners); and City Exhibit 3 (Staff Report).

Ms. Vrtunski said that this is the consideration of a request for a Level III review for the construction of an eight-story, 185 room, 178,412 square foot hotel with on-site parking located on 2.05 acres in the Central Business District (CBD). This project is considered a Level III (Conditional Use Permit) review pursuant to Section 7-5-9.1 of the city's Unified Development Ordinance (UDO).

The project site consists of one parcel totaling 2.05 acre (Location Map - Attachment to City Exhibit 3). The primary frontage is on Haywood Street, which is not a Key Pedestrian Street in this area. The site is outside of the Traditional Downtown Core, and is in the Tallest Height Zone. The parcel also has frontage along Carter Street and North French Broad Avenue, with North French Broad being the only Key Pedestrian Street.

The project is proposing to build an 8-story hotel building with 185 rooms and 200 parking spaces in a parking structure (City Exhibit 3 - Site Plan). The total commercial building square footage is 178,412 sf and includes 1300 sf of patio space on the first floor, and 5000 sf of outdoor terrace space on the top floor. Building height is 75 feet, to the floor of the top story. The total

height to the top of the parapet is 89 feet. As provided by the UDO, the height is measured from the Primary Pedestrian Entrance, which is on Haywood Street. Since the grade changes along Carter Street, the building has 9 stories on this side of the building, and a taller height from that grade.

Although not required in the CBD, the applicant is providing 200 parking spaces in a structure, including 8 handicapped spaces and 10 bicycle parking spaces. There have been recent concerns expressed about downtown hotels providing enough parking, and it is not clear if 200 spaces is adequate parking for the use. For other areas of the city with an off-street parking requirement, the number of parking spaces would meet the parking requirement. The parking structure borders the southern property line and is visible only from N. French Broad where the access is located.

The driveway on N. French Broad is shown at 20 feet wide. Access to a loading area is shown on Carter Street, and the driveway is proposed to be 28 feet wide, which is larger than allowed by the UDO (7-8-18(f) (11)). The wider driveway on Carter Street has been approved by the Transportation Department Director.

The sidewalks along Haywood and Carter Streets and North French Broad Avenues are 10 feet wide. The plans also show an internal sidewalk from North French Broad Avenue along the northern edge of the parking structure allowing pedestrians to access the rear entrance of the hotel without having to walk through the parking structure.

Plans show the required street trees along the frontages of Haywood (9 trees); Carter Street (7 trees) and N. French Broad Ave (4 trees). Plans also show the required landscaping for the parking structure (18 trees and 37 shrubs). This project received Alternative Compliance approval for the landscaping around the parking structure, to reduce the number of trees by 1, and to use green screens along the face of the parking garage on the southern side. The building to the south, the Asheville Broad Center, is built on the property line, and trees would not be able to survive between the neighboring building and the parking structure. Additional landscaping is not required, but is proposed on the site plan (additional shrubs). Open Space is not required in the Central Business District.

The project has been evaluated against the design standards in Section 7-8-18 of the UDO and found to comply with requirements including pedestrian entrances, fenestration, screening of mechanical equipment and design organization (View from Southwest from Haywood & Montford Avenue Intersection - City Exhibit 3 - A3.05a). (View from looking Northwest from Carter Street - City Exhibit 3 - A3.05b).

The following modifications have been granted as a part of the Technical Review Committee (TRC) review by the Transportation Department Director, per the Standards and Specifications Manual:

1. Driveway width of 24 feet – The Transportation Director has approved a wider driveway of 28 feet.

The project included requests for two variances that were granted by the Planning & Zoning Commission on December 7, 2016. (View from North French Broad looking at Parking Garage - Attachment to City Exhibit A - A3.05c) (View from North French Broad looking towards Haywood Street - Attachment to City Exhibit 3 - A3.05c)

1. Height of Streetwall (before the stepback)
2. Coverage of 80% along frontage of a Key Pedestrian Street (N. French Broad)

The site is currently zoned Central Business District (CBD) and it is located outside of the Traditional Downtown Core; the use proposed is permitted with a conditional use permit.

The TRC recommended approval on August 15, 2016. The application requires a quasi-judicial review by City Council and a Final TRC review prior to final zoning approval or the issuance of any permits.

The developer's design team met with the Downtown Design Review Committee several times to modify the design and increase the compliance with the intent of the ordinance and design guidelines.

The project was reviewed by the Downtown Commission on September 9 and October 14, 2016. The Downtown Commission voted against the project design for Downtown Design Review based on the request for a variance for a wall over 145' long for a floor above 75 feet. Since the Downtown Commission meeting, the building design has been modified to no longer need the variance for a building wall longer than 145 feet long for floors over 75 feet. With the exception of this request, the Downtown Commission was favorable about the overall design of the project.

This project was reviewed by the Planning & Zoning Commission on December 7, 2016, where the project was approved unanimously. The Planning & Zoning Commission also approved two variances for the project.

Section 7-16-2(c) of the UDO states that Asheville City Council shall not approve the conditional use application unless and until it makes certain findings based on the evidence and the testimony received at the hearing. The applicant has provided a statement on the findings.

Mr. Robert W. Oast Jr., attorney representing the applicant Parks Hospitality Group out of the triangle area of North Carolina, entered into evidence one notebook (original documents or certified documents) containing a list of exhibits the applicant would be using during the presentation. Also included was a sealed by Professional Engineer Kevin S. Dean January 23, 2017, memorandum from Kimley-Horn to Shaunak Patel, Parks Hospitality Group, of the Embassy Suites, Asheville, NC - Traffic Assessment (Applicant Exhibit 1). Mr. Oast also entered into evidence another notebook containing an appraisal sealed by Thomas J. Crozier of Cushman & Wakefield (Applicant Exhibit 2).

In response to Councilwoman Mayfield, Mr. Oast said that regarding the variances, Exhibit 7 of Applicant Exhibit 1 is the the certified copy of the variances (one action for two variances).

Mr. Oast said that unfortunately, Mr. Shaunak Patel, President of Parks Hospitality Group is out of town and regrets he is not here for this important project; however, Mr. Trevor Walden, Vice-President of Operations for Parks Hospitality Group, and Mr. Seth Mason, Assistant Property Manager for Parks Hospitality Group, can speak for the Parks Hospitality Group.

Mr. Oast said that this is a 185 room hotel on 2.2 acres on Haywood Street near its intersection with Montford Avenue. It includes conference facilities which are an important niche in the hospitality industry in downtown Asheville. This project is on the western edge of downtown and almost not in the Downtown Design Review overlay area. This area has long been in need for some sort of stimulus. This project is well situated from a transportation standpoint. It is convenient to a lot of points of interest in Asheville - River Arts District, Montford, Central Business District, South Slope area, convenient access to the French Broad River and even West Asheville, convenient to UNC-Asheville and the U.S. Cellular Center. There is also easy access to the roads out of downtown and to other parts of western North Carolina. We understand that there are questions about the over-building of hotels in downtown Asheville. But, he re-emphasized that this project is not in the center of downtown, it's on the edge, and it will actually relieve some of the pressure on downtown and spur an expansion of downtown into this area. In the Downtown Master Plan this area is identified as the Patton/Haywood Gateway area.

The Plan says that this is an area that is appropriate for hospitality development and it's in the tall building zone.

Mr. Oast said that in the conditional use process, Council has to make seven findings (Exhibit 6 of Applicant Exhibit 1). He then read those following standards: (1) That the proposed use or development of the land will not materially endanger the public health or safety; (2) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant; (3) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property; (4) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located; (5) That the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the city; (6) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities; and (7) That the proposed use will not cause undue traffic congestion or create a traffic hazard. The findings must be based on substantial and competent evidence. If the findings are supported, the permit should be granted. He feels that after his expert witnesses collectively address all of the findings, he felt that Council will have plenty of evidence to support each finding.

Mr. Oast then asked for Council to recognize the following experts:

1. Mr. Tommy Crozier from Cushman & Wakefield - Mr. Crozier said that he is a Senior Director with Cushman & Wakefield in Charlotte. He is part of the Hospitality and Gaming Group. He is a licensed Real Estate Appraiser for over 15 years in the State of North and South Carolina. His primary coverage areas are the Carolinas and Georgia. He has a number of professional designations including the MAI. He has completed well over 1,000 real estate appraisals over the course of last 20 years, including several in Asheville. He prepared the Expert Report containing his signature and seal identified as Exhibit 8 in Applicant Exhibit 1.

   With no objection from City Council, Mr. Crozier was recognized as an expert in the field of land appraisal and valuation.

2. Mr. Kevin Dean, Traffic Engineer from Kimley-Horn & Associates out of Raleigh - Mr. Dean said that he prepared the traffic study for this project. He graduated with a BA in Civil Engineering from NC State. He is a registered Professional Engineer in the State of North Carolina. He has testified as an expert in Cary and Apex, North Carolina. He prepared the traffic assessment containing his signature and seal identified as Exhibit 9 in Applicant Exhibit 1.

   With no objection from City Council, Mr. Dean was recognized as an expert in the field of traffic and transportation analysis.

3. Mr. Blake Esselstyn, Principal of Frontwater, LLC, which is a planning and geographical systems consultancy in Asheville. He has been in that position for two years. Prior to that he worked in the City of Asheville's Planning & Urban Design Department for more than 10 years. He has a BA from Yale University. He has a Master's Degree from the University of Pennsylvania. He has been a Certified Planner since 2013. He is also certified as a Geographic Information Systems Professional. During his time with the City of Asheville he evaluated scores of development proposals for their consistency with comprehensive Plans. He also worked on the Downtown Master Plan and he is currently a

member of the Comprehensive Plan Advisory Committee as a volunteer. He is also Adjunct Faculty at Western Carolina University this semester. He is a member of the American Planning Association and the Urban & Regional Information Systems Association. He has testified as an expert in both court setting and quasi-judicial setting.

With no objection from City Council, Mr. Esselstyn was recognized as an expert in the field of land planning.

Mr. Mike Dale, landscape architect with a firm that was formerly Altamont Environmental, walked Council through the more technical aspects of the plan. The project is within most walking distance of most amenities within downtown. There is great ingress and egress to the interstate, which they have aligned with the intersection of Montford Avenue and Haywood Street, using the existing traffic signal. Using City Exhibit 3 (C4.0, A1.00), he showed the internal drop-off, recessed pedestrian plaza with hardscape (bike racks and a bench or two) on Haywood Street, and the entranceway as it continues into the parking deck. There is also access to the parking deck off N. French Broad Avenue. The parking deck has approximately 200 parking spaces which serves the number of spaces for the needs of the hotel. There is a sidewalk off of Haywood Street into the drop-off and a large 8-foot sidewalk that connects from the internal part of the site over to N. French Broad Avenue. They have met all of the requirements for the landscape plan (City Exhibit 3 - C9.0). He said this project received Alternative Compliance approval for the landscaping around the parking structure, to reduce the number of trees by 1, and to use green screens along the face of the parking deck on the southern side (City Exhibit 3 - Site Plan). They are providing street trees along Haywood, Carter and N. French Broad and also internally. The internal drop-off alleviates congestion along Haywood Street. The service entrance is along Carter Street which is the least busiest street of the three streets. The trash dumpster and back of house facilities are inside the building, with a rollaway door. They envision most guests will park and walk downtown. In general, the site slopes to the south and west with the low point being along Carter Street. That has enabled the architect to step the building down towards Carter Street. There are several utilities at the site, i.e., water, sewer and communications. They will bring the stormwater out from the site to the southwest and then run it down Carter Street and tie it into Patton Avenue. Since there is a slight increase between the pre-development and post-development rates, the applicant will need to provide detention for that difference in pre- and post-development rate. There is a City capital improvement project associated with some of the stormwater infrastructure on Carter Street. The applicant has been in communication with the existing church and there is an agreement in place to provide some parking spaces for the Church during their services on Sundays and Wednesdays. The applicant has also agreed to help resurface the Church's parking lot. There will be a little impact along the Church side with trees and the applicant will repair the retaining wall in that area. There are no plans to close Haywood Street or the sidewalk along Haywood Street during construction. They will provide a pedestrian tunnel. They have good access off of Carter Street to load and unload construction materials to the site.

In response to Vice-Mayor Wisler regarding pedestrian activity on Carter Street, Mr. Dale explained that the service entrance on Carter Street is at an angle to 28.5 feet in order to provide truck access to the dumpsters in the building. There is a 10-foot wide sidewalk on Carter Street, along with street trees, and the service entrance is recessed into the building enough that pedestrians should have a clean line of site to see if a truck is pulling in or out of the service area.

Mr. Oast presented into evidence a letter dated September 21, 2016, from Mr. Ken Putnam, Transportation Department Director, to Mr. Mike Dale, which approved the modification request to increase the required maximum driveway width of 24 feet to 28.5 feet. He asked that it be Exhibit 18 and placed into evidence and in the Applicant Exhibit 1 notebook.

Vice-Mayor Wisler wondered if pedestrian activity on Carter Street was considered when the maximum driveway modification was requested, and ultimately approved.

Using City Exhibit 3 - Site Plan - C4.0, Mr. Bill Zehrung, architect with the firm McMillan/Pazden/Smith Architecture, said that they have been working with City staff, the Downtown Commission, and the Downtown Design Review Committee to get feedback and incorporate some of their needs. The project does comply with the UDO and the two variances they sought benefited their project and to the neighbors around the project. The project will comply with all applicable building and accessib lity codes. Although the building is not planned to be LEED certified, they are working on a number of energy efficient concepts, i.e., thermal gazing to reduce heat loss in the building, full continuous insulation wrapping around the entire building, low flow plumbing fixtures, LED lighting, and efficient HVAC systems, etc. Using City Exhibit 3 - Site Plan (C4.0), A1.00, A1.01, A1.02, A1.03 and A.1.04), he explained the plans for the areas on each floor. He explained that the service deliveries can happen any time of day; however, the vast majority of deliveries and trash pick-up are early in the morning. Mr. Zehrung then used City Exhibit 3 - A3.05a, A3.05 b and A3.05c to show the views from the various locations. He then talked about the material pallet that is proposed for the building, using suggestions by the Downtown Design Review Committee. The height of this proposed building is comparable to the Hyatt Place and is actually shorter than the Hotel Indigo (at least on the Haywood Street Elevation). They stepped back their building and worked with the Downtown Commission and the Downtown Design Review Committee on the massing to break up the building to avoid a canyon effect on the Haywood Street side. He felt that Conditional Use Standard No. 1 has been satisfied because the building will be fully code compliant and accessibility compliant; they have created a better vehicular circulation onto and off of the site particularly on the Haywood Street side; they have increased the sidewalk widths; and they are trying to deal with the loading dock as sensitively as possible. He felt that Conditional Use Standard No. 2 has been satisfied because as the site drops off they are bringing the building functions down trying to keep the building fully engaged; they have met all the fenestration requirements; and they have brought the massing down as the site slopes down. He also felt that Conditional Use Standard No. 4 has been satisfied because they were intentional in the way they massed out the project so that the larger mass of the building were closer to those already developed properties.

When Councilwoman Mayfield asked if there would be any commercial space on the first floor, Mr. Zehrung said that there will be 700 square feet of habitable space.

Councilman Bothwell said that the City puts a high premium on recycling and wondered if that was part of the design and if the trash collection design includes commercial compost. Mr. Zehrung said that they will have a recycling effort. From an architectural standpoint, he said they can accommodate commercial compost in the service court if there was a separate container. He said they have a service elevator from the kitchen that goes directly into the service area and then to the service court, but ultimately he felt this was more of an operational component.

In response to Vice-Mayor Wisler, using City Exhibit 3 - Vistas (A.400), Mr. Zehrung showed the skyline and how the building is dropped into picture from various vistas around downtown.

Mr. Tommy Crozier, expert in the field of land appraisal and valuation, reminded Council that his Expert Report containing his signature and seal is identified as Exhibit 8 in Applicant Exhibit 1. He was asked to give his expert opinion on Conditional Use Standard No. 3. On page 21 of Exhibit 8 of Applicant Exhibit 1, he showed properties that adjoin the proposed hotel. Three adjoining sites are Carolina Apartments, First Church of Scientist, and the Asheville Broad Center. After an initial review it looked like a textbook example of "principle of progression in real estate theory" meaning that lower valued properties are enhanced by the value of higher valued properties. In this example, the three adjoining properties are valued for tax purposes under $3 Million and the proposed hotel to be built for approximately $25-25 Million. He felt that theory applies in this case. Part of his analysis included looking at land uses downtown and in the neighborhood. It was obvious that the northwest part of downtown is different from the rest of the

traditional downtown core. Over 90% of the properties are 1-2 story structures and more than ½ of them are more than 50 years old and under-improved. He felt they have a higher and better use at this point. Part of determining that was looking at value trends in this neighborhood. In the report it shows a chart of recent land transactions, which suggested that values have increased substantially over the last few years in this neighborhood specifically (roughly $50 per square foot). He said that two of the three properties that adjoin this site are $8 per square foot and one is $24 per square foot. He contended that market conditions have improved property values over time but he felt what is most attributable is the performance of the Hotel Indigo (which set a precedence in that neighborhood for property values and the impact of hotels on property values). He estimated that this hotel will generate somewhere north of 50,000 new visitors per year. They will not only be patrons of the hotel, but people that will spend money in restaurants, bars, shop locally, etc. They estimate the economic impact would be approximately $3 Million/year. In addition, based on their estimates, the hotel would provide $500,000 a year in hotel occupancy tax, part of which goes to fund the Buncombe County Tourism Development Authority, which invests in public interest projects. The hotel is anticipated to contribute approximately $500,000 a year in property taxes. His conclusion, supported by market data, shows that the proposed hotel will not substantially injure the value of the surrounding properties.

When Councilman Smith asked what Mr. Crozier meant about "values", Mr. Crozier said he was talking about economic value.

When Vice-Mayor Wisler asked if there was any comparables for cities that have two hotels within ¼ mile from a new hotel, Mr. Crozier said that in this case there is proof from the Hyatt Place example that when it opened early last year the performance of the Hotel Indigo has actually increased by approximately 10%. He felt there there is so much demand for new hotel rooms in the market that it will not impact the value of the adjoining downtown hotels in the area. Even though he did not have any comparables in his Expert Report (Exhibit 8 in Applicant Exhibit 1), he said it is a common situation in peer markets. Again, his opinion was that he did not think it will substantially injure the value of adjoining property, based on his Expert Report (Exhibit 8 in Applicant Exhibit 1).

Vice-Mayor Wisler said that the Buncombe County Tourism Development Authority (BCTDA) actually made a pitch to increase the rate on the percentage of hotel tax completely against the statement made by Mr. Crozier. The BCTDA said that as the number of hotel rooms increase, it will negatively affect the current hotels.

Mr. Kevin Dean, expert in the field of traffic and transportation analysis, said the purpose of his traffic analysis was to determine the impact that this site would have on transportation facilities around the site (Exhibit 9 of Applicant Exhibit 1). The site is expected to generate a total of 70 trips in the a.m. peak hour (entering and exiting), and 74 trips in the p.m. peak hour (entering and exiting). Neither of those volumes meet the threshold for a full traffic impact analysis. The City's traffic engineer told them that all the needed to provide was the trip generation table and their anticipated distribution of those trips (Exhibit 9 of Applicant Exhibit 1). They performed a traffic capacity analysis (Exhibit 9 of Applicant Exhibit 1). They collected peak traffic counts on November 10, 2016. They performed the trip generation for the site based on the Institute of Transportation Engineers data and assigned those trips to the roadway network. They then used traffic software to analyze that data. Based on discussions with City staff, they analyzed the intersections of Montford Avenue at the I-240 westbound ramps, Haywood Street at Montford Avenue, Haywood Street at French Broad Avenue, Haywood Street at the I-240 eastbound ramps, and the French Broad at Otis Street. Based on their analysis, those sites are only expected to have a minimal impact and don't represent more than 5% of any intersection in said area. The majority of the intersections operate at a Level of Service B or C and the site traffic is expected to only increase the overall delay at these intersections by about 4 seconds. Only minor restriping of the turn-lane arrows and minor modifications of the traffic signal at Haywood and Montford are necessary to accommodate that site driveway.

When Councilman Bothwell asked by Mr. Dean picked Thursday, November 10, to do the traffic counts, Mr. Dean said that traffic counts are only supposed to be counted between Tuesdays and Thursdays to get a typical weekday condition. That is industry standards.

Councilman Bothwell said that he was in that area on that day and acknowledged there was no traffic to speak of that evening. He wondered why the traffic engineer chose the month of November to do the traffic counts, because September and October are the months that have a lot of tourist traffic. He noted that Mr. Dean's report says there is no expectation of cueing, but there is already cuing when you turn off of Montford and go towards N. French Broad. And, when you have traffic coming from the eastbound exit, he suspected there will be cueing on Haywood Street. Mr. Dean responded that the amount of traffic will be a negligible increase to any cues. He said that the impact of 5% or less is very minor and again, he felt this will not cause any undue additional traffic.

When Vice-Mayor Wisler questioned if the time of day guests normally check in and out were taken into account in the traffic counts, Mr. Dean said they analyzed the peak traffic of the adjacent street. Typically they count 7-9 a.m. and 4-5 p.m. which generally represents the peak hour of the adjacent street. These are industry standard numbers. That might not necessarily reflect the peak hour of a particular use.

Vice-Mayor Wisler asked if other developments planned for the area were taken into account in the traffic assessment. Mr. Dean said that they did not since they were not required to do a full traffic study. They analyzed the existing conditions and analyzed what it would look like with the existing conditions plus the site.

In response to Councilman Smith, Mr. Dean said that they did not reduce their percentage for anyone who elected to walk, ride a bike or transit. They estimated what they expect to be a conservative estimate on what their impact would be.

Mr. Dean said that in his opinion this use is appropriately located with respect to adjacent transportation facilities and that it will not cause undue traffic congestion or create a traffic hazard.

Councilman Smith wondered if the western North Carolina fires would have an impact on the viability of the traffic count. Mr. Dean said that he was not able to speak to the environmental conditions on the date of his traffic count. Using his I-Phone, Councilman Bothwell said that according to the Asheville Citizens-Times, the Lake Lure had not caused smoke in Asheville as of November 10.

Mr. Blake Esselstyn, expert in the field of land planning, talked about the immediate surroundings (City Exhibit 3 - Site Plan). Using Exhibit 17 of Applicant Exhibit 1, said that looking at scale, bulk and coverage there are a number of similar structures in the surrounding area. As far as density, there are two hotel properties nearby, Carolina Apartments, Vanderbilt Apartments and Vanderbilt Apartments (which are high density residential settings). As far as character, the 21st century architecture surrounding the vicinity is harmonious. His expert opinion that this project satisfies Conditional Use Standard No. 4 in that the proposed use is in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood. Regarding Conditional Use Standard No. 5, using Exhibits 10-13 of Applicant Exhibit 1, he read excerpts from the Asheville City Development Plan 2025, the Downtown Master Plan, the Downtown Master Plan Appendices and the Sustainability Management Plan. From the Asheville City Development Plan 2025, he read from the following pages: (1) Page 35 - "Efficient use of land and infrastructure. Efficient land use results from compact building, infill development and reducing the amount of land needed to satisfy street and parking standards."; (2) Page 110 - "Existing infrastructure must be used more efficiently, land must be developed more intensively..."(3) Page 149 - "The City should actively promote infill development..." ; (4) Page 159 - "The City should assure that as land is developed or redeveloped, provision is made for access by various means of transportation." This site is served by not only vehicular access to the interstate, pedestrian

access, but it is also proximate to proposed bicycle facilities and the Greenway Plan Corridor shows the greenway system having connections near the Chamber of Commerce across the interstate.; (5) Page 159 - "The City should work with property owners, institutions, and public and private agencies to enhance the streetscape along streets and roads in the City." There will be a number of roads that this will be an improvement to the streetscape and the pedestrian environment in this area.; and (6) Page 161 - "The City should assure that new development and redevelopment is of high quality, complementing and adding to the character of the City of Asheville." The endorsements by City staff, the Downtown Commission, and the Downtown Design Review Committee, as well as the unanimous approval by the Planning & Zoning Commission (which includes a number of design professionals) is also a testament to the quality and character of the development. From the Downtown Master Plan Appendices, he read the following on Page S3-22 "Patton/River Gateway District - Land Use - Hospitality is also highly appropriate due to highway access and walkable proximity to the Traditional Core, especially Pritchard Park and the Grove Arcade." From the Sustainability Management Plan, he read the following (1) "Public and private sector work to redevelop underused urban properties in the most sustainable manner." and (2) "Asheville's downtown contains several underused sites that are surrounded by otherwise dense development. Redeveloping these sites is an important step towards sustainability because concentrated activity creates an economically viable City center, where pedestrian movement is possible, businesses can benefit from close proximity to one another, and preserved historic downtown architecture provides an aesthetic attraction to visitors and residents. In addition, dense development, as discussed throughout this plan, consumes less energy and produces fewer emissions. Generating density in districts that are already laid out for high density is a logical policy for sustainability." He also noted that in the Asheville In Motion Plan adopted by the City and located at www.ashevillenc.gov, on Page 73 is a map that shows this area along with both Haywood Street and N. French Broad having markings for shared bike lanes, and on Page 83 showing a map with the greenway connection being planned in this area (Exhibit 19 to Applicant Exhibit 3). These maps reinforce the various multimodal options connecting this area to the traditional core as well as River Arts District, French Broad River, Montford, and other adjacent neighborhoods. It was his option that the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the City.

Vice-Mayor Wisler said that Council's 2036 Vision it says that thoroughfares are aligned with thriving businesses, mixed with residential and office uses and neighborhoods are socio-economic diverse with a range of housing choices. She feels that speaks to diversity and in looking at the proposed corridor, she doesn't feel it is very diverse with three large hotels within ¼ mile of each other. Mr. Esselstyn felt that the Haywood Street corridor is quite diverse in that there is a variety of uses - residential, social service, office space, religious use, utility, etc.

Upon inquiry of Councilman Young, Mr. Esselstyn said that he did not have enough information on whether there were other variances granted by the Planning & Zoning Commission to other building in the area.

In response to an earlier inquiry raised by City Council, Mr. Oast said that the depth of the service bay is 30 feet.

Mr. Trevor Walden, Vice-President of Operations for Parks Hospitality Group, said they are a North Carolina based hotel ownership group. They develop, operate and operate their own hotels. They have 5 hotels in North Carolina (including the Hyatt Place in downtown Asheville) and one in Tennessee. They are not local to Asheville as far as their home office location; however, North Carolina is their home. They want to be involved in their community and take care of their staff. They feel this will be a successful project and that it offers some uniqueness.

Councilman Bothwell said that we are trying to encourage new hotels to start their employees with a living wage. He wondered if that was possible for this project. Mr. Walden said

that this is an upscale project and they pride themselves on offering a competitive wage, typically market driven. This project will require having a set of labor and that they feel confident they will be at or above those requirements.

In response to Councilman Bothwell, Mr. Walden said that they will take into consideration the use of local artists.

There was discussion, initiated by Councilwoman Mayfield, regarding if there is adequate parking for employees and guests of the hotel, and if there was any consideration of adding public parking to the deck. Mr. Walden said that the spaces offering will accommodate the guests of the hotel and 75 associates (employees) of the hotel will park in the general area. He said that guests are gone in the middle of the day, so typically there is a change of parking spaces between guests/associates, noting that several of their associates are local and commute in other ways. He explained why it's not a 1-1 guest room/parking space ratio which is consistent with their other hotels.

Councilman Young felt that since the current Hyatt Place employees are currently utilizing the location of the proposed new hotel, they would have to find somewhere else to park; and if the proposed hotel was build, those employees would also have to find adequate parking as well. Mr. Walden did not think that his employees will add an additional burden to the existing parking situation.

Mr. Oast said that they would be open to consider adding public parking to their deck. The deck has 200 parking spaces and they won't be used at all hours of the day. During non-peak hours and depending on the events in the hotel, the spaces could be made available to the public.

Mr. Walden said that the 5,000 square feet of meeting space will create its own demand. He believed that the Renaissance Hotel has roughly 10,000 square feet. Within the downtown market there is a need for a larger meeting space and it will help them capture additional meetings and events that would otherwise may move to other cities. He said 75% of the building is an all suite product which is different from other markets in the marketplace. The hotel is more leisure friendly. There will be complimentary breakfast offerings along with their evening socials. He feels this will be a great addition to the Asheville market.

Mr. Oast said that this is an impressive project. He felt this is a well designed project and well located. It is consistent with the adopted city plans and meets all of the Code requirements and conditions of the TRC. He said there has been substantial and competent evidence presented as to each of the required seven conditional use standards. He said that this project will contribute to the City in a number of ways, while requiring very little from the City. The permit should be granted on the basis of what has been submitted. After checking with Mr. Walden, he is confident that the parking needs of the hotel (guests and staff) can be accommodated on site. They are willing to discuss public parking with the City.

Mr. Oast, previously having Applicant Exhibit 1 (notebook), Applicant Exhibit 2 (notebook) and Exhibit 18 to Applicant Exhibit 1 (Letter from Ken Putnam) entered into evidence, he asked for Exhibit 19 to Applicant Exhibit 1 (Asheville in Motion maps) be entered into evidence. He noted that some exhibits in Applicant Exhibit 1 have not been referred to in this hearing; however, specifically he asked that the certified copies of the ordinance, certified copy of the variance, all plans, and the two expert reports be entered into evidence.

Mr. Jan Davis spoke in favor of the project from two perspectives - property owner and neighbor. The City needs to do something to develop the western corridor gateway to the City. Coming into the western corridor there is a lot of blight and the activity in that area 30 years ago is gone. We are already seeing a boost in business from employees and guests from the Hyatt Place hotel all the way down to Patton Avenue. This will be a great opportunity for the City to

work with the developer to improve the stormwater system. We have a tremendous amount of crime in that area and this would be an opportunity to clean the area up. As a property owner he would like to see his property values go up. As a member of the Sports Commission, this hotel could fill the needs of the patrons from the U.S. Cellular Center. And, he agreed that we are missing business because of no measurable meeting space downtown.

Ms. Ruth Summers, President of the Grove Arcade Restoration, LLC, and Executive Director of the Grove Arcade Public Market Foundation, said that the hotel industry has invested millions of dollars into our City and she was in favor of density in the Central Business District with no development on our mountainsides. Her biggest concern with this project is the total number of parking spaces. We are at a tipping point for infrastructure issues but she believed that the City has a great opportunity to partner with the Parks Hospitality Group and possibly add additional parking spaces. Additional parking is needed on the western edge of downtown and this would be a wonderful opportunity to eventually provide more parking around the Grove Arcade. All of this said, she supported the project because it will bring business to all of our small business owners, restaurants, shops and breweries. She hoped Council will see the value of this private investment.

Mr. Corey Atkins, Vice-President of Public Policy at the Asheville Area Chamber of Commerce and member of the Civic Center Commission, said that the Chamber wants to continue the positive partnership they have with the City as seen from the bond referendum package and working together on the sales tax redistribution. When considering approval of this project, the Chamber respectfully requests Council to consider the following: (1) revitalization of an outskirt area of downtown; (2) further development of a part of the downtown to eventually the River Arts District Corridor; (3) provides facilities within walking distance of the U.S. Cellular Center and Thomas Wolfe Auditorium; (4) conference room facilities that will allow for more and larger meeting space; and (5) the hotel is providing for parking for their guests; and (6) help build the tax base - property and sales tax. All of these elements are important to the Chamber because they enhance our local business environment and they continue the path that Asheville is on with attracting outside visitors and groups that will spend money in our local economy, support our small businesses, eat at our local restaurants, shop in our locally-owned stores, etc. This project was approved by the Planning & Zoning Commission, the TRC, the Downtown Commission (except for the one variance discussed earlier), and City staff. The Chamber is fully in support of City Council establishing fair and equitable standards and guidelines that promote healthy, sustainable growth and then allow City staff and experts to implement those standards.

Mr. Rich Lee felt that because this is the same owner as the Hyatt Place, this project would have come to City Council as a Level III review because it's over 175,000 square feet and because it is within 500 feet of the Hyatt Place and is being built within 3 years of the Hyatt Place. Mr. Lee said that the UDO notes that the two properties will be considered one development and will be reviewed as such. He thought Council would want clarification if these are being reviewed as a single development with regard to traffic, stormwater, etc.

Ms. Vrtunski said that this project is in front of City Council for two reasons. One is because it is within 500 feet and within 3 years of the Hyatt Place hotel. The second trigger is also because this proposed hotel is over 175,000 square feet. She said that this is not being reviewed as one large development.

City Attorney Currin said that the question before City Council is based on this particular proposal and whether this package meets the seven conditional use permit standards.

Mr. Charles Rawls, Montford resident, was concerned about the safety of drivers and pedestrians at the entrance/exit to the parking deck on N. French Broad.

In response to Mayor Manheimer, Mr. Oast reiterated that they are confident that there is adequate space in the parking deck proposed to accommodate the guests and staff. He said that

during the course of this process, the developer was made aware of parking issues in the area, and they talked to City staff about changing the design of the deck, increasing the number of levels, etc. and the cost. That the cost should not be associated with their project; however, if the City were to provide the funding needed, the applicant might be willing to build those spaces. Those additional spaces could be guaranteed to be available for the public. He said the costs would be construction costs only (the land would not be added into the amount). The per parking space (excluding land cost) is $17,000. City Attorney Currin said that Council cannot, as a part of this, commit City funds as part of your approval.

Councilman Bothwell felt the City needs to look at the nearly complete parking plan before we leap into a decision about where we need parking.

In response to Councilwoman Mayfield, City Attorney Currin said that if Council wants to proceed with the discussion about including public parking spaces to the proposed hotel, the applicant can propose a condition and that Council would review separately. That condition would need to be voted on before Council votes because if Council approves the project and wants to discuss adding public parking spaces later, the applicant can say yes or no; but if Council wants to make it a condition, it would be a requirement for compliance with their conditional use permit.

Mr. Oast provided the following: "As a condition of approval, the Applicant agrees that upon the City's request (which must occur on or before March 17, 2017), the applicant will increase the size of the hotel parking deck to include an additional 135 to 150 parking spaces for use by the public. The design of the larger parking deck will substantially comply with the attached elevation. The Applicant /Owner will pay for the additional spaces, except for the following: (a) The City will contributes an amount not to exceed $17,000 for each additional space; and (b) The City will pay any additional development review costs for the additional spaces." The March 17, 2017, date is a soft deadline.

City Manager Jackson noted that this would be a privately managed garage with rates that would be privately set with the revenue going to the private entity. Mayor Manheimer noted that there is a lot the City doesn't know at this point.

After rebuttal, Mayor Manheimer closed the public hearing at 9:38 p.m.

Vice-Mayor Wisler moved to recommend approval of the conditional use permit site plan review for 192 Haywood Street because it fails to meets the seven conditional use standards, in particular standards 1, 2, 3, 4, 5 and 7. This motion was seconded by Councilman Young and carried unanimously.

Councilman Bothwell felt Conditional Use Standard No. 7 was not satisfied and the site distance from the N. French Broad parking deck was a concern that should be addressed.

Councilwoman Mayfield recognized and agreed with a number of the benefits presented about this development; however, she felt it would be unfortunate to lose the opportunity to address the lack of parking and the general traffic concerns in that part of downtown

City Attorney Currin said that the Findings of Fact and Conclusions of Law will be presented at the next formal Council meeting on February 14, 2017.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. CONFIRMATION OF ESSAY QUESTIONS TO ELIGIBLE ASHEVILLE CITY BOARD OF EDUCATION CANDIDATES

Vice-Mayor Wisler said that the Boards & Commissions Committee reviewed all essay questions, for eligible Asheville City Board of Education candidates, submitted by City Council and narrowed them down to five final questions to ask the eligible candidates to respond to in writing.

Vice-Mayor Wisler said that any eligible candidate for an Asheville City Board of Education seat may have to submit to a background check.

It was the consensus of Council to accept the following Boards & Commissions Committee five recommended written essay questions and wait until the deadline of February 1 before the essay questions are sent to all eligible candidates: (1) Please describe a specific experience you have had at a board of director's level and in oversight of a CEO, executive director, or organizational head. In doing so, please describe your views as to the roles and duties of board members versus senior staff; (2) Please share your perspective on relative academic performance of those student groups who are African-American, those in poverty, and those that are not. What would be your priorities as a board member in this regard? How would the employment of more African-American teachers and administrators fit into your vision?; (3) Give us your thoughts about school choice and how does it fit in with public education?; (4) In what ways can the Asheville City Schools effectively innovate?; and (5) What is your opinion on bringing back full student health centers in our schools including a mental health assistance/counseling component for students and healthier food options to our students?

Councilman Bothwell moved to accept the Boards & Commissions Committee five recommended written essay questions. This motion was seconded by Councilman Young and carried unanimously.

Mayor Manheimer announced that the deadline for Asheville City Board of Education applications is Wednesday, February 1, 2017, at 5:00 p.m. and to please contact Deputy City Clerk Sarah Terwilliger for an application form.

B. RESOLUTION NO. 17-19 – RESOLUTION APPOINTING A MEMBER TO THE ASHEVILLE-BUNCOMBE HISTORIC RESOURCES COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said there currently exists a vacancy on the Asheville-Buncombe Historic Resources Commission, left by Ms. Leslie Klingner, until July 1, 2018.

At the November 8, 2016, Council meeting, it was the recommendation of the Historic Resources Commission, and consensus of the Boards & Commissions Committee to re-advertise for the vacancy to see if a more diverse pool of candidates can be found.

The following individuals applied for a vacancy: Christopher Cobb, Leslie Humphrey, Kevin Saum, Wayne Wheeler, Gerry Leonard and Ed Flowers.

At the January 10, 2017, Boards & Commissions Committee meeting, it was the consensus of the Committee to appoint Wayne Wheeler. However, it was the consensus of Council to interview Wayne Wheeler, Gerry Leonard and Ed Flowers.

After Council spoke highly of all candidates interviewed, Wayne Wheeler and Gerry Leonard received no votes and Ed Flowers received 7 votes. Therefore, Ed Flowers was appointed to serve the unexpired term of Ms. Klingner, term to expire July 1, 2018, or until his successor has been appointed.

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C. RESOLUTION NO. 17-20 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE RIVERFRONT REDEVELOPMENT COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville Area Riverfront Redevelopment Commission.

The terms of Joe Ferikes (representing the riverfront property or business owner), Cindy Weeks (representing the riverfront property and business owner), and Carleton Collins (at large) expired on January 1, 2017.

The following individuals applied for a vacancy: Steve Winter, Nick Hinton, Gerry Leonard, Catherine Rosjford, Darren Green, Shelley Schenker, Jeffrey Horner, Janet Lynn Whitworth, Jerry Sternberg and Viola Spells.

On January 10, 2017, Councilman Bothwell moved to (1) reappoint Cindy Weeks (representing the riverfront property or business owner) to serve an additional three-year term, term to expire January 1, 2020; and (2) reappoint Carleton Collins (at large) to serve an additional three-year term, term to expire January 1, 2020. Both terms are until their successors have been appointed. This motion was seconded by Councilwoman Mayfield. Also on January 10, it was the consensus of the Council to interview Jerry Sternberg and Darren Green.

Councilman Bothwell said that Mr. Sternberg has a rich knowledge and history of the area; however, he is only a part-time City resident, therefore, he would have to cast his vote for Mr. Green. After a vote of Council, Darren Green was unanimously appointed as a member of the Asheville Area Riverfront Redevelopment Commission (representing the riverfront property or business owner) to serve a three-year term, term to expire January 1, 2020, or until his successor has been appointed.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Dave Mittler, representing Asheville City Watch, urged City Council to enforce their towing ordinance related to proper signage (in particular a telephone number for people to contact if their vehicle is towed) and fines to the towing company for illegally towing. It was the consensus of Council to place this item on the Public Safety Committee, along with a report on on City enforcement and citations for predatory towing.

Mr. John Wainscott, representing the WNC Advocacy League, advocated a more open door policy in City government.

Mr. Crocker spoke against a fence being installed in Pritchard Park.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 10:05 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – February 7, 2017 - 2:30 p.m.

Bond Implementation Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; and City Clerk Magdalen Burleson

Assistant City Manager Cathy Ball provided Council with an update on the new Capital Projects Department and upcoming budget amendments: (1) Budget amendment to the 2017 operating budget: $197,175; and (2) Budget amendment to the 2017 capital budget: $74,000,000.

Using charts, she reviewed the estimated transportation bond progress by year (road resurfacing and sidewalk improvements; new sidewalks; transportation safety and bus stops; and greenway and connectors), along with the estimated Parks & Recreation bond progress by year (land acquisition; outdoor courts and playgrounds; ballfields and lighting; and park improvements).

Regarding the housing bond implementation, work on the following strategies will progress: (1) Implementing the Comprehensive Affordable Housing Strategy; (2) Attaining Council Goal of 2,800 new affordable housing units by June, 2021; (3) Expanding the supply of permanent place-based affordable housing; (4) Eliminating chronic homelessness; (5) Leveraging City resources; (6) Measuring effectiveness of delivery system by per unit cost, amount of subsidy, length of period of commitment to affordability; and (7) Incorporating location and energy efficiency as key factors of affordability and livability.

Expansion of the Housing Trust Fund: (1) Estimated minimum contribution: $10,000,000; Anticipated availability: July 1, 2017; (3) Anticipated date by which all funds must be expended: June 30, 2024; and (4) Range of potential uses: broad, including investment in rental and homeownership new unit production and preservation. Limited only by bond language.

Regarding preliminary research on the expansion of the Housing Trust Fund, (1) Assistant Community & Economic Development Director currently conducting interviews among affordable housing stakeholders to assess current and anticipated pipeline, assessment of market, economic forecast, and interest in partnership. To be completed by March 1, 2017; (2) Staff investigating market and legal framework for uses other than direct financing of projects. These include: (a) Land Banking; (b) Loan Guarantees; and (c) City as development partner; and (3) Community land trust educational series now in planning stage. To be conducted during March, 2017. She then reviewed the next steps, with implementation and reporting to begin in July of 2017.

Regarding repurposing of City-owned land, based on City-owned property analysis, staff identified high yield properties that could be used to support the development of affordable housing, including: (1) S. Charlotte Street; (2) Matthews Ford Property; and (3) 91 Riverside Drive. She then explained South Charlotte Street is approximately 7.5 acres total; Biltmore Avenue (Matthews Ford site) is approximately 5.5 acres total; and 91 Riverside Drive is 1.03 acres and 81 Riverside Drive is 0.73 acres.

The recommendation on repurposing City-owned land is to proceed with performing due diligence on all 3 properties (12 month process): Environmental site assessments; Appraisals; Surveys; Conceptual designs; Site capacity, number of potential units; Geo tech; and Alignment with City Council goals (proximity to jobs, transit, etc.) . In the Summer/Fall 2018, after due diligence is complete, staff will present to Council to determine whether to proceed with developing a RFP/RFQ for sites

Ms. Ball responded to various questions/comments from the Council, some being, but are not limited to: provide information on a separate break out the road resurfacing and sidewalks; should be consider putting off a project is it still has a useful life; will the City-owned property study prepared in 2005-2006 be considered; confirmation that if one of the projects has an unforeseeable problem, due diligence would not continue and it would be reported back to Council; confirmation that information and a deeper analysis on projects moving forward is available on the website; staff is working on a homeownership program in the Housing Trust Fund; need to proactively push out information on the bond projects; interest in a permanently affordable homeownership program; and possibility of a community forum before projects are brought before a Council Committee.

It was the consensus of Council to have staff proceed with performing due diligence on all 3 properties - (1) S. Charlotte Street; (2) Matthews Ford Property; and (3) 91 Riverside Drive; and the expansion of the Housing Trust Fund as outlined above.

At 3:12 p.m., Mayor Manheimer adjourned the meeting.

Magdalen Bowlson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – February 7, 2017 - 4:00 p.m.
Buncombe County Administrative Building

Joint Asheville City Council and Buncombe County County Commissioner Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Present: Chair Brownie Newman, Presiding; Vice-Chair Ellen Frost; Commissioner Joe Belcher; Commissioner Jasmine Beach-Ferrara; Commissioner Mike Fryar; Commissioner Robert Pressley; Commissioner Al Whitesides; County Manager Wanda Greene; County Attorney Bob Deutsch; and County Clerk Kathy Hughes

County Commissioner Chair Newman and Mayor Manheimer welcomed the audience to this joint meeting.

County Manager Greene and City Manager Jackson highlighted a list of partnerships and collaborations between the City and County, some being, but are not limited to: emergency management; Asheville-Buncombe County Arson Task Force; Buncombe County Anticrime Task Force; City/County Identification Bureau; Child Advocacy Center; CrimeStoppers; Criminal Justice Information System; DWI Task Force; Family Justice Center; Focused Deterrence; Task Force 2; African American Heritage Commission; Energy Innovation Task Force; Historic Resources Commission; Homeless Initiative Advisory Committee; Asheville Area Riverfront Redevelopment Commission; City of Asheville Youth Leadership Academy; Civil Rights Services; Economic Development; HOME; Libraries; Pack Square Cultural Partnership; WNC Diversity Engagement Coalition; Environmental Control Specialists; Air Quality Management; Alternative Fuel Station; Phase II Organic Waste Processing Feasibility Study; Parks, Greenways & Recreation; WNC Nature Center; Transit; Animal Shelter; Spay/Neuter Services; and Geographic Information System.

Commissioner Frost stressed that the City and County join forces in addressing the opium problem in our community.

Assistant County Manager Jon Creighton and Assistant City Manager Cathy Ball updated the Council and Commissioners on the City and County capital construction projects, along with Buncombe County Manager of Recreation Services Josh O'Conner reviewing the County's greenways.

At the request of Commissioner Frost, Councilman Smith explained the City's land use incentive grant program.

Chair Newman, Councilwoman Mayfield and Mr. Jason Walls, District Manager of Duke Energy, and Virginia Lacy, representing Rocky Mountain Institute, updated the Council and Commissioners on the task of the Energy Innovation Task Force. The effort is to come up with a plan that will (1) reduce the overall energy usage in Asheville and Buncombe County; and (2) reduce peak usage on cold winter mornings. They hope to (1) develop and compare potential actions to avoid a peaking power plant at Duke Energy's Lake Julian; (2) reduce costs for consumers; and (3) identify opportunities for the City and County to leverage existing programs and turbocharge action. They hope to bring back an initial 2-year plan in the coming months.

There was discussion, during the informational session on the Energy Innovation Task Force, about the need to do a better job of connecting customers with programs that will save the customers money and help achieve the Task Force's goals.

County Manager Greene provided an update on the planning for the renovation of East Asheville Library, noting that their architect will draw some alternative plans and they will go back to the community in March. In the meantime they will send out a survey to seek input from other users of the library. It will then be determined if they can site the facility being requested on the existing property and if not, the question will then be where to locate the East Asheville Library.

Mayor Manheimer updated the Commissioners and Council on the Asheville-Buncombe African American Heritage Commission. The Commission's purpose is to recognize African American history in Asheville and Buncombe County. The City and County have recently allocated funds to help facilitate community conversations in a strategic planning session on ways to commemorate the contributions of the African American community. Commissioner Jasmine Beach-Ferrara felt we need to step up in new ways to address racial equity with a new level of commitment, resources and honesty. Commissioner Whitesides was pleased that we are finally starting to show that we are serious about their Commission's purpose.

Chair Newman and Mayor Manheimer adjourned the meeting at 5:46 p.m.

Magdalen Burleson
City Clerk

Esther E. Manheimer
Mayor

Tuesday – February 14, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MARCH 1-7, 2017, AS "SOUTHERN CONFERENCE BASKETBALL CHAMPIONSHIP WEEK"

Councilman Smith read the proclamation proclaiming March 1-7, 2017, as Southern Conference Basketball Championship Week" in the City of Asheville. He presented the proclamation to Mr. Greg Duff, representing Glory Hound Events, and Mr. Demp Bradford, Sports Commission Executive Director, and others, who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

At the request of Vice-Mayor Wisler, Consent Agenda Item "P" was removed from the Consent Agenda for discussion and/or individual vote.

At the request of Mayor Manheimer, Consent Agenda Item "H" was removed from the Consent Agenda for discussion and/or an individual vote.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON JANUARY 24, 2017; THE BOND WORKSESSION HELD ON FEBRUARY 7, 2017; AND THE JOINT CITY/COUNTY MEETING HELD ON FEBRUARY 7, 2017

B. MOTION APPROVING THE BOARD OF ALCOHOLIC BEVERAGE CONTROL'S TRAVEL POLICIES ADOPTED JANUARY 26, 2016

Summary: In order to meet the requirements of Chapter 18B-700, Article 7 (g) (2), the Asheville ABC Board seeks to continue to use the travel policies of its appointing authority, the City of Asheville. Section (g) (2) states, "The local board shall annually provide the appointing authority's written confirmation of such approval ..." The ABC Board approved the current policy on January 26, 2016. Last year the ABC Board incorporated all the elements to changes in the City's Travel Policy, and no changes were made to the current policy.

The Asheville ABC Board is requesting formal written confirmation of the approval of the Asheville Board of Alcoholic Control Travel Policy.

C. RESOLUTION NO. 17-21 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ASHEVILLE, BELL ATLANTIC MOBILE OF ASHEVILLE INC (D/B/A VERIZON WIRELESS), AND NEW CINGULAR

WIRELESS, LLC (D/B/A AT&T) FOR THE TOWER REPLACEMENT PROJECT AT 166 RESERVOIR ROAD

ORDINANCE NO. 4552 - BUDGET AMENDMENT ASSOCIATED WITH THE TELECOMMUNICATIONS TOWER REPLACEMENT PROJECT ON CITY-OWNED REAL PROPERTY AT 166 RESERVOIR ROAD

Summary: The consideration of a resolution authorizing the City Manager to enter into a Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road; and a budget amendment in the amount of $300,000 to establish a project budget in the City's General Capital Projects Fund with proceeds from the AT&T contribution.

The City of Asheville owns approximately 7.42 acres of real property at 166 Reservoir Road. Because of the property's elevation and location, the property has exceptional range for telecommunications with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers were built at this location in the 1980s.

The lower tower has reached equipment capacity and due to changes in the building code that governs telecom towers, the City-owned tower is no longer serviceable in its present form. T-Mobile, AT&T and the City have equipment on this tower, but equipment upgrades or changes are not possible without significant investment in the structure. That being the case, the cost associated with a total replacement of the tower is more financially feasible than trying to renovate the existing tower. In 2015, the City analyzed the public safety communications system and determined that the City should maintain this tower as a redundant or back up source of communication. With this recommendation, staff researched options for replacing the tower and engaged the tenants on the tower in the process.

With no designated City capital funding for a tower replacement, staff sought to leverage the relationships with the private tenants to provide funding. AT&T, an existing tenant, came forward and expressed interest as the sole funder on the construction project, in exchange for rent abatement. At this time, the following terms have been discussed and agreed upon in principle as a project concept:

- City will serve as project manager for the engineering, design, and construction of this project.
- City agrees to pay all expenses for engineering and permitting costs associated with the tower construction.
- AT&T agrees to pay for the total construction costs of the new tower and demolition of the existing tower. The current estimate is $275,000 and will be determined by final bids and true costs. AT&T contribution is due prior to the City's execution of a construction contract as a lump sum payment.
- In consideration of AT&T's contribution, the City would agree to rental abatement for the full construction amount. The rental abatement will be set forth in a license agreement wherein AT&T is granted a 15 year term of occupancy (structured as 3 - 5 year terms.) and rental abatement is calculated at the current fair market value ($37,500 per year), plus a 3% escalation rate of each year. No rent is paid until construction costs are abated. Current estimates indicate that AT&T will commence paying rent sometime in year seven of the agreement at a graduated rate of approximately $44,700 per year.
- Construction completion is expected before the end of the calendar year 2017.

As a new tenant to the tower, Verizon has been consistent in expressing their desire to co-locate on the new tower once complete. Terms have been set forth, as follows:

- Verizon requests a 15 year term (structured as 3 - 5 year terms.)
- Verizon's rent will commence once the tower construction is complete, at the established fair market value of $37,500 per year with annual increases of 3% per year.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.
- Verizon must also execute the MOU acknowledging the construction project and process.

The location of the new tower is proposed as close to the existing tower as possible in order to maintain the existing coverage and reach. The new tower will be the same height as the old tower at 180 feet. The existing tower and the new tower are of similar design – a self-support, lattice structure rather than a monopole design. This design is necessary to support the requirements of public safety equipment. As soon as the new tower is operational, the tenants will have 60 days to relocate their equipment to the new tower, and thereafter the old tower will be decommissioned and demolished. At the base of the tower, each of the tenants will maintain an equipment area enclosed by chain link fencing.

This property has also been considered for a future park area. A spur trail off of the Beaucatcher Greenway was designed on this property to offer expansive views of Downtown Asheville. A community group, known as the Friends of Overlook Park, in partnership with Asheville Greenworks, established an agreement with the City to begin the vision and master plan process for recreational use of the property. Existing conditions, including the presence of two telecommunications towers and an abandoned and filled reservoir are acknowledged as part of the site constraints. With a planning process currently underway to improve the area for a park, it is likely that landscape buffering or screening around the tower and the ground lease areas will be needed in the future.

In May 2015, City Council approved a wording amendment to the Unified Development Ordinance to allow the replacement of existing permitted cell towers where they are located. The proposed tower replacement project is designed to be in compliance with this provision.

The City Council Finance Committee reviewed this item on January 24, 2017, and provided a recommendation to approve.

Pros:

- Capital improvements - tower construction costs - fully funded by AT&T.
- Long term commitment from the tenants will secure revenue stream for the City.
- Dedicates a portion of the site to long term public safety communications use.
- New tenant (Verizon) contributing rent to the general fund; AT&T will commence paying rental once construction costs have been abated.

Cons:

- Future recreational use will need to accommodate public safety telecommunication towers into the design.
- Uncertain if the existing tenant, T-Mobile, will seek to relocate to the new tower or will move to a different location. T-Mobile's existing lease will end once new tower is completed.

Replacing the existing tower benefits the general fund through continued tower lease revenues and supports upkeep of the City's public safety communications infrastructure with minimal capital expenditures from the City. The Capital Projects budget will be amended to include the one-time revenue from AT&T to fund the tower replacement project.

Staff recommends that the Council adopt the resolution authorizing the City Manager to enter into a Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road and the associated budget amendment.

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D. RESOLUTION NO. 17-22 - RESOLUTION PROPOSING APPROVAL OF A LICENSE AGREEMENT WITH NEW CINGULAR WIRELESS, LLC (D/B/A AT&T) FOR ANTENNAS AT 166 RESERVOIR ROAD, DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LICENSE AGREEMENT IF NO ALTERNATE BIDS ARE RECEIVED

Summary: The consideration of a resolution proposing to accept/approve a license agreement with New Cingular Wireless, LLC (dba AT&T) for antennas at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

The property at 166 Reservoir Road known as White Fawn Reservoir is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunication with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City of Asheville leases antenna space on the towers and ground space for related equipment.

The lower tower has reached equipment capacity and due to changes in the building code that governs telecom towers, the City-owned tower is no longer serviceable in its present form. Based on a proposed Memorandum of Understanding (MOU), AT&T has offered to pay for the construction costs associated with replacing the existing tower in exchange for total rent abatement. AT&T is an existing tenant on the lower tower and has had a long-standing relationship with the City as a tenant on the tower. The proposed License Agreement is based on the following terms:

- Per the proposed MOU, AT&T agrees to pay for the total construction costs of the new tower and demolition of the existing tower. The current estimate is $275,000 and will be determined by final bids and true costs. AT&T contribution is due prior to the City's execution of a construction contract as a lump sum payment.
- Per the proposed license agreement, the City would agree to rental abatement for the full construction amount. The rental abatement will be set forth in the terms of the a license agreement wherein AT&T is granted a 15 year term of occupancy (structured as 3 - 5 year terms) and rental abatement is calculated at the current fair market value ($37,500 per year), plus a 3% escalation rate of each year. No rent is paid until construction costs are abated. Current estimates indicate that AT&T will commence paying rent sometime in year seven of the agreement at a graduated rate of approximately $44,700 per year. The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.

Since the license agreement proposal is for a total period longer than ten (10) years, the North Carolina General Statutes state that Council may authorize a lease longer than ten (10) years, but to do so the lease must be administered as a sale in that the process must include an upset bid process or other competitive bid process.

If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset

the current bid of $37,500 per year at 3% annual increases. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder. As set forth in the resolution, if no qualifying upset bids are received, then City Council agrees to further authorize the City Manager to execute the license agreement with AT&T.

The City Council Finance Committee reviewed this item on January 24, 2017, and provided a recommendation to approve.

Pros:

- Capital improvements - tower construction costs - fully funded by AT&T.
- Long term commitment from AT&T will secure a future revenue stream for the City.

Con:

- None noted.

License fee revenue is budgeted in the City's General Fund Operating budget. The future revenue for this license agreement will be programmed in the annual operating budget once the rent abatement period ends.

Staff recommends City Council adopt the following resolution proposing to accept/approve a license agreement with New Cingular Wireless, LLC (dba AT&T) for antennas at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

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E. RESOLUTION NO. 17-23 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT FROM THE OFFICE OF NATIONAL DRUG CONTROL AND POLICY THE 2016 HIGH INTENSITY DRUG TRAFFIC AREA (HIDTA) GRANT FOR THE ASHEVILLE AREA HIDTA TASK FORCE

ORDINANCE NO. 4553 - BUDGET AMENDMENT FOR THE 2016 HIGH INTENSITY DRUG TRAFFIC AREA

Summary: The consideration of a resolution authorizing the City Manager to accept from the Office of National Drug Control and Policy the High Intensity Drug Traffic Area (HIDTA) 2016 grant as a fiduciary for the Asheville Area HIDTA Task Force; and the associated budget amendment, in the amount of $25,000.

The mission of the HIDTA program – authorized by the Anti-Drug Abuse Act of 1988 and administered by the Office of National Drug Control Policy ÷ is to reduce drug trafficking in the most critical areas of the country, thereby reducing the impact of illegal drugs in other areas. Asheville has for many years been designated as a HIDTA site. Asheville HIDTA serves as a key drug trafficking reduction effort, critically positioned between the Atlanta HIDTA and the Appalachia HIDTA. The Asheville HIDTA is comprised of members of the United States Drug Enforcement Administration (DEA), Asheville Police Department, Buncombe County Sheriff's Office, Henderson County Sheriff's Office and McDowell County Sheriff's Office. The Asheville HIDTA is a component of the Asheville DEA Task Force. The HIDTA task force primarily concentrates on high volume, high value drug trafficking. As an example the task force was recently involved in a case involving the large seizure of several controlled substances to include Methamphetamine, Ecstasy, etc. with tie to local and national gangs involved people trafficking narcotics in this regional and beyond.

The City of Asheville serves as the fiduciary for the Asheville HIDTA. The allotted funds from the federal government will go for investigative purposes. The expenditure of all funds are tracked and audited by both local and federal authorities.

Pros:

- Federal HIDTA monies will be used for investigative purposes.
- Continues to foster partnerships with Federal and Local Law Enforcement Agencies.

Con:

- None noted

There is no impact to the City's General Fund budget. The grant funds will be received and disbursed through the City's Special Revenue Fund.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept from the Office of National Drug Control and Policy the High Intensity Drug Traffic Area (HIDTA) 2016 grant as a fiduciary for the Asheville Area HIDTA Task Force; and the associated budget amendment, in the amount of $25,000.

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F. RESOLUTION NO. 17-24 - RESOLUTION PROPOSING APPROVAL OF A LICENSE AGREEMENT WITH BELL ATLANTIC MOBILE OF ASHEVILLE INC (D/B/A VERIZON WIRELESS) FOR ANTENNAS AT 166 RESERVOIR ROAD, DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LICENSE AGREEMENT IF NO ALTERNATE BIDS ARE RECEIVED

Summary: The consideration of a resolution proposing to accept/approve a license agreement with Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless) for antennas at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

The property at 166 Reservoir Road known as White Fawn Reservoir is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunication with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City of Asheville leases antenna space on the towers and ground space for related equipment.

The lower tower has reached equipment capacity and due to changes in the building code that governs telecom towers, the City-owned tower is no longer serviceable in its present form. Based on a proposed Memorandum of Understanding (MOU), the City's intent is to replace and rebuild the existing tower with a new tower.

As a new tenant to the tower, Verizon has been consistent in expressing their desire to co-locate on the new tower once complete. Terms have been set forth, as follows:

- Verizon requests a 15 year term (structured as 3 - 5 year terms.)
- Verizon's rent will commence once the tower construction is complete, at the established fair market value of $37,500 per year with annual increases of 3% per year.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.
- Verizon must also execute the MOU acknowledging the construction project and process.

Since the license agreement proposal is for a total period longer than ten (10) years, the North Carolina General Statutes state that Council may authorize a lease longer than ten (10) years, but to do so the lease must be administered as a sale in that the process must include an upset bid process or other competitive bid process.

If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $37,500 per year at 3% annual increases over a 15 year term. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder. As set forth in the resolution, if no qualifying upset bids are received, then City Council agrees to further authorize the City Manager to execute the license agreement with Verizon.

The City Council Finance Committee reviewed this item on January 24, 2017 and provided a recommendation to approve.

Pros:

- Fair market value license agreement.
- Long term commitment from Verizon will secure a future revenue stream for the City.

Con:

- None noted.

License fee revenue is budgeted in the City's General Fund Operating budget. The revenue for this license agreement will be programmed in the annual operating budget for FY 2018.

City staff recommends City Council adopt the following resolution proposing to accept/approve a license agreement with Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless) for antennas at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

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G. RESOLUTION NO. 17-25 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A MEMORANDUM OF AGREEMENT WITH THE ASHEVILLE CITY SCHOOLS FOUNDATION TO ADMINISTER THE CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY SCHOLARSHIP DISBURSEMENT PROCESS

Summary: The consideration of a resolution reauthorizing the Agreement with Asheville City Schools Foundation (ACS Foundation) to administer the City of Asheville Youth Leadership Academy (CAYLA) scholarship disbursement process.

The CAYLA program has been a partnership between the ACS Foundation and the City of Asheville since the program's founding in 2007. In addition to leadership development and college readiness activities throughout the year, CAYLA has provided area high school students with meaningful and positive employment opportunities during the summer. CAYLA offers an opportunity for students to earn a paycheck and, at the same time, gain quality work experience. The program intentionally creates a learning atmosphere that helps young people discover and explore their talents while contributing to the well-being of their community.

The ACS Foundation has administered the CAYLA scholarship fund beginning with the inaugural class of CAYLA graduates in 2008. City Council approved the CAYLA program and related scholarship fund on consent agenda on May 8, 2007; however, there is no record of a resolution to approve the annual contract between the City and ACS Foundation. This requested action is a technical correction to document that the relationship has been approved by City Council and will continue for the duration of the MOU between the City of Asheville and the ACS Foundation, up to 5 years, based upon satisfactory performance by the ACS Foundation.

Pros:

- Makes explicit the contractual relationship between the City and the ACS Foundation.
- Provides an efficient process for distributing CAYLA scholarships directly to the colleges at which CAYLA graduates are enrolled.
- Documents, through a formal MOU, the relationship between the City and the ACS Foundation.

Con:

- None

No new fiscal impact; relationship has been in place since 2008.

Staff recommends City Council adopt a resolution re-authorizing the CAYLA program agreement and authorizing the City Manager to execute the MOU with ACS Foundation and any associated amendments or documents.

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H. RESOLUTION ADOPTING THE HOMELESS INITIATIVE ADVISORY COMMITTEE 5-YEAR STRATEGIC PLAN ON HOMELESSNESS

This item was removed from the Consent Agenda for discussion and/or an individual vote.

I. RESOLUTION NO. 17-27 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT RIVERSIDE CEMETERY TO SHARON BOWLIN FOR THE PURPOSE OF INSTALLING A SEWER LINE TO SERVICE A SINGLE FAMILY RESIDENCE

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of City Owned property at Riverside Cemetery to Sharon Bowlin for the purpose of installing a sewer line to service a single family residence.

The Riverside Cemetery is owned and maintained by the City of Asheville and is approximately 49 acres in size. An existing MSD sewer line runs along the Northwest property boundary of Riverside Cemetery serves residences on Westover Drive. Sharon Bowlin owns an undeveloped lot on Westover and has reached out to the City to request a sewer line easement to connect to the existing line. This is the only available connection to the sewer line. Both the Riverside Cemetery Director and Al Kopf of Parks and Recreation have been consulted and they have no objection to the easement. Ms. Bowlin is a private developer and she intends to sell this property to a buyer for the construction of a single family residence.

The easement being requested is 28 linear feet long and 6 feet wide for a total square footage of approximately 168 square feet. Using comparable sales figures, the value per square foot of land in this neighborhood is roughly $16.61 per square foot. MSD has a policy of compensating owners according to 50% of land value for an easement and when we apply this to practice to this situation, the cost of the easement would be $1,395 plus the real estate

transaction fee. A sketch is provided to show the approximate location of the sewer line and the manhole where this connection would have to be made.

Pros:

- There is compensation associated with the granting of this easement.
- The easement would not interfere with the operation of the Riverside Cemetery.

Con:

- None

Funds generated by the granting of this easement will be deposited in the General Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to convey this 168 square foot easement at Riverside Cemetery near Westover Drive to Ms. Bowlin for purposes of installing a sewer service line

RESOLUTION BOOK NO. 38 - PAGE 324

J. ORDINANCE NO. 4554 - BUDGET AMENDMENT IN THE TRANSIT CAPITAL FUND FROM INSURANCE RECOVERY FUNDS FOR A TOTALED BUS TO UTILIZE TOWARDS THE PURCHASE OF A NEW BUS OR BUS MAINTENANCE

Summary: The consideration of a budget amendment in the Transit Capital Fund, in the amount of $25,000, from insurance recovery funds for a totaled bus to utilize towards the purchase of a new bus or bus maintenance.

On May 17, 2016, a City bus was totaled in a motor vehicle accident by a third-party and the City settled the property damage claim for $25,000. The Transportation Department seeks to utilize the settlement funds toward the purchase of a new bus or bus maintenance.

Pro:

- Provides funding to off-set Transportation Department costs for bus replacement or maintenance.

Con:

- None.

The insurance recovery funds are held in the City Property & Liability Fund. Upon City Council approval, the funds will be transferred to the City Transit Capital Fund to be utilized by the Transportation Department.

City staff recommends City Council adopt the budget amendment in the Transit Capital Fund for the Transportation Department to utilize.

ORDINANCE BOOK NO. 31 - PAGE 75

K. RESOLUTION NO. 17-29 - RESOLUTION SETTING A PUBLIC HEARING ON FEBRUARY 28, 2017, TO CONSIDER A LAND USE INCENTIVE GRANT FOR 338 HILLIARD AVENUE (TRIBUTE COMPANIES)

Summary: The consideration of a resolution to set a public hearing on February 28, 2017, for a Land Use Incentive Grant for the development by Tribute Companies of 338 Hilliard Avenue, per the policy adopted by Council, and amended on September 22, 2015. This report summarizes the application and reports on eligibility and points for the public hearing on the application.

Tribute Companies is proposing a rental development on .8 acre at 338 Hilliard Avenue, on property currently owned by the City of Asheville, with an estimated development cost of $5.7 million. The LUIG application proposes a 60 unit development in one building, with the following unit breakdown and amenities:

# of units	60
% 80% AMI or below	82%
# 30% AMI	6
# 60% AMI	12
# 80% AMI	31
# 100% AMI	11
# Market	0
# Reserved for Homeless Households	2
# 1 BR	35
# 2 BR	15
# 3 BR	10
Community Gardens	yes
Child Care Space	yes
Third-Party Sustainability Certification	yes

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Staff has determined that their LUIG application meets the eligibility requirements.

Staff confirms the following scoring:

Affordable Rental Housing
49 of the 60 Units will be rented to households under 80% of AMI.....90 pts.

Workforce Rental Housing
60 of the 60 Units will be rented to households under 100% of AMI.....15 pts.

Superior Locational Efficiency
Within .25 mile of an existing bus stop served by one-half hour
ART transit frequency.....10 pts.

Longer Term Affordability

Committed to 25 years of Affordability.....10 pts.

Total Points **125 pts.**

The HCD Committee reviewed the revised proposal at their meeting on January 17, 2017, and unanimously recommends that Council set a public hearing date for the LUIG application. The LUIG proposal was submitted concurrently with Tribute Companies revised proposal to purchase the site from the City of Asheville and develop the property for affordable and workforce housing. Award of a Land Use Incentive Grant is a condition of Tribute's proposal to purchase and develop the property.

Pros:

- The proposed project will provide affordable rental housing to 49 households earning 80% or less of area median income, for a period of at least 25 years; and an additional 11 "workforce" units for a minimum period of 25 years;
- The proposed project addresses the pressing need for affordable rental apartments within easy walking distance of employment opportunities and transit access;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- None noted.

Estimated value of Land Use Incentive. The current estimated value of the property is $450,000. The developer's estimate of completed project taxable value is $5,500,000. Although currently non-taxable property, the annual city tax, based on the estimated value, would be $2,138. The annual estimated city tax post completion, based on the developer's estimate of value is $26,125. Therefore, the estimated annual Land Use Incentive Grant would be $23,988, the exact amount to be determined by the length, in years, of the grant award, and the actual assessed value of the development upon completion. If approved for 12.5 years, the estimated Grant would be $299,844. The subsidy per affordable unit would be $6,119. The subsidy amount per affordable unit/year would be $245.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Plan Review Fees and Water Service Connection Fee is $8,300. The value of each 10% of the fee rebate would be $830. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 125 point level, the fee rebate would be $8,300, $238 per unit.

The total estimated Land Use Incentive Grant, if approved, would be $308,144.

Staff recommends that Council accept the HCD Committee recommendation to set the public hearing on February 28, 2017, for the LUIG grant application.

RESOLUTION BOOK NO. 38 -PAGE 326

L. RESOLUTION NO. 17-30- RESOLUTION AUTHORIZING HOUSING TRUST FUND LOANS TO SWANNANOA BEND LLC AND ASHEVILLE AREA HABITAT FOR HUMANITY

Summary: The consideration of the resolution authorizing the approval of Housing Trust Fund loans to Swannanoa Bend, LLC ($350,000) and Asheville Area Habitat for Humanity ($60,000).

Staff received two Housing Trust Fund (HTF) applications totaling $410,000 requested funds for the creation of 76 affordable units: 6 homeowner units and 70 rental units. These

applications were presented to the Housing and Community Development Committee (HCD) on January 17, 2017. The HCD Committee recommended the full amount requested for each project be awarded ($410,000 total) to the applicants.

The following applications have been recommended by HCD for approval:

1) *Simpson Street*: Swannanoa Bend, LLC for the construction of a 70 one-bedroom unit 100% affordable (all at 60% AMI or less) rental development in south-east Asheville, $350,000.

2) *Tunnel Road*: Asheville Area Habitat for Humanity for the construction of a 6 attached housing homeowner development - 3 units sold to households earning 60% AMI or less and all six (6) units being affordable - in East Asheville, $60,000.

Swannanoa Bend, LLC – Simpson Street ($350,000)

Kirk Booth, via Swannanoa Bend, LLC, requests additional HTF funding for the proposed Simpson Street development. Council approved a $300,000 request for this project in 2016. The developer now proposes an additional 10 units, for a 70 unit development, and additional HTF funding of $350,000, for a proposed total HTF investment of $650,000. The project will have 70 1-BR units with all rents below 60% AMI and/or voucher accepted (50% AMI). The project is designed to be modular construction with parking provided under the buildings; it will contain energy efficiency features, 5% of the units will be fully ADA accessible, and have a 20 year affordability period. The project has received a Conditional Use Permit, a Land Use Incentive Grant, a FY 16-17 Housing Trust Fund Loan ($300,000), and is anticipated to begin construction in April 2017.

The proposed project is on a 1.43 acre site located just off of Tunnel Road and Swannanoa River Road behind Target. It is zoned River District and is in a primarily industrial area. Residential is permitted and Planning and Zoning approvals have been obtained. It is 3 miles from downtown, and is within 1/4 mile of jobs and services, as the crow flies, but walking and driving distance to transit and services is 0.9 miles. Developer has committed to improving the transit gaps for these residents by supporting walkway development along utility easement, providing shuttle transportation to existing transit stop, and/or advocate for bus stop along Swannanoa River Road.

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% AMI Units	**Loan Amount**	**HTF Investment Per Unit ($350,000 / $650,000)**	**Interest Rate**	**Term (Years)**	**Type**
70	$350,000	$5,000 / $9,286	2%	20	Interest Only (Special Terms)

Proposed Total Development Costs and Investment Allocations (Including $300,000 FY 16-17 HTF Award)						
Total HTF Loan Amount	**Total Development Cost**	**Loan % of Total Development Cost**	**Total cost per unit**	**Additional City Investment***	**Total City Investment**	**Total Est. City Investment Per Unit**
$350,000 / $650,000	$4,314,000	8% / 15%	$61,629	$348,710	$998,710	$14,267
** Land Use Incentive Grant estimated – over 11 years*						

The total Housing Trust Fund investment per unit including previous ask is $9,286 per unit. Total City investment over the life of the project, including LUIG, is $14,267/unit. Developer has submitted updated cost estimates and project is ready to begin as soon as conventional financing is secured. The conventional loan commitment is expected in April 2017 with construction starting immediately. The project scheduled to be completed by December 31, 2017.

Pros:

- 70 1-bedroom rental units serving 60% AMI or less (100% of the project)
- Total HTF investment per unit is less than $10,000/unit
- Offers homelessness to housing transition via vouchers through Homeward Bound
- Project has appropriate permits and environmental studies completed
- Project has $114,000 support from Buncombe County

Con:

- Conventional loan has not been secured

Asheville Area Habitat for Humanity – Tunnel Road ($60,000)

Asheville Area Habitat for Humanity, is proposing a 6 unit affordable housing homeowner development project along Tunnel Road in East Asheville, of which 3 of those units will be sold to households earning 60% AMI or less and three (3) units will be sold to households earning 70% AMI or less. Developer requests a $60,000 three (3) year construction loan, with 0% interest and deferred principal. This request does deviate from the current HTF policy, with a request for 0% interest (current policy offers a deferred 2% interest until principle is due).

The project will combine 4 existing lots on .8 total acres, and will have attached cottages (3 groups of 2) with 2, 3 or possibly 4 bedrooms, ranging from approximately 700 sq. ft. to 1300 sq. ft. All cottages would be either 1 or 2 stories tall and would front on a shared private drive with two dedicated parking spots per unit. All public infrastructure is currently in place and because it is on a major corridor, transit and other amenities are nearby and accessible. The project will be NC Green Built and System Vision certified with will units being fully ADA accessible. By Policy, there is a minimum three (3) year affordability period for these units from the day the units receive a certificate of occupancy under the HTF Policy, which the developer agrees to. AAHH structures their mortgages as permanently affordable, with a 0%, fixed-rate for the life of the loan, but homeowners can sell their houses whenever they wish by paying off both the affordable first mortgage and the 2nd silent (covering the value of volunteer labor and forgivable over the 30 year life of the loan).

The application request results in the following terms, conditions, estimated development costs and subsidy allocation:

Proposed Loan Terms and Conditions					
60% / 80% AMI Units	**Loan Amount**	**HTF Investment Per Unit (@60% / @80% AMI)**	**Interest Rate**	**Term (Years)**	**Type**
3 / 3	$60,000	$20,000 / $10,000	0% deferred principle*	3 Construction Loan	Homebuyer program
**Deviation from the current HTF policy - special term construction loans currently offer deferred 2% interest until principle is due. Principle becomes due at the end of the three (3) year term.*					

Proposed Total Development Costs and Investment Allocations			
Total HTF Loan Amount	**Total Development Cost**	**HTF Loan % of Total Development Cost**	**Total cost per unit***

$60,000	$932,206	6%	$155,368
*For-sale units			

The developer has the land under option and is expected close in June 2017 with construction beginning in November 2018. Occupancy of all 6 units is expected in November 2019. The units are constructed and occupied at a gradual pace, but the project will be completed within one year from the day of initial construction. The project does not have the required permits and/or engineering and environmental reviews because the project is in the early planning stages. This could also mean variations in the total development costs. There will be no need to ask for conditional uses or permits for this project.

The sales price of the homes will match the appraised value, with the first mortgage being considerably lower than that amount. At closing, AAHH executes: 1) a 0% 1st mortgage for the cost of construction reduced by the amount of HTF funds per lot; 2) a 2nd mortgage securing HTF funds with the proper retention language guaranteeing full recapture during the affordability period; 3) a 3rd forgivable mortgage securing the difference between the sales price and mortgage balances. AAHH also maintains the Right of First Purchase, which we consider on a case by case basis.

Overall, the project provides 6 affordable homeowner units: 3 attached homeowner units to homeowners earning 60% AMI or less and 3 units to homeowners earning 70% AMI or less. The site location is in close proximity to transit and amenities and is within 4 miles to downtown. The developer has proven very competent in the Asheville area and is providing a new model for homeownership through the creation of attached housing. Plans, elevations, and site plans were provided. As proposed, AAHH would not build and sell the units quickly enough to recapture mortgages and pay off the construction loans within the three (3) year construction loan period; however, they could obtain funds from additional sources to pay off the remaining balance.

Pros:

- Provides six (6) attached homeowner units: 3 at 60% AMI and 3 at 70% AMI or less
- It will provide three (3) homeowner units to households earning 60% AMI or less
- Will receive SystemVision and NC GreenBuilt certification
- Developer is creating new model for attached homeownership units

Con:

- Early in project planning with construction starting in 2018
- Variation from policy asking for 0% interest with deferred principal (special terms) and an underwriting score under 70 points

The Housing Trust Fund has sufficient cash flow to cover anticipated draw requests for the proposed developments.

The Housing and Community Development Committee recommends City Council approve a resolution approving the following loans subject to the developers meeting all program requirements for loan closing:

1. $350,000 to Swannanoa Bend, LLC for the development of seventy (70) multifamily rental units on Simpson Street (1-BR, 60% AMI including vouchers 50% AMI), amortized at 2.00% annual interest-only with principle deferred for 20 years. The approval is conditioned on the developer providing improved transit access by either contributing to walkway improvements along utility easement; by installing lights, providing private transportation services for residents, or providing other services to meet this condition. Loan is to be made immediately available for disbursement following loan closing.

2. $60,000 construction loan to Asheville Area Habitat for Humanity, for the development of six (6) homebuyer units on Tunnel Road (3 units at 60% AMI or less and 3 for 80% AMI or less). A construction loan at 0% deferred principle until the end of the three (3) year term is to be made immediately available for disbursement following loan closing.

RESOLUTION BOOK NO. 38 - PAGE 327

M. RESOLUTION NO. 17-31 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A GENERAL SERVICES AGREEMENT WITH TIMMONS GROUP FOR THE WATER RESOURCES ENTERPRISE ASSET MANAGEMENT PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a general services agreement with Timmons Group for the Water Resources Enterprise Asset Management Project for the proposal amount of $119,480 plus a 10% contingency of $11,948 for a project budget of $131,428.

The Water Resource Department (WRD) currently has an assessment management system, whose functionality is limited, that is due for an upgrade at a cost of $120,000. As a matter of due diligence, the WRD issued a Request for Proposals (RFP) for the Water Resources Enterprise Asset Management Project on July 1, 2016 to see if competing programs could deliver the same or better functionality at a lower price.

As detailed below, a review of the proposals revealed that several providers could (a) supply product and installation for less cost than the cost of updating the existing system; and (b) offer systems that may be utilized by other City departments. Additionally it was discovered that the department will save approximately $55,000 per year in maintenance fees by changing products. The current program requires several supporting programs which cost approximately $75,000 per year.

The scope of work for this project includes, but is not limited to, consultation, data conversion, customization, licensing, training, integrations, and software maintenance required for a new, department-wide Cityworks-Azteca Server Asset Management System (AMS). This software will replace the department's existing, outdated Maximo Work Order System and allow for better system integration with the department's Geographic Information System (GIS) database and software.

The new Cityworks-Azteca AMS enhances the department's ability to track and analyze work orders through a more user friendly product that interfaces with the department's mapping system. The enhanced ability will allow the department to provide better response for system maintenance. The products were also evaluated on the ability for other city departments to use the system for work order management in the future.

In response to the RFP, the department received 8 proposals on August 1, 2016. The evaluation of these proposals required the input of various departments. Stakeholders departments were identified as those that will potentially adopt the use of the tool in the future and departments that will support the software. The conversion to this software is a significant commitment which staff wanted to ensure was made with absolute certainty and due diligence. This extensive evaluation accounts for the time it took to make a decision. Companies responding were:

1. AssetWorks, LLC, Wayne PA – proposal:
    a. $318,332.50 Year 1
    b. $27,226.50 Year 2
    c. $28,587.83 Year 3

2. SADA Systems (Atom), Inc., Los Angeles CA – proposal:
    a. $101,500 Year 1
    b. $57,000 Year 2
    c. $57,000 Year 3
3. Beehive Industries, Los Angeles CA – proposal:
    a. $89,900 Year 1
    b. $32,500 Year 2
    c. $32,500 Year 3
4. Cardno, Clearwater FL – proposal:
    a. $1,065,700 Year 1
    b. $53,300 Year 2
    c. $54,633 Year 3
5. Davenport Group, St. Paul MN – proposal:
    a. $82,816 Year 1
    b. $12,816 Year 2
    c. $12.816 Year 3
6. MainStar, Inc., Irvine CA – proposal:
    a. $247,000 Year 1
    b. $24,840 Year 2
    c. $25,710 Year 3
7. PSD Software, LLC, Marietta GA – proposal:
    a. $119,050 Year 1
    b. $31,500 Year 2
    c. $33,075 Year 3
8. Timmons Group, Richmond VA – proposal:
    a. $119,480 Year 1
    b. $20,000 Year 2
    c. $20,000 Year 3

Following an extensive review of the proposals by City Staff, including reference checks and on-site demonstrations, Timmons Group was selected for the proposal amount of $119,480 plus a 10% contingency of $11,948 for a project budget of $131,428.

Pro:

- While not a mandatory or required project it would replace the existing, out-dated work order system and allow other systems (i.e. GIS) to interface more easily with the work order software.

Con:

- None.

The funding needed for the general services agreement is currently allocated within the Water Resources Water Operating Fund, Contracted Services. This agreement requires City Council approval because the price of the contract exceeds $90,000.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a general services agreement with Timmons Group for the Water Resources Enterprise Asset Management Project for the proposal amount of $119,480 plus a 10% contingency of $11,948 for a project budget of $131,428.

RESOLUTION BOOK NO. 38 - PAGE 328

N. RESOLUTION NO. 17-32 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH THOMAS CONSTRUCTION COMPANY INC. FOR THE NEIGHBORHOOD

ENHANCEMENT PROJECT AREA 3 WATER DISTRIBUTION SYSTEMS PHASE I PROJECT

ORDINANCE NO. 4555 - BUDGET AMENDMENT FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 3 WATER DISTRIBUTION SYSTEMS PHASE I PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Thomas Construction Company, Inc., for the NEP Area 3 Water Distribution Systems Phase I Project for the bid amount of $3,978,160.50 plus a 15% contingency in the amount of $596,724.50 for a total project budget in the amount of $4,574,885.00; and a budget amendment in the amount of $2,912,957 utilizing capital reserve funds to fully fund the construction agreement and contingency.

Water Resource's financial consultant Raftelis Financial Consultants Inc. (RFC) has recommended that the department utilize capital reserves fund. The amendment that is proposed as part of this staff report utilizes money from projects that have been closed and no longer require funding. NEP Area 3 was proposed with the capital reserve funds intended as a funding source for the completion of this project. The project sheet shows the subject funding sources.

On December 12, 2016, the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 3 Water Distribution Systems Phase I Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the installation of approximately 24,500 Linear Feet of 6-inch Ductile Iron Pipe located in the Malvern Hills and Kenilworth Area neighborhoods with related appurtenances required in order to complete the work.

In response to the Advertisement for Bids, the department received 5 bids on January 10, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: $5,987,770.80
2. Cooper Construction Company, Inc.; Hendersonville, NC – Bid: $4,313,287.00
3. E.S. Wagner Company, LLC; Charlotte, NC – Bid: $5,128,157.50
4. T&K Utilities, Inc.; Asheville, NC – Bid: $4,608,676.00
5. Thomas Construction Company, Inc.; Johnson City, TN – Bid: $3,978,160.50

Following a review of the bids by City Staff and the project engineers, CDM Smith, Thomas Construction Company, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of $3,978,160.50. A contingency amount of $596,724.50 has been added for a total project budget in the amount of $4,574,885.00.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure. Replacement of these lines will help to improve the service and reliably of the water system.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of the water system improvements.

2015 NEP Area 3 Project will be funded using a combination of current water revenue funding and capital reserves funds. The use of capital reserve funds will not impact the operating

reserves for the Water Resources Department and helps to decrease the funds which are currently in the capital reserve fund as recommended by the Department's financial consultant.

Amount Available for Construction	$1,661,928.00
Additional Funds Needed for Construction Agreement	$2,912,957.00
Total Amount for Construction Agreement (includes contingency)	$4,574,885.00

Council approval is required to enter into this contract because the total value of the contract exceeds $90,000.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Thomas Construction Company, Inc., for the NEP Area 3 Water Distribution Systems Phase I Project for the bid amount of $3,978,160.50 plus a 15% contingency in the amount of $596,724.50 for a total project budget in the amount of $4,574,885.00; and a budget amendment in the amount of $2,912,957 utilizing capital reserve funds to fully fund the construction agreement and contingency.

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O. RESOLUTION NO. 17-33 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH NHM CONSTRUCTORS LLC FOR THE TUNNEL ROAD RETAINING WALL PROJECT

ORDINANCE NO. 4556 - BUDGET AMENDMENT FOR THE TUNNEL ROAD RETAINING WALL PROJECT

Summary: The consideration of a (1) resolution authorizing the City Manager to execute, on behalf of the City of Asheville, a contract in the amount of $451,635.00 with NHM Constructors, LLC for the project known as the Tunnel Road Retaining Wall Project, City of Asheville Project # ST-16-17-003, and further authorizing the execution of any change orders to said contract which may arise during construction, up to a total amount of $497,000; and (2) budget amendment in the amount of $650,000 from debt proceeds to fund the contract and additional costs including geotech design, utility relocation and contract administration costs.

A tributary to Grassy Branch has eroded the substrate of the sidewalk that runs along Tunnel Road in Oteen. A retaining wall must be constructed in order to rebuild the slope and maintain safe pedestrian access along the corridor. The project was advertised on January 20, 2017. Bids were opened on January 31, 2017 with the following results:

NHM Constructors of Asheville NC	$451,635.00
Graham County Land of Robbinsville NC	$539,850.00

The work produced from this contract would include the construction of a retaining wall, replacement of faulty stormwater infrastructure and repair of sidewalk and installation of handrail.

Pros:
- Project will repair sidewalk along a busy road.
- Project will replace faulty stormwater infrastructure.
- Project will eliminate a safety hazard.

Con: None noted.

The total budget for this contract is $497,000.00. Additional costs associated with the project include geotech design, utility relocation and contract administration. The total project budget being requested is $650,000. The City will add this project to the existing Capital

Improvement Program (CIP)/Debt Program and borrow funds to finance the project. With debt payback structured over twenty years, the addition of this project will not materially impact cash flow projections in the CIP model.

City staff recommends City Council adopt the resolution awarding the contract to NHM Constructors, LLC for the Tunnel Road Retaining Wall Project and giving the City Manager the authority to execute any change orders necessary to complete the work; and a budget amendment in the amount of $650,000 from debt proceeds.

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P. ORDINANCE AMENDING THE FEES & CHARGES MANUAL FOR THE ASTON PARK TENNIS CENTER

This item was moved from the Consent Agenda for discussion and/or an individual vote.

Q. RESOLUTION NO. 17-34 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE SOCON JAMFEST

RESOLUTION NO. 17-35 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE HALF MARATHON & 10K

RESOLUTION NO. 17-36 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE XPAND FEST

RESOLUTION NO. 17-37 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE VEGANFEST

RESOLUTION NO. 17-38 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BETTER DADS FESTIVAL

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the SoCon JamFest, the Asheville Half Marathon & 10K, Xpand Fest, Asheville VeganFest, and the Better Dads Festival.

- Asheville Buncombe Regional Sports Commission has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the SoCon JamFest and allow for consumption at this event.

  The SoCon JamFest will be held on Sunday, March 5, 2017 from 2:00 p.m. – 5:00 p.m. within the boundaries of Page Avenue as per the area limits referenced on the accompanying site map.

- Iron Girls, Inc. has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Half Marathon & 10K and allow for consumption at this event.

The Asheville Half Marathon & 10K will be held on Saturday, June 3, 2017 from 7:00 a.m. – 12:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- Xpand Your Vision has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Xpand Fest and allow for consumption at this event.

  Xpand Fest will be held on Saturday, June 10, 2017 from 11:00 a.m. – 9:00 p.m. within the boundaries of Banks and Buxton Avenues as per the area limits referenced on the accompanying site map.

- Brother Wolf Animal Rescue has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Asheville VeganFest and allow for consumption at this event.

  Asheville VeganFest will be held on Sunday, June 11, 2017 from 11:00 a.m. – 5:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- ManKind Project USA has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Better Dads Festival and allow for consumption at this event.

  The Better Dads Fesival will be held on Saturday, June 17, 2017 from 12:00 p.m. – 9:30 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Buncombe Regional Sports Commission, Iron Girls, Inc., Xpand Your Vision, Brother Wolf Animal Rescue, and ManKind Project USA

Con:

- Potential for public safety issues

There is no fiscal impact.

Staff recommends City Council adopt a resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the SoCon JamFest, the Asheville Half Marathon & 10K, Xpand Fest, Asheville VeganFest, and the Better Dads Festival.

RESOLUTION NO. 17-34 - RESOLUTION BOOK NO. 38 - PAGE 335
RESOLUTION NO. 17-35 - RESOLUTION BOOK NO. 38 - PAGE 338
RESOLUTION NO. 17-36 - RESOLUTION BOOK NO. 38 - PAGE 341
RESOLUTION NO. 17-37 - RESOLUTION BOOK NO. 38 - PAGE 344
RESOLUTION NO. 17-38 - RESOLUTION BOOK NO. 38 - PAGE 347

R. ORDINANCE NO. 4558- ORDINANCE AMENDING THE FISCAL YEAR 2016-17 FEES AND CHARGES MANUAL BY INCREASING THE PARKING METER FEE RATE FROM $1.25 PER HOUR TO $1.50 PER HOUR WITH AN EFFECTIVE DATE OF APRIL 1, 2017

Summary: The consideration of an ordinance amending the Fiscal Year 2016-17 Fees and Charges Manual by increasing the parking meter fee rate from $1.25 per hour to $1.50 per hour with an effective date of April 1, 2017.

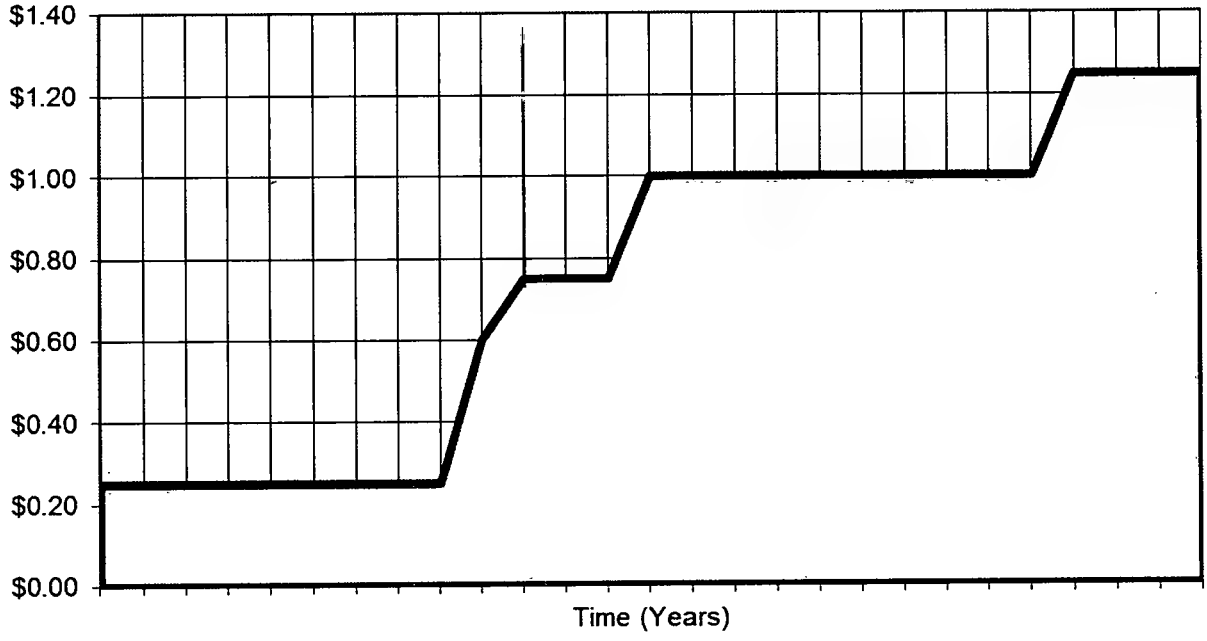
Parking meters date back to the 1980s and the Parking Enterprise Fund was established by City Council during June 1987 with the goal of making downtown parking operations self-sufficient. During FY 1988-89, 53% of the parking revenues came from the General Fund and today, the Parking Enterprise Fund is totally self-sufficient with a fund balance of $1.9 million. Parking garage revenues at the end of FY 2015-16 totaled $2.9 million compared to less than $300,000 in FY 1988-89. The city has four parking garages with a supply of 1,437 parking spaces and three of the parking garages are debt-free.

Parking meter rates have ranged from $0.25 per hour to the current $1.25 per hour since FY 1990-91 but as you can see in Figure 1, for the most part, the rates have remained stable. The current rate has been in effect since July 1, 2013. When the $1.00 per hour rate was approved beginning in FY 2003-04, City staff and the business community agreed to a differential rate between on-street hourly parking and parking garage hourly parking. The differential rate includes having the first hour free in the parking garages and keeping the on-street hourly rate higher than the parking garage hourly rate. The purpose of the differential rate is to encourage longer "stays" (greater than two hours) to use one of the parking garages while creating more turnover for the shorter "stays" (less than two hours) on the street.

The most significant asset belonging to the Parking Enterprise Fund is the parking garages and it is crucial that they are maintained in such a manner to ensure a long and cost efficient service life. The Civic Center Parking Garage is now 40 years old and a recent structural analysis has confirmed that its service life can be extended by 30 years if we commit to spending $9.0 million on it over the next 30 years (which is an average of $300,000 per year). A structural analysis is now being done on the Rankin Avenue and the Wall Street parking garages and those costs will be included in future years. Due to these needs and the numerous parking-related needs that continue to come up, staff has now created a 10-year capital improvement projects plan to help address the needs. The current plan includes; but not limited to, projects to modernize the elevators in the three oldest parking garages, to replace the existing parking meters with smart (credit card) meters, and to extend the Civic Center parking garage service life. The 10-year capital improvements projects plan will be reviewed annually and appropriate adjustments will be made which might trigger the need for parking fee rate increases.

Staff is moving forward to replace the existing parking meters within the next two years (including the current fiscal year) so that we will have more options available including extending enforcement hours, having the ability for variable pricing by location and/or time of the day or season, and having the ability to make parking fee rate increases effective much more quickly compared to today (currently, it can take up to three months because of the age and condition of the existing parking meters).

Figure 1 - City of Asheville Hourly Meter Rate History



A consulting firm was recently hired to prepare a comprehensive parking study (now in draft form) which included the preparation of a financial model to help staff determine parking rate fee increases and benchmarking information from 50+ cities located in the southeast region of the United States. 30 of these cities use parking meters to control on-street parking and 12 of these cities have an hourly parking rate greater than $1.25 per hour. Chapel Hill is the only city in North Carolina that has a rate greater than $1.25 per hour and it is $1.50 per hour. Four of the cities have a rate of $2.00 per hour.

Table 1 provides a summary of the parking fee rate increases that staff is recommending for FY 2017-18. In addition, staff recommends that the parking meters fee rate increase be made effective on April 1, 2017 to enable staff to adjust the existing parking meters to be able to accept the increase and be fully operational by July 1, 2017.

Table 1 – Parking Fee Rate Increases

Description	Increase	Revenue Generated +/-
Parking Meters (Hourly)	$0.25	$275,000
Parking Garages (Hourly)	$0.25	$169,000
Civic Center Parking Garage (Monthly)	$10.00	$55,000
Civic Center Parking Garage (Discounted Monthly)	$5.00	$1,200
Rankin Avenue Parking Garage (Monthly)	$10.00	$12,000
Wall Street Parking Garage (Monthly)	$10.00	$3,600
Parking Meter Temporary Closures (Daily)	$4.00	$4,000
Timed Parking Space Temporary Closures (Daily)	$22.00	$5,500
On-Street Permitted Parking (Monthly)	$10.00	$12,700
Surface Parking Lots (Monthly)	$10.00	$12,000
Surface Parking Lots (Discounted Monthly)	$5.00	$600

The Finance Committee reviewed the proposed parking fee rate increases at their regularly scheduled meeting on January 24, 2017, and unanimously recommended that the action move forward to City Council for consideration as a part of the overall FY 2017-18 Fees and Charges package except for the parking meter fee rates. Due to the age of the existing parking meters, staff needs about two to three months to go on-site and physically adjust the parking meters to accept the new rate.

Pros:

- Maintains a cost differential between on-street metered parking and hourly parking in the parking garages in order to encourage turnover for the on-street parking.
- Maintains the first hour free in the parking garages.
- Creates a steady funding stream to meet the needs of the 10-year CIP.
- Creates a steady funding stream for a new parking garage in the future.

Con:

- Higher cost to park in the Central Business District.

The total anticipated annual revenue that should be generated from all of the fee changes is about $525,300. As noted above, the parking meter fee change alone will generate about $275,000 annually.

Staff recommends that City Council approve an ordinance amending the Fiscal Year 2016-17 Fees and Charges Manual by increasing the parking meter fee rate from $1.25 per hour to $1.50 per hour with an effective date of April 1, 2017.

ORDINANCE BOOK NO. 31 - PAGE 87

S. RESOLUTION NO. 17-39 - RESOLUTION OF INTENT TO PERMANENTLY CLOSE AN UNNAMED ALLEY BETWEEN 7 AND 19 AUSTIN AVENUE AND SETTING A PUBLIC HEARING ON MARCH 14, 2017

Summary: The consideration of a resolution of intent to permanently close an unnamed alley between 7 and 19 Austin Avenue and setting a public hearing on March 14, 2017.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Mark and Melissa Essig owners of parcel 9649460040 and David and Nancy Stainback owners of parcel 9649460150, have requested the City of Asheville to permanently close a portion of an unnamed alley between unnamed alley between #7 and #19 Austin Ave. A copy of this resolution of intent shall be sent by registered or certified mail to all owner of this property abutting this alley, not joining in the petition to close.

Public Works staff notified other city departments and the utility companies and received no concern with this closure. The Multimodal Transportation Commission met on January 25th, 2017, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution of intent to permanently close an unnamed alley between 7 and 19 Austin Avenue and setting a public hearing on March 14, 2017.

RESOLUTION BOOK NO. 38 - PAGE 350

T. ORDINANCE NO. 4559 - ORDINANCE TO CHANGE THE SPEED LIMIT ON DEPOT STREET FROM LIVINGSTON STREET TO CLINGMAN AVENUE AND ROBERTS STREET FROM CLINGMAN AVENUE TO LYMAN STREET TO 20 MPH; AND TO CHANGE THE SPEED LIMIT ON CLARENDON ROAD FROM SCHOOL ROAD TO SCHOOL ROAD, CONGRESS STREET FROM CHOCTAW STREET TO LIVINGSTON STREET, DEPOT STREET FROM LIVINGSTON STREET TO END OF CITY MAINTENANCE, FAIRCREST ROAD FROM BEAVERDAM ROAD TO END OF CITY MAINTENANCE, LE-AN-HURST ROAD FROM EDGEWOOD DRIVE TO ROUND TOP ROAD, LONDON ROAD FROM BELVEDERE ROAD TO TO WEST CHAPEL ROAD, PINE ACRE BOULEVARD FROM MIDLAND DRIVE END OF CITY MAINTENANCE, ROBERTS STREET FROM HAYWOOD STREET-W TO CLINGMAN AVENUE, SPOOKS BRANCH ROAD FROM BEAVERDAM ROAD TO END OF CITY MAINTENANCE, AND SWEETEN CREEK ROAD INDUSTRIAL PARKWAY FROM SWEETEN CREEK ROAD TO END OF CITY MAINTENANCE TO 25 MPH

Summary: The consideration of an ordinance to enact and/or change the speed limits on various sections of streets in the City of Asheville.

According to state law (NCGS # 20-141), the statutory speed limit in North Carolina is 35 mph inside municipal corporate limits for all vehicles and 55 mph outside municipal corporate limits for all vehicles except for school buses and school activity buses.

Furthermore, local authorities may authorize by ordinance higher speeds or lower speeds than the statutory 35 mph speed limit on locally-maintained streets provided that the higher speed limit cannot exceed 55 mph. Speed limits authorized by local authorities are effective when the appropriate signs are erected.

City staff recently completed traffic engineering investigations and determined that a 20 mph speed limit would be reasonable and safe on Depot Street from Livingston Street to Clingman Avenue and Roberts Street from Clingman Avenue to Lyman Street.

City staff recently completed traffic engineering investigations and determined that a 25 mph speed limit would be reasonable and safe on Clarendon Road from School Road to School Road, Congress Street from Choctaw Street to Livingston Street, Depot Street from Livingston Street to End of City Maintenance, Faircrest Road from Beaverdam Road to End of City Maintenance, Le-An-Hurst Road from Edgewood Drive to Round Top Road, London Road from Belvedere Road to West Chapel Road, Pine Acre Boulevard from Midland Drive End of City Maintenance, Roberts Street from Haywood St-W to Clingman Avenue, Spooks Branch Road from Beaverdam Road to End of City Maintenance, and Sweeten Creek Industrial Parkway from Sweeten Creek Road to End of City Maintenance.

Pros:

- City staff has been able to respond favorably to citizens' requests.
- The new speed limits will be consistent with roads of like character and design.
- This action will also bring some of the roads into line with our speed limit policies.
- Based on the 85th percentile speeds, most drivers would adhere to the recommended speed limits on these roads.

Cons:

- The initial cost to install the appropriate speed limit signs is about $2,000.00.
- Typically, speed limit signs have a serviceable life of five to seven years.

The initial cost to install the appropriate speed limit signs is about $2,000.00 and is included in the current operating budget for the Transportation Department.

City staff recommends that City Council approve an ordinance enacting 20 mph speed limits on Depot Street from Livingston Street to Clingman Avenue and Roberts Street from Clingman Avenue to Lyman Street. City staff also recommends that City Council approve an ordinance enacting 25 mph speed limits on Clarendon Road from School Road to School Road, Congress Street from Choctaw Street to Livingston Street, Depot Street from Livingston Street to End of City Maintenance, Faircrest Road from Beaverdam Road to End of City Maintenance, Le-An-Hurst Road from Edgewood Drive to Round Top Road, London Road from Belvedere Road to West Chapel Road, Pine Acre Boulevard from Midland Drive End of City Maintenance, Roberts Street from Haywood St-W to Clingman Avenue, Spooks Branch Road from Beaverdam Road to End of City Maintenance, and Sweeten Creek Industrial Parkway from Sweeten Creek Road to End of City Maintenance.

ORDINANCE BOOK NO. 31 - PAGE 89

U. RESOLUTION NO. 17-40 - RESOLUTION AUTHORIZING THE EXCHANGE OF AN EASEMENT IN THE CITY RIGHT-OF-WAY ALONG SOUTHSIDE AVENUE AND SHORT COXE AVENUE FOR A DEEDED TEN-FOOT WIDE STRIP OF LAND FOR USE AS ADDITIONAL PUBLIC RIGHT-OF-WAY AT SHORT COXE AVENUE AND WILBAR AVENUE OWNED BY PT DEVELOPMENT OF ASHEVILLE LLC

Summary: The consideration of a resolution authorizing the exchange of an easement in City right-of- way along Southside Avenue and Short Coxe Avenue for a deeded ten-foot wide strip of land for use as additional public right of way at Short Coxe Avenue and Wilbar Avenue owned by PT Development of Asheville, LLC.

The City of Asheville and PT Development of Asheville, LLC have negotiated a mutually beneficial exchange of and easement in right-of-way along Southside and Short Coxe Avenue for a strip of land that begins at Wilbar Avenue and Short Coxe Ave and runs the width of the property along the roadway at Wilbar. Pursuant to N. C. G. S. 160A-271, a notice was published in the Asheville Citizen Times on February 3rd, 2017 describing the exchange of properties.

PT Development of Asheville, LLC is planning to build approximately eighteen townhomes on a parcel (9648-37-5186) in the South Slope area. In accordance with the Central Business District (CBD) zoning, the townhomes are planned assuming zero lot line setbacks at the road frontage. The development of the parcel is constrained because of the long and narrow shape of the property and the topography at the rear of the property that is steep and unbuildable. The owners determined that in order to build the proposed structures on this site, they would need to put underground footings in front of every unit. These footings would be constructed under the City's sidewalk and would necessitate a subsurface easement of roughly 20 inches in width. It was determined that the easement would extend for approximately 258 linear feet on Southside Avenue and Coxe Avenue for a total square footage of 431 square feet. This request was discussed with the City's Public Works Director and it was determined that the granting of this easement would not substantially impair or hinder the street as a way of passage in compliance with NCGS 160A-273. Exhibit A is a two-page sketch of the subsurface easement that is being requested.

In response to this request, the City of Asheville proposed a land exchange for additional right-of-way at Wilbar Avenue. The City, in consultation with the Housing Authority of the City of Asheville determined that an additional width of 10 feet from Wilbar Avenue and South Coxe Avenue is needed to improve Wilbar Avenue as an access point for the future Lee Walker Heights redevelopment, which is directly above the townhome development site. Widening the right-of-way at Wilbar will allow for improved pedestrian and traffic facilities. PT Development owns the parcel (9648-37-8168) that is adjacent to Wilbar and has agreed to convey a 10 foot wide strip of land in fee simple as right-of-way in exchange for the subsurface easement that is needed for the construction of the townhomes. Exhibit B is provided to show what property is proposed for the exchange. The total area of the new right-of-way land to be conveyed is 1,324 square feet.

In consideration of the fact that the area to be conveyed to the City is much larger than the area requested by PT Development of Asheville, LLC and will be a fee simple conveyance in exchange for an easement interest in the City right-of-way, it has been determined that the City is receiving full and fair value for its property in compliance with the statute.

Pros:

- The right-of-way at Wilbar Avenue is limited and gaining 10 feet in width will allow for enhanced pedestrian and traffic safety improvements along this City street.
- City is receiving a larger land area in exchange for an easement.
- The subsurface easement will not interfere with the sidewalk after construction is complete.

Con:

- City is allowing a permanent improvement in its street right-of-way at Southside and Short Coxe Avenues.

No monetary consideration will change hands in this exchange, therefore no fiscal impact for this transaction.

Staff recommends City Council adopt a resolution approving this land exchange and authorizing the City Manager to convey this 431 square foot easement at Short Coxe and Southside Avenue to PT Development of Asheville, LLC and to accept the conveyance of land at Wilbar Avenue and Short Coxe Avenue.

RESOLUTION BOOK NO. 38 - PAGE 352

V. MOTION APPROVING THE FINDINGS OF FACT AND CONCLUSIONS OF LAW FOR 192 HAYWOOD STREET

Summary: This public hearing was held on January 24, 2017. A copy of the adopted written Findings of Fact and Conclusions of Law for 192 Haywood Street are attached hereto and made a part hereof.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda, with the deletion of Consent Agenda Items "H" and "P". This motion was seconded by Vice-Mayor Wisler and carried unanimously.

ITEMS REMOVED FROM THE CONSENT AGENDA FOR INDIVIDUAL VOTES

H. RESOLUTION NO. 17-26 - RESOLUTION ADOPTING THE HOMELESS INITIATIVE ADVISORY COMMITTEE 5-YEAR STRATEGIC PLAN ON HOMELESSNESS

Summary: The consideration of a resolution authorizing the City Manager to adopt the Homeless Initiative Advisory Committee's (HIAC) Five Year Strategic Plan on Homelessness.

The Homeless Initiative Advisory Committee (HIAC), is a joint committee of the City of Asheville and Buncombe County. The committee completed the Five Year Strategic Plan on Homelessness for the Buncombe County Continuum of Care (NC-501). Looking Homeward: The Ten Year Plan to End Homelessness in Asheville and Buncombe County was adopted as a guiding document in January of 2005 by the City of Asheville and in March of 2005 by Buncombe County and was the culmination of a six-month planning effort by homeless service providers, government administrators, housing developers, community leaders, and the homeless. The plan focused primarily on housing the chronic homeless population in Buncombe County. A significant number of those individuals have moved from homeless into permanent housing as a direct result of the key strategies outlined in that visionary document.

The number of chronically homeless identified in the original 10-year plan was 293. In the past ten years, concerted community-wide efforts steadily reduced that population with the 2016 Point-in-Time (PIT) count showing 72 chronically homeless individuals remain unhoused in Buncombe County. While the Ten Year Plan targeted housing the chronically homeless, the plan was not limited to ending chronic homelessness alone but also addressed all aspects of homelessness. Subsequent policies guided the development of a systems' response to homelessness in Buncombe County that resulted in: the reduction of all types of homelessness, the number of persons that become homeless, the duration and frequency of homeless episodes and a reduction of the number of persons experiencing chronic homelessness. Since 2008, 1,097 homeless persons have been housed at the Housing Authority for the City of Asheville through a homeless preference and over 1,200 have been housed throughout Buncombe County in scattered site housing.

The Asheville-Buncombe Homeless Initiative has now completed a Five Year Strategic Plan to address the ongoing issues of homelessness in Buncombe County and further build on the successes on the Ten Year Plan. The Five Year Strategic Plan sets annual goals that target the needs of specific sub-populations, Veterans and the Chronically Homeless, and ensures emerging trends and best practices are integrated within community strategies over the next five years. The plan allows for adaptation and flexibility in community strategies and acts as a guiding document for comprehensive engagement grounded in best practices.

The Homeless Initiative Advisory Committee (HIAC), the governing body of the Continuum of Care in Buncombe County, solidified 7 Priorities for the Five Year Strategic Plan on Homelessness: Housing, Case Management, Safety and Transitional Services, Healthcare, Education and Employment, Transportation and Prevention and Diversion. The HIAC affirmed its vision, mission, and operating principals and developed these seven priorities from the cumulative work of the HIAC, individual sub-committee and work group recommendations, the Homeless Coalition, a report compiled from a community survey of the homeless conducted in partnership by University of North Carolina at Asheville Health and Wellness Department in the spring of 2016, the 2005-2016 Point-in-Time data, the Housing Inventory Count, Homeless Management Information System (HMIS) data, HUD guidance and a review of the City of Asheville priorities. The HIAC has engaged in an open and deliberative process involving key stakeholders, service providers, the homeless community, and advocates in this process and will continue to cultivate those critical relationships as it develops the annual goals.

The Five Year Strategic Plan on Homelessness continues to emphasize support of public-private partnerships, creation of opportunities to increase the affordable housing supply in the community, system-wide collaboration and measurable actions adopted annually by the HIAC

that are designed to decrease the many barriers homeless individuals and families face in accessing safe, stable and affordable housing.

The Housing and Community Development Committee reviewed the Plan at their December 20, 2016, meeting, with a unanimous recommendation to move the Plan to City Council for adoption.

Pro:

- HUD funding is a key funding resource for permanent supportive housing for homeless individuals and families. The Five Year Strategic Plan on Homelessness is not solely predicated on increased revenue but implementation of community wide strategies within the existing framework to better serve the homeless population in Buncombe County.

Con:

- Program funding and affordable housing availability does not meet the full demand for services and housing needed to assist all the low-income homeless households. HUD funding is allocated yearly in the Congressional Budget process, and is subject to change annually.

Homeless program services and subsidy funding is almost entirely from the US Department of Housing and Urban Development and the State of North Carolina. Existing Community Development staff administer and monitor current programs and initiatives. HUD and ESG homelessness funding through the Continuum of Care currently accounts for over 1.2 million in Buncombe County annually. The City of Asheville and Buncombe County continue to partner on funding the coordination of the Homeless Initiative lead. This funding has remained relatively stable since first made available in 2007. No new major local funding will be requested in the upcoming budget cycle.

Staff recommends City Council adopt a resolution authorizing the City Manager to adopt the Asheville-Buncombe Homeless Initiative Advisory Committee's Five Year Strategic Plan on Homelessness in Buncombe County.

April Burgess-Johnson, Chair of the Homeless Initiative Advisory Committee, spoke in support of the resolution and the many key stakeholders, homeless service providers and advocates that helped in developing the goals outlined in the Five Year Strategic Plan.

Mr. David Nash, former Chair of the Homeless Initiative Advisory Committee, spoke in support of the resolution and thanked Council for their support in making housing a high priority and getting homeless off the streets.

In response to Councilman Bothwell, Mr. Nash said that at the beginning of the 10-Year Plan to end homelessness, there were 298 chronic homeless and the number last year was 72.

Councilman Smith said this is a really ambitious and realistic set of goals. They have moved 1500 people who fell into homelessness back into housing over the last 10 years. And, a set of relationships and systems has been created so now people are doing this more collaboratively, more effectively, and more cost effectively than ever before. We are designing systems that will be in place so when someone falls into homelessness there will be a system to catch them and re-house them as quickly as possible. This plan helps knit together those systems that we have to have if we are going to be successful going forward. One achievable goal is to bring veterans homelessness to functional zero by December of 2017 in Buncombe County.

Rev. Christopher Chiaronmonte was concerned about the amount of time it took to get on a housing list and where people would wait in the meantime.

Councilman Smith moved for the adoption of Resolution No. 17-26. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 323

P. ORDINANCE NO. 4557 - ORDINANCE AMENDING THE FEES & CHARGES MANUAL FOR THE ASTON PARK TENNIS CENTER

Summary: The consideration of a proposed fee amendment at the Aston Park Tennis Center (Tennis Center).

A study of Tennis Center operations, completed by City staff in 2014, reviewed opportunities to reduce the level of general fund subsidy. The study included a public engagement process with Tennis Center users including two public meetings, online survey and a focus group.

In a concurrent process, the City engaged Matrix Consulting Group (consultants) to conduct a Cost of Services Study for the Parks and Recreation Department. The consultants reviewed direct and indirect costs of providing fee-based recreation services. The Tennis Center was included as a component of the study.

Based on the results of the Cost of Services Study and staff analysis, a three-year step up pass holder fee schedule was developed to incrementally increase fees over a three-year period. The three-year step up fee schedule was included in the Tennis Center public engagement process. The Finance Committee determined the acceptable annual Tennis Center subsidy at $70,000 and adopted the step up fee schedule.

Based upon the Cost of Service Study and the three-year step up fee schedule, Tennis Center pass holder fees were amended in 2015 for year one, and in 2016 for year two.

The Cost of Services Study and staff recommends amending the current Tennis Center pass holder fees for year three effective immediately, in order for staff to implement the fee change prior to the Tennis Center opening on April 1, 2017. Amending the pass holder fees will continue to reduce the level of operational subsidy at the Tennis Center, in accordance with direction provided by the Finance Committee.

The proposed Tennis Center fee amendment was reviewed by the Finance Committee on January 24, 2017.

Proposed Fee Amendment:

1. Aston Park Tennis Center pass holder fees. If approved, the recommended amendment fees at the Tennis Center will generate additional revenue as summarized below.

Fund	Projected Range of Additional Revenue
General Fund	$20,000 to $25,000

This action complies with the Cost of Services Study for the Parks and Recreation Department.

Pros:

- Provides additional revenue as recommended by the Tennis Center operation study and Cost of Services Study to reduce operational subsidy at the Tennis Center to approximately $70,000, or 31%.

- Provides staff with time to communicate and implement fee amendment to citizens, customers and stakeholders in advance of the April 1, 2017 opening of the Tennis Center.

Con:

- None.

The fiscal impact is (1) Recreation best practices show tennis facilities of this type shift a greater burden of the costs from the taxpayer subsidy to the individual users. Prior to the 2015 fee amendment, the annual Tennis Center subsidy was approximately $150,000; (2) The current Tennis Center subsidy is approximately $97,800, or 42%. The objective of the current fee amendment and the revenue projection is to achieve the goal of reducing the annual Tennis Center subsidy to approximately $70,000, or $31%; (3) The proposed fee amendment is the third phase in a three-year step up pass holder fee proposal; and (4) The anticipated General Fund subsidy for the Tennis Center is projected at approximately $70,000 based on revenue enhancements alone. Further reductions in the subsidy may be realized through operational changes impacting revenues and expenses.

Staff recommends Council to adopt the proposed Aston Park Tennis Center fee amendment.

Vice-Mayor Wisler said that the three-year step up fee was implemented the first year, with an effective date of April 1. The second year of the three-year step up fee was not implemented until July 1 (which let tennis players pay as the same rate they did year one if they signed up at the beginning of the season). She suggested instead of implementing the third year step up fee on April 1, that we split the difference between the year two and year three fees ($62.50 for a resident individual) and have them pay $375 plus $62.50 effective April 1, and then on July 1 we set the fee at the original year 3 step up fee of $500.

Mr. Jeff Joyce, President of the Asheville Tennis Association, said that this will be a 66% increase in each category and suggested Council wait until July 1 to implement the year three fee. The higher the increase the harder it will be to sell the players on paying it.

Vice-Mayor Wisler moved to adopt Ordinance No. 4557 with the amendment that between April 1 and July 1 each category of fees be increased by splitting the difference between year 2 and year 3 fees, and that on July 1, the step up fees for each categories be implemented. This motion was seconded by Councilman Bothwell and carried unanimously.

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III. PRESENTATIONS & REPORTS: None

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES

1. TO AMEND CERTAIN PROVISIONS IN THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO LEVEL III, LEVEL II AND LEVEL I PROJECTS, NOTICE STANDARDS, THE CONDITIONAL ZONING PROCESS, ZONING DISTRICTS (INCLUDING THE ADDITION OF EXPANSION DISTRICTS), THE TABLE OF PERMITTED USES, AND ADJUSTMENTS TO THE RELEVANT CODE SECTIONS CONCERNING THESE AMENDMENTS - THIS WILL AFFECT ARTICLES 2, 5, 7, 8, 11, 16 AND 17 OF THE UNIFIED DEVELOPMENT ORDINANCE

ORDINANCE NO. 4560 - ORDINANCE TO AMEND CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND CERTAIN PROVISIONS IN THE UNIFIED DEVELOPMENT ORDINANCE RELATING TO LEVEL III, LEVEL II AND LEVEL I PROJECTS, NOTICE STANDARDS, THE CONDITIONAL ZONING PROCESS, ZONING DISTRICTS (INCLUDING THE ADDITION OF EXPANSION DISTRICTS), THE TABLE OF PERMITTED USES, AND ADJUSTMENTS TO THE RELEVANT CODE SECTIONS CONCERNING THESE AMENDMENTS - THIS WILL AFFECT ARTICLES 2, 5, 7, 8, 11, 16 AND 17 OF THE UNIFIED DEVELOPMENT ORDINANCE

2. **TO MODIFY THE DEVELOPMENT REVIEW PROCEDURES FOR LEVEL II DEVELOPMENT APPLICATIONS WHEN LOCATED OUTSIDE OF THE CENTRAL BUSINESS DISTRICT**

ORDINANCE NO. 4561 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO MODIFY THE DEVELOPMENT REVIEW PROCEDURES FOR LEVEL II DEVELOPMENT APPLICATIONS WHEN LOCATED OUTSIDE OF THE CENTRAL BUSINESS DISTRICT

Assistant Director of Planning & Urban Design Alan Glines said that this is an amendment to Chapter 7 of the Code of Ordinance to amend certain provisions in the Unified Development Ordinance relating to Level III, Level II and Level I projects, notice standards, the conditional zoning process, zoning districts (including the addition of expansion districts), the table of permitted uses, and adjustments to the relevant Code sections concerning these amendments. This will affect Articles 2, 5, 7, 8, 11, 16 and 17 of the Unified Development Ordinance. This public hearing was advertised on February 3 and 10, 2017.

Staff has provided a set of related revisions to the development review process as directed by City Council after a large amount of community discussion and consideration. Site plans are currently reviewed based on size or number of units as Level I, II or III projects. The detail of the review of each increases with each level allowing larger, more complex projects to receive a higher level of attention and input.

In December 2015, staff from the Planning and Urban Design Department presented information to City Council to understand and address concerns about the recent development in the downtown area and the expansion of hotels since the adoption of the Downtown Master Plan and the Central Business District (CBD) zoning changes in 2009 and 2010, respectively. At that meeting City Council directed staff to conduct a series of public engagement activities around this topic that included a public forum, an on-line survey and presentations and updates to a variety of community stakeholder groups. Staff presented these results and recommendations to City Council at their meeting on September 27, 2016. During this meeting, Council directed staff to coordinate the following efforts:

Actions from Downtown Planning and Development Policies:

1. Consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to amend the development review threshold of Level II projects to 20,000 square feet to 100,000 square feet or under 100 feet tall throughout the City.
2. Consensus of Council to direct staff to prepare a wording amendment to Unified Development Ordinance to amend the development review threshold of Level III projects throughout the City to anything over 100,000 square feet or 100 feet tall, which would require a rezoning and

which would follow that process; and to establish certain incentive criteria for developers wishing to build residential.

3. Consensus of Council to direct staff to explore using the rezoning process outside of the Central Business District, especially in areas where mutual agreement would like to be reached.
4. Consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to make lodging facilities with 20-25 or more rooms throughout the City a use which would require a rezoning and which would follow that process.
5. Consensus of Council to direct staff to prepare a wording amendment to the Unified Development Ordinance to increase public notification for Level II and Level III projects in accordance with staff's recommendations.

In response to the Council directive, staff have prepared this wording amendment. The main change is that Level III developments will be defined and considered a *use* in the land use table. Level III developments are only to be permitted in the newly created *expansion districts* which a developer will apply to rezone the property into, through the conditional zoning process. The process is outlined as follows:

Proposed Changes to the development review process

A. Proposed changes to the development review process inside the CBD (7-5-9.1):

Level I *Over 500- 19,999 s.f. and projects that do not qualify as a Level II development*	**Level II** *20,000-99,999 s.f.; and/or buildings less than 100' tall*	**Level III Development requires a rezoning** *Aligns with standards 100,000 s.f. or more; buildings 100' or taller; lodging with 21 or more guest rooms*
Pre-application (optional)	Pre-application required. Applicant for a Level II development for site plan review	Pre-application required. Applicant applies for a rezoning to the Central Business Expansion District as a conditional zoning
Applicant submits directly to staff	Developer meeting: Developer holds a meeting for neighbors, posts the site and includes property owners and tenants within the notification range.	Developer meeting: Developer holds a meeting for neighbors, posts the site and includes property owners and tenants within the notification range.
Initial review is complete within 10 days	Applicant submits to DSD for review by the Technical Review Committee (TRC). The development mapper is updated with p ans.	Applicant submits to DSD for review by the Technical Review Committee (TRC). The development mapper is updated with plans.
	TRC performs a *ministerial* review and provides a recommendation considered by both the Downtown Commission and the Planning & Zoning Commission.	TRC performs a *ministerial* review and provides a recommendation considered by both the Downtown Commission and the Planning & Zoning Commission.
	Downtown Commission performs a design review for the development project and makes a recommendation to the Planning and Zoning Commission. Notice for the	Downtown Commission (DTC) performs a design review for the development project and makes a recommendation to the Planning and Zoning Commission. Notice for the

	project includes letters to neighbors and posting at the site. Website to be updated with current meeting agenda.	project includes letters to neighbors and posting at the site. Website to be updated with current meeting agenda.
	Planning & Zoning Commission performs a final *ministerial* review Process follows prescribed notice and meeting schedule to include neighbors and published notice and site is posted. Website is updated.	Planning & Zoning Commission (PZC) performs a *legislative* review & makes a recommendation to City Council. Process follows prescribed notice and meeting schedule to include neighbors, published notice and site is posted. Website is updated.
		City Council reviews the development plans and conditions, considers the recommendation of the DTC and PZC and considers compliance with adopted plans and the Comprehensive Plan. Council and applicant agree to a specific set of conditions. Since the process is a rezoning, Council and the applicant may discuss the application and conditions before the actual hearing.
		Process follows prescribed notice and meeting schedule to include neighbors, published notice and site is posted. Website is updated.

B. Proposed changes to the Level III development review process for areas outside of the CBD (7-5-9):

Level I *Over 500 -34,999 s.f. or 3-19 units*	**Level II** *35,000-99,999 s.f.; or 20-49 residential units* *(Process as proposed by a related ordinance)*	**Level III development requires a rezoning** *Aligns with standards 100,000 s.f. or more; 50 or more residential units; lodging with 21 or more guest rooms*
Pre-application (optional)	Pre-application required. Applicant for a Level II development for site plan review.	Pre-application required. Applicant applies for a rezoning to an Expansion District that is most applicable to the proposed use(s) as a conditional zoning
Applicant submits directly to DSD.	Developer meeting is required: Developer holds a meeting for neighbors including property owners within the notification range	Developer meeting required: Developer holds a meeting for neighbors, posts the site and includes property owners within the notification range
Initial review is complete	Applicant submits to DSD for	Applicant submits to DSD for

within 10 days	review by the Technical Review Committee (TRC). The development mapper is updated with plans.	review by the Technical Review Committee (TRC). The development mapper is updated with plans.
	TRC performs a *ministerial* review with approval or denial of the project. The site is posted as to the meeting date and website address for development plans.	TRC performs a *ministerial* review and makes provides a recommendation considered by the Planning & Zoning Commission
	After a decision is reached, a letter is sent to neighboring property owners regarding the technical decision.	Planning & Zoning Commission (PZC) performs a *legislative* review & makes a recommendation to City Council. Process follows prescribed notice and meeting schedule to include neighbors, published notice and site is posted. Website is updated
		City Council reviews the development plans and conditions, considers the recommendation of the PZC and considers compliance with adopted plans and the Comprehensive Plan. Council and applicant agree to a specific set of conditions. Since the process is a rezoning, Council and the applicant may discuss the application and conditions before the actual hearing.
		Process follows prescribed notice and meeting schedule to include neighbors, published notice and site is posted. Website is updated.

Expansion Districts (7-8-1; 7-8-2)

This wording amendment provides for the addition of the seven proposed expansion districts that apply to the Central Business District and the following use types: residential, institutional, commercial, lodging, industrial, and mixed use. Each expansion district has a corresponding set of development standards that recognize the added impacts that larger projects can generate. With projects of larger scale, a higher level of site development and design are needed. Generally the standards focus on the placement of new structures, placement of parking areas, access and mobility to and around the site and buffering impacts to neighboring residential uses (if applicable). These standards comply with goals in the city's comprehensive plan to enhance connectivity, placemaking and usability for larger projects within the city.

There will also be the addition of 'Level III development' to the land use table to permit this larger scale of development only in the new expansion districts.

Other Amendments

Revisions to Article II:

7-2-5. New definitions are being added for *Development plan* and *Level III development.*

Revisions to Article V:

7-5-10 Downtown Commission Review. There are some limited amendments to the Downtown Design Review process to update the procedures and current practices with consistent nomenclature. For example fees will be charged for major works review.

7-5-20 Notification. This amendment clarifies alignment with State Statutes regarding notification for public hearings (and not public meetings) and public notification requirements for rezonings.

7-5-21. This section is being removed since it is out of compliance with State Statutes. The Planning and Zoning Commission must always provide a recommendation to City Council for map amendments (rezonings) and wording amendments.

Revisions to Article VI:

7-6-2. This minor revision clarifies that all decisions made by an administrative officer or other boards or commissions may be appealed to the board of adjustment.

Revisions to Article VII:

7-7-8. The revisions to this article focus on adding the expansion districts to the conditional zoning process. These is also a new timeframe specified for the required neighborhood meeting along with other edits to the section to ensure consistency with other parts of the UDO.

Revisions to Article XI:

7-11-3. The expansion districts are being added to the table for property line buffers in this section.

7-11-4. Two expansion districts, the CBD EXP and the IND EXP are both to be exempt from open space standards similar to the general districts: CBD and IND.

Revisions to Article XVI:

7-16-2(b). There are two references in this conditional use section which include Level III projects and Retail with over 100,000 s.f.. Both of these references are replaced with the new Level III process already noted.

Revision to Article XVII:

7-17-3. Lodging facilities with 20 or fewer guest rooms and Lodging facilities with 21 or more guest rooms are being added to the land use impact table. This is needed for evaluating 'changes of use' and the relative impacts of each use which has implications for requirements for site improvements.

This wording amendment supports the City's Comprehensive Plan by 1) promoting compatible infill and redevelopment in areas with sufficient infrastructure to support the development; 2) following a reasonable and effective public participation process through public notice and neighborhood meetings; and, 3) encouraging place making and a higher quality of design in the built environment.

This proposal aligns with the 2036 Council Vision in the following areas: (1) Connected and Engaged Community – through promoting public engagement and encouraging input on development projects with neighborhood meetings, public notice and communication on the city's website; (2) Thriving Local Economy – by encouraging infill and redevelopment in key areas of the city; and (3) A Well-Planned and Livable Community – by encouraging compatibility of larger new development projects within the existing built environment through enhanced access and development standards and opportunities for public engagement through the review process.

At the Planning and Zoning Commission meeting held on February 1st, 2017, the Commission voted to recommend denial of the proposed amendments on a vote of 6 to 1. The Commissioners were concerned about the change in the thresholds for downtown, where growth is expected with some commenting that the amendment is an overreaction to growth in general and to hotels in particular. There was some concern that with the conditional zoning process, a developer may have no clear understanding of what is necessary for a project to move forward and that predictability will be lost. There was also concern that, should the amendment be passed, that development will be curtailed and new proposals will stay within the Level II threshold to avoid the public process.

At the request of the Downtown Commission, Mr. Glines reiterated their recommendations from their September 9, 2016, meeting. They didn't recommend changing the thresholds from $175,000 because that was part of the Downtown Master Plan and that was where we wanted development intensity. They recommended support for whatever the Level III threshold is that those projects be reviewed as conditional zonings. The majority did not agree that hotels be treated differently from other developments but that if this is approved, that we make the standards as clear as possible. He noted that as soon as a developer has a plan they can talk to Council members at any time. Finally, they recommended staff work on outreach and most of that has been incorporated into the recommendations.

Staff recommends approval of the wording amendments modifying the Level III development review process, adopting new expansion zoning districts, and other associated amendments because of community support to amend the review process and scale of development and consistency with the Comprehensive Plan and other adopted plans.

Mayor Manheimer opened the public hearing at 5:47 p.m.

Mr. Byron Greiner, member of the Downtown Commission, said the Commission supports the notification process. The Commission would like clarify what kind of issues City Council will expect so that developers know what Council might want in going through the process.

Rev. Christopher Chiaronmonte felt there people should be able to build on their land without getting the neighborhood approval.

Ms. Camille McCarthy, Co-Chair of the WNC Green Party, was concerned about the gentrification of our community and it's enormous hotel boom.

Mr. Timothy Sadler spoke in support of the proposed amendment.

Mayor Manheimer closed the public hearing at 5:58 p.m.

In response to Mayor Manheimer, Mr. Glines said that since September, the City has 4 pending hotel applications. They will not come before Council due to scale.

Councilman Bothwell felt that we needed to elevate the thresholds in order for Council to oversee what is being built in the City. He felt that City Council is a more public venue to discuss these issues. The McKibbon Standard is more of a moral persuasion because the City is not

allowed to dictate wages or impose environmental rules beyond what the State has allowed. When projects come before Council we hope to be able to encourage them to pay a living wage, use local artists and use local restaurants. Because projects are coming before Council does not mean they will be automatically rejected. Actually since Council will be able to have conversations earlier we can make all of the projects better. He feels it will improve development and the people will have a sense that they had input into those developments.

Councilman Bothwell moved to approve the revised wording amendments to UDO Articles: 2, 5, 7, 8, 11, 16 and 17 which modify the Level III review process along with associated changes, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: the amendment 1) provides for greater development flexibility in higher impact projects; 2) leverages a higher quality of development with multimodal access and placemaking through enhanced development standards; and, 3) provides an early method of communication with the public through neighborhood meetings. This motion was seconded by Councilman Haynes.

Councilwoman Mayfield supported the change of the threshold levels. Regarding the hotel piece, she felt there is a real concern about hotels and tourism and the impacts of that. We do need to be responsive to that and how it's influencing the character of downtown. It's also our obligation to figure out how we want our downtown to look like and to make sure the people who live here always feel like it's their town. She also feels there is a bigger picture which is that Asheville is taking a different approach to big projects. It's just not hotels and downtown development. It's with I-26, closure of the coal plant and substations. The approach now is that we, as a City, are less interested in being told what it is that is going to happen to us. We want to be a part of that discussion and we are doing that on the other big projects. She was uncomfortable with the hotels being singled out, but she did think that is just part of this bigger picture. The public sentiment about hotels includes bigger concerns about tourism, wages, occupancy tax, traffic and affordability of our City. She didn't think that changes we make with this proposed amendment will do very little to address the wrath of other issues out there. She is still unclear about the degree to which the concern about hotels is the use, or design, or size. There are some outstanding and on-going questions around design issues in downtown. She hoped that the downtown design review guidelines and historic preservation guidelines will hopefully come to fruitation soon. She felt we risk aggravating problems, like traffic and parking, to the degree that hoteliers prefer to go outside the City and their guests will be driving in and parking more. She was also concerned about the impact this will have on our downtown businesses that now rely on a steady flow of hotel visitors to eat and shop. Her preference would have been to deal with this in the Comprehensive Plan update or the Downtown Master Plan update. She moved to amend the motion to increase the City Council hotel review from 21 to 50. She was not sure building any hotel in Asheville under 20 rooms is even financially viable and if what we are trying to do is not have any more hotels downtown then we need to be honest about that. She also said that in Charleston's core downtown they limit the size of their hotels to 50. The motion made by Councilwoman Mayfield died for lack of a second.

Councilwoman Mayfield said that regarding the concern of unpredictability in the process for developers, in an attempt to create a little bit more predictability she suggested creating an earlier point in the process where developers have the option to come before Council to talk about their project before they have significantly invested in site design, engineering, etc. Perhaps they could come to Council and show a plan and get feedback on the kinds of things that we might be interested in seeing them do, so they can plan for that. Obviously they can talk to any Council member at any time.

City Attorney Currin said that what Councilwoman Mayfield is suggesting is a bigger discussion. One way to do that would be where a developer would come to Council, the back to the Planning & Zoning Commission, then back to Council. Another way would be having an application that didn't need to be as detailed in the first round and then do an initial presentation to Council. There are a lot of ways to get earlier input but changing it at the table without going

back to the Planning & Zoning Commission is difficult. That is something staff could work on longer-term.

Mayor Manheimer felt that this is a larger concept to craft. If this proposed amendment is adopted, she suggested we look into that concept later.

Councilwoman Mayfield asked that staff report back to Council in six and twelve months to let Council know how the amendment is working.

Councilman Smith supported the proposed amendment. To Councilwoman Mayfield's concerns of the unpredictability in the process, he felt that all of Council know how important tourism and hospitality is to the economy of our City. If we want to have a fruitful discussion around these issues and be able to come to the same table, it makes sense to have a third party sustainable tourism study that would look at wages, traffic impact, parking impact, cultural impacts, money that remains in the community, and money siphoned out of the community, crime impact, etc. Our tourism and hospitality industry must come to the table so we all all speaking the same language. He also felt we need to re-open the occupancy tax distribution conversation. Ultimately we are talking about what is community benefit.

Councilman Bothwell agreed with Councilman Smith in that we need a sustainable tourism study.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

The motion made by Councilman Bothwell and seconded by Councilman Haynes carried unanimously.

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Principal Planner Shannon Tuch said that this is an amendment to Chapter 7 of the Code of Ordinance to modify the development review procedures for Level II development applications located outside of the Central Business District. This public hearing was advertised on February 3 and 10, 2017.

She explained that the proposed ordinance would revise and clarify existing regulations affecting the review and administration of Level II projects when NOT located in the Central Business District.

Development projects, based on size or number of units, are categorized as Level I, II or III projects. The detail of the review of each increases with each level allowing larger, more complex projects to receive a higher level of attention and input. Those review processes are as follows:

Level I *Over 500 s.f. or 3-19 units*	**Level II** *35-100K s.f. or 20-49 units*	**Level III (Requires CUP)** *>100K s.f. or 50 units*
Pre-application (optional)	Pre-application (optional)	Pre-application required
Applicant submits directly to staff	Applicant submits to DSD for review by the Technical Review Committee (TRC)	Applicant submits to DSD for review by the Technical Review Committee (TRC)
Initial review is complete within 10 days	TRC performs a ***ministerial*** review and makes a recommendation to Planning & Zoning Commission	TRC performs a ***ministerial*** review and makes a recommendation to Planning & Zoning Commission
	Planning & Zoning Commission performs a final	Planning & Zoning Commissions performs a

	ministerial review	*legislative* review & makes a recommendation to City Council
	Process follows prescribed notice and meeting schedule	City Council performs a *quasi-judicial* review
		Process follows prescribed notice and meeting schedule

Prior to June 2011, all Level II projects were reviewed and approved by the city's Technical Review Committee (TRC). The TRC is comprised of representatives from all city departments that have a role in the development review and approval process, along with a representative from the city's Tree Commission and the Metropolitan Sewerage District (MSD). These individuals are experts in their respective fields and effectively and equitably apply city, state and federal development standards to projects meeting Level II and Level III thresholds. The TRC performs what is commonly called a ***ministerial*** review which describes a governmental decision involving little or no personal judgment by the public official as to the wisdom or manner of carrying out the project. The public official merely applies the law to the facts as presented but uses no special discretion or judgment in reaching a decision. A ministerial decision involves only the use of fixed standards or objective measurements, and the public official cannot use personal, subjective judgment in deciding whether or how the project should be carried out.

Events prior to June 2011 caused city officials to question not whether the review should be ministerial in nature, but rather whether the body approving the project should be different in order to allow for a more public forum where citizens could attend and offer comment and input. As a result, a change to the review process was adopted that moved the final review of a Level II project from the TRC to the Planning & Zoning Commission. Under this process, the TRC still performs its technical review which is then, to some degree, duplicated by the Planning & Zoning Commission who is limited in their ability to review to the same ministerial standards that the city staff is bound by.

After five years, it is apparent that this change did not produce the desired results and a request to return the final review of Level II projects back to the TRC was made at the August 2014 meeting of the Planning & Economic Development Committee (PED). In this meeting, the PED moved to recommend that Council consider this change but to apply it only to those Level II projects proposed for areas outside of the downtown (non-CBD projects) and to identify strategies to maintain or improve public notice and opportunity for input.

The Planning & Zoning Commission, as part of their stated recommendations and priorities in 2015, also included the return of final review of Level II projects to the TRC citing concerns with: public frustration at the Commission's inability to consider non-technical matters; the Commission's unfamiliarity with technical industry standards and how they should be applied; undue pressure from the community to make a legislative decision that could later be challenged legally; and the disincentive that comes with an additional review (time delay) by an appointed body (fear of subjective decisions).

North Carolina cities are not required to provide public notification for a ministerial review and most cities in the state do not provide any notification beyond a simple electronic agenda or email notice. City staff, however, are proposing that a similar level of notification and availability of information be provided that is currently afforded Level II projects going before the Planning & Zoning Commission and these measures, if adopted, greatly exceed what is required under state statutes. These recommendations are similar to those adopted for Major Subdivisions earlier this year, which place an emphasis on earlier public notification, and include the following:

1) Require a community meeting be held by the developer prior to application. All property owners within 200' of the subject property would be notified and invited to attend.

Contact information for both the developer and the appropriate city staff will be provided for those with specific questions or for those who cannot or choose not to attend the meeting. The use of a meeting facilitator is recommended.

2) Require that a summary of that meeting be submitted with the application packet. All points raised in the meeting will be directly addressed in the TRC staff report.
3) Once application is made, city staff would post a "Notice of Technical Review Meeting" sign on all road frontages included in the subject property. This sign will also have a copy of the TRC agenda, city website, and the contact information where questions may be directed.
4) Development Services will upload all submitted documents to the development map (MapAsheville/TRC Projects) within one week of submittal.
5) A "Notice of Technical Decision" will be mailed via US mail to all property owners within 200' of the subject property within 10 days of the TRC decision. This letter would provide official notice to anyone wishing to appeal.

The focus of this amendment is to update the review and approval process for Level II projects, however, a number of clarifying amendments are proposed. These clarifications do not change the purpose and intent of the existing language.

This zoning text amendment was reviewed by the Planning & Zoning Commission at their regular meeting on November 2, 2016, and approved unanimously (7:0).

This wording amendment supports the City's Comprehensive Plan by (1) making the development review process clear and predictable; and, (2) following a reasonable and effective public participation and notification process.

Staff recommends approval of the wording amendment text modifying the (non-CBD) Level II review process as the amendment would revise and clarify the review process and is consistent with the Comprehensive Plan and other adopted plans.

Mayor Manheimer opened the public hearing at 6:23 p.m.

Ms. Kim Roney thanked Council for just not focusing on the downtown area.

Mayor Manheimer closed the public hearing at 6:24 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the proposed wording amendments to UDO Section 7-5-9 which modifies the non-CBD Level II review process, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Makes the development review process clear and predictable; and, (2) Provides a reasonable and effective public participation and notification. This motion was seconded by Councilman Bothwell and carried unanimously.

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V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4562 - BUDGET AMENDMENT TO BUDGET CAPITAL PROJECTS DEPARTMENT OPERATING COSTS FOR THE REMAINDER OF FISCAL YEAR 2016-17 AND $74 MILLION IN CAPITAL PROJECTS APPROVED AS PART OF THE NOVEMBER 2016 GENERAL OBLIGATION BOND REFERENDUM

Interim Capital Projects Director Jade Dundas said that this is the consideration of a: 1) a budget amendment in the General Fund from unassigned fund balance in the amount of $197,175 to support the staffing and administration of the new Capital Project Department for the remainder of the 2017 budget year and 2) a budget amendment in the General Capital Projects Fund in the amount of $74,000,000 to budget capital improvements approved as part of the November 2016 General Obligation Bond Referendum and funded with future debt proceeds.

On November 8, 2016, the citizens of Asheville voted to authorize the City to issue $74,000,000 in bonds to make capital improvements in the areas of transportation, affordable housing, and parks and recreation. These bonds allow seven years for the completion of key projects which are widely distributed throughout the City. These projects will be built in addition to the City existing capital list which include Innovation Districts and the suite of projects in the River Arts District which is funded through a time sensitive Federal grant.

In order to complete these projects a new department that will focus on capital program development has been proposed. The new department will consist of project teams that concentrate on specific categories of projects. This method of project completion will allow staff to specialize in one field of program management. Through this concentrated effort, staff will develop a particular project skillset which will lead to projects being constructed with greater efficiency.

The budget amendments presented by this staff report will support the staffing and administration of the new department during the remainder of the 2017 budget year. The adjustment to the operating budget includes staff salary and benefits. Staffing will initially include the department director, three program managers, and the business services supervisor. Other positions will be hired during the 2017 budget year but the expenses of these positions will be small and likely offset by salary savings within the general fund budget. Other small incidental operating expenses are also suggested in this amendment which will fund equipment and software.

Council is also being asked to make a capital budget amendment in the amount of $74 million dollars. Projects will be funded using available cash reserves and bonds will not be issued until individual projects are completed. The suggestion to adopt the full bond amount immediately eliminates the need to consider annual adoption of the incremental amendments. Since the entire funding amount will be spent over the life of the program it is acceptable and advised to amend the capital budget for the full amount of $74,000,000.

Pros:

- Making these budget amendments will ensure that funding is available to complete bond and grant funded projects on time and cost effectively.
- Adopting a capital budget amendment in the full bond amount of $74,000,000 facilitate the full financing of all bond projects without the need for annual budget amendments.

Con:

- These budget amendments will place and additional financial burden on the general fund budget but without this reorganization, the City will have a difficult time constructing the projects and meeting the funding source requirements.

Creation of a Capital Projects Department has an impact on the City's general fund department by adding costs which would not be necessary if the bonds funding had not been approved. The approval of bond and grant funding do however have scheduling requirements which require that projects be completed within a certain timeframe. The consequence of not meeting these timeframes can be a forfeiture and/or repayment of funds.

It is important that the City be committed to providing adequate time and attention to the completion of capital projects. Authorizing the budget amendments suggested in this staff report

will help to insure that the City meets the obligations of the various project funding sources. The suggestion to adopt the full bond amount immediately, eliminates the need to consider annual adoption of the incremental amendments. Since the entire funding amount will be spent over the life of the program it is acceptable and advisec to amend the capital budget for the full amount.

Staff recommends City Council adopt a: 1) a budget amendment in the General Fund from unassigned fund balance in the amount o: $197,175 to support the staffing and administration of the new Capital Project Depa tment for the remainder of the 2017 budget year and 2) a budget amendment in the General Capital Projects Fund in the amount of $74,000,000 to budget capital improvements approved as part of the November 2016 General Obligation Bond Referendum and funded with future debt proceeds.

Mr. Dundas responded to Vice-Mayor Wisler when she asked the process for transparency and communication amongst the citizens and Council.

In response to Vice-Mayor Wisler, Director of Finance Barbara Whitehorn said that the $197,175 should not have any material effect on Fund Balance.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved for the adoption of Ordinance No. 4562. This motion was seconded by Councilman Young and carried unanimously.

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B. CONFIRMATION OF ASHEVILLE CITY BOARD OF EDUCATION INTERVIEWEES

Vice-Mayor Wisler said that the terms of Peggy Dalman, Leah Ferguson and Matt Buys, as Asheville City Board of Education members, expire on April 1, 2017.

The following individuals have applied for a vacancy on the Asheville City Board of Education and completed the necessary essay questions to be qualified for consideration for appointment: Pepi Acebo, Margaret Hutchison Allan, Joyce Brown, Margaret Ervin Bruder, Steve Cochran, Brian John Dockery, Patricia Griffin, Lockie Hunter, Yvette Jives, John Michael Kledis, Julie Koenke, James Lee, Mary Ellen Lewis, Dewana Little, Joe Lordi, Morgan Marshall-Clark, Mary McDermott, Sallie Porter, Amy Ray, Adam Reagan, Drew Shelfer, Kathleen Slowiczek, Phyllis Utley, J. Vann Vogel, Elizabeth Ward, Mary Ann Warren, Melissa Weiderman and Larry Wilson.

After reviewing all applications and essay questions, and after speaking highly of all the strong candidate who applied, Yvette Jives received 6 votes; James Lee received 6 votes; Amy Ray received 6 votes; Joyce Brown received 5 votes; Patrician Griffin received 3 votes; Mary Ellen Lewis received 3 votes; Steve Cochran received 2 votes; Pepi Acebo received 1 vote; Margaret Bruder received 1 vote; Phyllis Utley received 1 vote; and Larry Wilson received 1 vote.

Therefore, it was the consensus of Council to interview the top six candidates: Yvette Jives, James Lee, Amy Ray, Joyce Brown, Patricia Griffin and Mary Ellen Lewis. Those interviews will be held in the afternoon of February 28, 2017, with appointments being made later that evening in the formal session. All appointments will be effective April 1, 2017.

C. RESOLUTION NO. 17-41 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH PINNACLE

LANDSCAPES, LLC FOR THE PRITCHARD PARK IMPROVEMENTS

ORDINANCE NO. 4563 - BUDGET AMENDMENT FOR THE PRITCHARD PARK IMPROVEMENTS

Director of Parks and Recreation Roderick Simmons said that this is consideration of: (1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of $194,349.00 plus a contingency of $38,000.00 for a total of $232,349.00; and (2) a budget amendment in the amount of $232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

The landscape of Pritchard Park has gradually declined over the last 15 years since it was initially constructed. There are a number of factors contributing to the need for such improvements including but not limited to the following:

- Maximize the sense of place for visitors to the park through attractive landscape plantings, additional ornamental boulders for seating, stone pavers, decorative tiles for the columns and a new drinking fountain and benches;
- Optimize the conditions through which existing trees and landscape beds can thrive by spading the compacted soils, providing master arborist care for all of the existing trees, installation of an irrigation system and an ornamental fence to protect the landscape;
- Complete modest repairs to the existing park concrete sidewalks and brick walls; and
- Enhance the experience of the park by adding lighting and park regulation signage along with a landscape that enhances visibility as recommended by the Crime Prevention Through Environmental Design (CPTED) report by the Asheville Police Department dated September 9, 2014.

While portions of the park will remain open to the public during construction, periodic closures of some areas of the park will be necessary. Staff will work with contractors and stakeholders including event organizers to maximize access to the area and notification of impacts.

Since Pritchard Park is a highly utilized park and an integral part of downtown Asheville's vibrancy, communication efforts regarding the planned improvements have been diverse. Information regarding the scope of the project and potential impacts on park use was shared with key stakeholders to include City Council's Downtown Commission, Tree Commission, Parks & Recreation Board, Asheville Downtown Association, Downtown Asheville Residential Neighbors (DARN). Information has also been shared through the City's news site and social media with regular updates scheduled through the completion of the project.

During City Council consideration of this item during its December 13, 2016, regular meeting, City Council requested that staff reach out to additional stakeholders regarding the improvements proposed for Pritchard Park. In furtherance of that request, staff engaged in the following outreach:

- Sponsored an open house on January 12th at the board room of the Asheville Housing Authority. The open house was communicated to a number of community groups as well as publicized through a media release, with a flyer at Pritchard Park, the city blog and social media postings. The two hour forum enabled staff, the consultant and architect to informally discuss the proposed improvements. Information was shared, questions were answered, and feedback was garnered through discussion and comment cards.
    - Feedback yielded the following themes:
        - Creating a setting where all people feel welcome
        - Concerns about extensiveness of fencing

    - Suggestions to design the park to accommodate use by people in all areas through the following (i.e. additional hardscaping, grass, Astroturf).
    - Suggestions for additional amenities:
        - Public restrooms
        - Family and kid-friendly amenities
        - Dog amenities
        - Emergency phone
    - Support for the project as proposed
- Worked with the Homeless Initiative Advisory Committee at its January 24th meeting to discuss the proposal; the Committee offered the following feedback (in order of importance):
    - Preserve downtown green space
    - Do what's best for all people, consider homeless with all people; all have equal right to use space
    - Continue to listen to the voices of homeless people
    - Move forward with safety needs (i.e. lights)
    - Investigate "hangout spots" for homeless people; find a different way to save the trees; get broad public feedback
    - Fence only outside areas to prevent jaywalking
- Met with each member of the City Council to review and discuss the elements of the project and received feedback; and
- Attended a meeting of DARN at Pritchard Park regarding the improvements on February

Based on the feedback received to date, the original bid is presented to City Council for review and consideration. The project – as bid – can move forward to meet the needs and feedback received by ensuring that fencing is of the height and location in areas to encourage pedestrians to cross at marked crosswalks and to protect the large tree (to the dripline) from root damage. While some modifications can be made, the project may need to be re-bid if the scope of the project changes significantly.

Mr. Simmons reviewed the original design and said the main concern was about the height and placement of the fence - narrowing down the usable areas in the Park. Basically there was no Council concern with lighting, signage, landscaping and irrigation. In order not to lose the trees, he showed pictures of cables holding the trees together in order to keep them from splitting. That was the reason for the fencing around the tree. The fencing was designed to be outside the drip line and not have any impact on the root system. In terms of the fence height, 40" is best practices. Anything below 30" will not deter foot traffic. We recommend proceeding with the 40" fence height. After receiving feedback, he showed a revised design where staff and the consultant tried not to eliminate public space. Their overall goal to protect the big tree and keep the fencing within the drip line; and install fencing on Patton Avenue to force pedestrians to the crosswalks. In order to address losing programmable space within the park, they looked at portion of the Park on Haywood Street. They recommend not fencing the area but mulching it with the addition of sitting boulders.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction of the renovations and received two bids plus alternates. One bid was deemed non-responsive.

After thorough review and evaluation, Pinnacle Landscapes, LLC, Asheville, NC, was selected as the lowest, responsible bidder. The base bid plus alternates accepted was $194,349.00.

The Parks and Recreation Department's Adopted FY 2016-17 General Fund included $650,000 for maintenance projects. Funding for the Pritchard Park improvements will come from that budget. Due to the size of the project, the Finance Department is recommending that a separate project be established in the City's General Capital Project Fund. The budget

amendment will establish this project by moving budget from the General Fund to the General Capital Projects Fund. This includes $232,349.00 to be applied for the cost of the Pritchard Park Improvements for a total base bid with alternates of $194,349.00 plus a contingency of $38,000.00.

Pros:

- Maximizes the place making qualities in a prominent park located within an urban downtown setting
- Enhances the conditions and provides protection for the health of the existing landscape beds and trees
- Improves security in this urban park via lighting and appropriate plantings

Cons:

- While portions of the park will remain open to the public during the construction of the park, it will be necessary to close some areas of the park periodically
- There will be a modest increase in maintenance relative to the existing conditions which is currently being contracted annually with a landscape contractor.

The $194,349.00 plus a contingency of $38,000.00 to support Pinnacle Landscapes, LLC contract for the Pritchard Park Improvements is budgeted in the Parks and Recreation Department operating budget as part of the maintenance budget. Due to the nature and size of the project, Finance staff recommends the project be budgeted in the General Capital Projects Fund rather than the General Fund. A budget amendment is required to create a budget in the General Capital Projects Fund.

Staff recommends that the City Council adopt: 1) a resolution authorizing the City Manager to enter into a contract with Pinnacle Landscapes, LLC to implement landscape improvements at Pritchard Park in downtown Asheville in the amount of $194,349.00 plus a contingency of $38,000.00 for a total of $232,349.00; and 2) a budget amendment in the amount of $232,349.00 from the Parks and Recreation Department General Fund park maintenance budget to establish a capital project in the General Capital Projects Fund.

When Councilman Smith asked what will happen if we don't fence the tree, Mr. Simmons said that he didn't know how many more years the tree would live. The pedestrian traffic on the root system is taking a toll on the tree and we want to take an early approach to preserve it as long as we can.

Councilman Bothwell said that other parks protect their trees by constructing wooden platforms to keep off the roots opposed to installing a fence around the tree. He felt for the last 15 years we haven't done anything in the way of loosing the soil and adding mulch. He was concerned that the Drum Circle people have not been consulted on this design and that is our biggest one use that we have in the Park.

In response to Councilman Bothwell, Mr. Roderick said that staff briefly reviewed the wooden platform idea but there has not been any engineering to determine how that would work in this particular instance. That is possible, but staff would need more time to make an informed decision. If Council decides to proceed with the wooden platform around the tree, we would need to re-bid the project.

The following individuals spoke in support of the revised design for improvements to Pritchard Park:

Ms. Susan Robbins, current Chair of the Downtown Asheville Residential Neighbors (DARN) Steering Committee
Mr. Timothy Sadler (suggested incorporation of artistic effort on the wall)
Rev. Christopher Chiaronmonte

Mr. Byron Greiner, member of the Asheville Downtown Association

Mr. Larry Holt, downtown resident and member of DARN and Asheville Downtown Association, supported the original plan.

Councilman Bothwell supported the revised plan; however, felt the better way to protect the tree roots would be by installing some sort of wooden deck platform. He would also like the Drum Circle to have input on the plans and preferred the the entire park plans be reconsidered.

Mayor Manheimer said that members of Council have been previously furnished with copies of the resolution and ordinance and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 17-41 with the revised design. This motion was seconded by Vice-Mayor Wisler and carried on a 4-3 vote with Councilman Bothwell, Councilman Haynes and Councilman Young voting "no".

Councilman Smith moved for the adoption of Ordinance No. 4563. This motion was seconded by Vice-Mayor Wisler and carried on a 4-3 vote with Councilman Bothwell, Councilman Haynes and Councilman Young voting "no".

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ORDINANCE BOOK NO. 31 - PAGE 143

VI. NEW BUSINESS:

Regarding the Homeless Initiative Advisory Committee, the following individuals applied for the homeless/formerly homeless vacancy: Joey Grisanti, Angela Dubs and Randy Stoudt. It was the consensus of Council to wait until the Homeless Initiative Advisory Committee submits a recommendation.

A. RESOLUTION NO. 17-28 - RESOLUTION APPOINT A MEMBER TO THE BOARD OF ELECTRICAL EXAMINERS

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Mr. Gus Sims (filling the seat as a licensed engineer) has resigned as a member of the Board of Electrical Examiners, thus leaving an unexpired term until July 1, 2018.

The following individual applied for the vacancy of a licensed engineer: Russell Thacher.

It was the consensus of the Committee to appoint Russell Thacher.

Vice-Mayor Wisler moved to appoint Russell Thacher (licensed engineer) to serve the unexpired term of Mr. Sims, term to expire July 1, 2018, or until his successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Rev. Christopher Chiaronmonte spoke about the need to truly forgive each other.

Mr. John Brigham presented several questions regarding the Asheville City Schools System, noting that we need to figure out how to educate our people.

Mr. Timothy Sadler supported the Police Chief's request for additional operating funds if we can look at some very innovative approaches to how we address laws, most notably whether they are criminal justice issues or public health issues.

Mr. Joe Connolly made a suggestion regarding the hearing system in the Council Chamber.

Closed Session

At 7:14 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(A)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by. Councilman Bothwell and carried unanimously.

At 7:35 p.m., Councilman Bothwell moved to recessed the closed motion to return to the formal meeting, noting that the closed session would continue at the end of the formal meeting. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:35 p.m.

Magdalen Bourleon
CITY CLERK

Esther E. Manheimer
MAYOR

192 HAYWOOD STREET
DENIAL OF CONDITIONAL USE PERMIT

CITY OF ASHEVILLE CITY COUNCIL

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This application for a conditional use permit ("CUP") for a hotel in the Central Business District ("CBD") came before the Asheville City Council (the "Council") on January 24, 2017 for a quasi-judicial hearing. Based on the testimony of the witnesses, the documentary evidence, the CUP Application and related materials, the exhibits and other evidence presented at the January 24, 2017 hearing, the Council finds that the CUP should be denied, and in support thereof, makes the following Findings of Fact and Conclusions of Law:

FINDINGS OF FACT

1. Section 7-16-2(c) of the City of Asheville Unified Development Ordinance (the "UDO") provides as follows:

> "*Conditional use standards.* The Asheville City Council shall not approve the conditional use application and site plan unless and until it makes the following findings, based on the evidence and testimony received at the public hearing or otherwise appearing in the record of the case:
>
> (1) That the proposed use or development of the land will not materially endanger the public health or safety;
>
> (2) That the proposed use or development of the land is reasonably compatible with significant natural and topographic features on the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant;

(3) That the proposed use or development of the land will not substantially injure the value of adjoining or abutting property;

(4) That the proposed use or development of the land will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located;

(5) That the proposed use or development of the land will generally conform with the comprehensive plan, smart growth policies, sustainable economic development strategic plan, and other official plans adopted by the city;

(6) That the proposed use is appropriately located with respect to transportation facilities, water supply, fire and police protection, waste disposal, and similar facilities; and

(7) That the proposed use will not cause undue traffic congestion or create a traffic hazard."

(hereinafter referenced as the "CUP Standards").

2. The property at issue (PIN 9649-20-1616) (the "Property") is located at 192 Haywood Street in downtown Asheville and consists of a 2.05 acre parcel of land. The Property is located in the Central Business District (the "CBD") and is located outside of the Traditional Downtown Core.

3. The Property Owner and CUP Applicant is PHG Asheville, LLC (the "Applicant").

4. The CUP Application requests an eight-story, 178,412 square foot hotel, with 185 rooms and an on-site parking structure (the "Hotel"). The Hotel includes 1,300 square feet of patio space located on the first floor, as well as 5,000 square feet of outdoor terrace space located on the top floor, and 5,000 square feet of meeting space.

5. Pursuant to the UDO, the Hotel must be reviewed as a Level III Site Plan, which requires a CUP from the Council.

6. The Property has frontage along three streets: Haywood Street, Carter Street and North French Broad Avenue.

7. The uses of property adjacent to the proposed Hotel are: 1) a church (First Church of Scientist); 2) an apartment building (the Carolina Apartments); 3) an office building (Asheville Broad Center); and 4) the Salvation Army.

8. The Property's primary frontage is along Haywood Street, which borders the Property's entire northern property line. The Property also has frontage along Carter Street, which borders the Property's entire western property line, and North French Broad Avenue, which is the only key pedestrian street which borders the Property. The Hotel is oriented towards Haywood Street.

9. Pursuant to the UDO, the height of the Hotel is measured from the primary pedestrian entrance, which is located along Haywood Street. At that location, the height of the building, from the floor to the top story, is 75 feet. The building also has a parapet and the height of the building measured to the top of the parapet is 89 feet.

10. The Hotel is significantly taller and has a greater bulk and scale than the adjacent church, apartment building, office building and the Salvation Army.

11. Ninety percent of the existing improvements in the area are one and two story structures and approximately 72 percent of those structures are less than 10,000 square feet. The Hotel would constitute the third hotel within a several block radius (approximately ¼ mile). The addition of this third hotel would change the visual character of the area, and would create a cluster of hotels in the immediate vicinity, where there were previously smaller buildings and more diverse uses.

12. The Hotel as proposed did not comply with the requirements of the UDO. Specifically, the building was required to: 1) be constructed along 80% of the frontage line of the lot along North French Broad Avenue, the key pedestrian street ("lot frontage"); and 2) have a one story building height at the streetwall

("streetwall"). See UDO Section 7-8-18. The Applicant asserted that it was unable to meet these requirements because the requirements would create an "unnecessary hardship" and was, thus, granted variances by the Asheville Planning and Zoning Commission (the "P&Z").

13. While the P&Z found that the lot frontage and streetwall variances met the variance requirements under UDO Section 7-6-1 (including unnecessary hardship), "harmony" with the scale, bulk, coverage and character of the neighborhood, are not requirements for a variance in Section 7-6-1. See UDO Section 7-16-2(c)(4).

14. Therefore, whether the Hotel was in "harmony" with the scale, bulk, coverage and character of the neighborhood was not a standard that the P&Z was required to find in order to grant the frontage and streetwall variances, but this is a part of the Council's decision on the CUP. See UDO Section 7-16-2(c)(4). There was no evidence that any other buildings in the neighborhood, including the other hotels in the area, were allowed the same or similar variances, and these building modifications preclude the Hotel from being in harmony with the area as required by CUP Standard 4.

15. The Hotel would have a basement in the lower portion of the building along Carter Street. The Applicant proposed to locate a loading area in this basement and to provide access to the loading area via a driveway from Carter Street (the "Carter Street Driveway").

16. There is a significant amount of pedestrian traffic in the area near and around the Carter Street Driveway.

17. The Carter Street Driveway is 28 feet wide, which is wider than the 24 foot driveway width allowed by City Standards. The Applicant obtained a modification from the City's Transportation Department Director to allow for the wider driveway. The Transportation Department Director's written decision to allow the modification, however, does not address the impact of the wider driveway on the public health and safety and there was no evidence presented that would indicate the wider driveway would provide the same level of protection to

the public, particularly pedestrians, as a driveway which would comply with City requirements.

18. An appraiser, Tommy Crozier, testified on behalf of the Applicant and presented an "Expert Report," which purported to show that CUP Standard 3 was met, i.e., that the development of the Hotel would "not substantially injure the value of adjoining or abutting property." However, Mr. Crozier's testimony and the Expert Report do not contain facts and data sufficient to prove that there would not be a substantial adverse impact on such values following construction of the Hotel.

19. Mr. Crozier's testimony and the Expert Report state generally, and the Council accepts as fact, that the values of property in this area of Asheville (northwest downtown) have been increasing in recent years, and that recent sales prices exceed the assessed tax values of properties in the area. There was, however, no evidence to establish the date of the tax appraisals or evidence that would indicate how these tax values would have any relevance to CUP Standard 3. There was no evidence, through facts and data, to indicate how the Hotel would affect or impact such an increase in value (assuming such an increase would continue) on the adjacent and adjoining properties.

20. There was no sales data presented and there are no comparable sales in the Expert Report, which provide information about the sale prices of properties adjacent to hotels in Asheville, or elsewhere, before and after a hotel was constructed on the tract in question. In fact, there was no data through, e.g., comparable sales, that could show the before and after value of properties adjacent to any hotels in the City, even though the Expert Report indicates there have been multiple hotels constructed in the City in recent years, and at least two in the immediate area.

21. That property values are increasing in the area generally over time does not establish the impact of this Hotel on the adjoining and adjacent tracts, nor whether the value of those particular tracts would suffer an adverse impact if the Hotel is constructed.

22. There was no data or comparable sales to substantiate Mr. Crozier's claim that the Hotel Indigo was in part, the reason for the recent increase in property values in this area of downtown Asheville, or to show such increases were higher or lower than in other parts of the City during the same time period.

23. There was no evidence or data that could show the impact on the value of adjacent properties, when the proposed Hotel would be the third hotel in a several block radius. It appears that additional hotels could increase the value of other nearby hotels, but no facts or data were provided that could establish that property with other uses would not be substantially diminished.

24. The Expert Report also contains the following statements, which brings the reliability of the Expert Report into question:

a. "The information contained in the Report or upon which the Report is based has been gathered from sources the Appraiser assumes to be reliable and accurate. The owner of the Property may have provided some of such information. Neither the Appraiser nor C&W [Cushman & Wakefield] shall be responsible for the accuracy or completeness of such information, including the correctness of estimates, opinions, dimensions, sketches, exhibits and factual matters. . . . ."

b. "This report assumes that the subject will secure an affiliation with Embassy Suites or a similar chain. If the subject does not maintain a similar affiliation, it could have a negative impact on the subject's market value."

c. "Our financial analyses are based on estimates and assumptions which were developed in connection with this appraisal engagement. It is, however, inevitable that some assumptions will not materialize and that unanticipated events may occur which will cause actual achieved operating results to differ from the financial analyses contained in the report, and these difference may be material. It should be further noted that we are not responsible for the effectiveness of future management and marketing efforts upon which the projected results contained in this report may depend."

25. The CUP application does not request that the Hotel be only an Embassy Suites hotel or a "similar chain."

26. The methodologies employed, and data provided, by the Applicant's witness, Mr. Crozier, were inadequate to allow Council to find that the Hotel would not substantially injure the value of adjoining properties.

27. There is significant traffic in downtown Asheville near and around the Property in September and October, and in the summer months. The vehicular traffic in the area will increase if the Hotel is constructed.

28. The Applicant presented the testimony of a traffic engineer, Kevin Dean, as well as Mr. Dean's written "Traffic Assessment." The Traffic Assessment did not provide any facts or data which could show the level of traffic or traffic counts for any time of the year, except during a four hour period during the day on November 10, 2016, which was a Thursday. The level of traffic in this area is much higher at other times of the year, particularly the summer months; however, there were no traffic counts or any traffic data provided for any date other than November 10.

29. Mr. Dean was not aware of the environmental conditions on November 10, 2016, or whether such conditions could have affected traffic volumes on that date.

30. The Applicant's traffic counts were done on November 10, 2016 between the hours of 7 a.m. and 9 a.m., and between the hours of 4 p.m. and 6 p.m. Under industry standards, this is apparently "assumed" to be the time of highest traffic on nearby streets, but there was no evidence which could establish this would be the case for this area of Asheville.

31. The number of trips generated from the Hotel in the Traffic Assessment was also derived from an industry standard, and not the actual trips expected from this Hotel at this location. Hotels in downtown Asheville have an occupancy rate in excess of 85%, but the general rate for an efficient market is 65%. The Traffic Assessment did not take this expected higher occupancy of the Asheville market into account.

32. The Applicant did not submit any traffic data for Friday through Sunday, even though those are typically the days that tourists visit the City and traffic volumes are higher.

33. The estimated traffic counts used for the Traffic Assessment and Mr. Dean's opinion, were also these on a "typical weekday." There was no weekend data collected, even though this is the time that most tourists visit the Asheville downtown.

34. Without accurate traffic counts for any days other than Thursday November 10, there is no data or evidence to determine whether the additional trips generated by the Hotel (as well those from the other tourists which the Hotel will attract but who do not stay at the hotel) would not decrease the existing level of service to an unacceptable level. The Level of Service Summary in the Traffic Assessment was not based on complete information or data.

35. There was no data or evidence presented that could show what the level of traffic would be with three hotels (Indigo, Hyatt and Embassy Suites) located within a several block area for Friday, Saturday and Sunday during the summer months or other high traffic periods.

36. The Traffic Assessment did not account for traffic that will be generated by future hotels and apartments in the downtown area that are planned and approved, but which are not yet fully constructed and operational.

37. The proposed Hotel includes a twenty-foot wide driveway, which provides street access to and from the parking structure and North French Broad Avenue.

38. There is a blind hill with limited visibility in the vicinity of the Hotel's parking deck's entrance and exit onto North French Broad Avenue. To determine whether the addition of that entrance/exit would cause a safety issue would require a "sight distance check." A sight distance check was not a part of the Traffic Assessment and no other evidence was presented to show the parking deck entrance or exit would not endanger driver or pedestrian safety. The Traffic

Assessment did no analysis relating to traffic safety as it relates to vehicles entering and exiting this driveway.

39. The Hotel will have 5,000 square feet of meeting space, which would potentially attract visitors to the Hotel, other than guests staying at the Hotel. This meeting space use was not included in the Traffic Assessment nor included in the traffic analysis.

40. The Hotel would bring more than 50,000 new visitors to the City each year. Not all of these new visitors would be patrons of the Hotel, but would frequent downtown businesses and, therefore, add to the already dense downtown area. The Traffic Assessment did not account for any traffic caused by additional visitors, other than an estimate of trips by Hotel patrons and employees.

41. The Hotel parking deck would have 200 vehicular parking spaces. The Hotel contains 185 rooms and will have 75 employees. There are insufficient spaces in the proposed Hotel parking deck to accommodate this number of guests and employees, even if they all do not drive automobiles to the Hotel.

42. There is currently a shortage of public parking in downtown Asheville and there are often insufficient parking spaces to meet the demand. The development of the Hotel would exacerbate the parking shortages in the area, because of the limited number of parking spaces planned in the parking deck and the Applicant's failure to provide sufficient parking to accommodate all of its guests and employees.

43. The City's 2036 Vision Plan includes the following goal:

> **"A WELL-PLANNED AND LIVABLE COMMUNITY**
>
> Asheville promotes community through thoughtful, resident-led planning that results in pedestrian oriented development for all ages and abilities, harmonized with an integrated transportation system. Asheville's unique character is reflected in our land use, preserved in our historic structures, and honored when incorporated in new development. Thoroughfares are lined with thriving businesses

mixed with residential and office uses, and neighborhoods are socioeconomically diverse with a range of affordable housing choices. Open spaces, parks, greenways, community gardens, and edible landscapes are abundant throughout the city."

44. The addition of a third large hotel within a quarter mile radius creates a cluster of hotel uses in this neighborhood, and adds 185 more lodging rooms to the hundreds of hotel rooms which already exist on essentially the same block. As a result, the Hotel would not enhance, and in fact would adversely impact the neighborhood's mix of uses and socioeconomic diversity.

CONCLUSIONS OF LAW

Pursuant to the foregoing FINDINGS OF FACT and UDO Section 7-16-2(c), the Council makes the following Conclusions of Law:

1. The Applicant bears the burden of proving to the City Council, by competent, material and substantial evidence, that the proposed Hotel meets the seven CUP standards in the UDO. If the Applicant fails to meet its burden of producing competent, material and substantial evidence as to any one of the CUP Standards, the CUP must be denied.

2. In this case, the City Council finds that the CUP should be denied, for the following reasons, pursuant to UDO Section 7-16-2(c):

(1) The Applicant failed to produce competent, material and substantial evidence that the Hotel will not materially endanger the public health or safety;

(2) The Applicant failed to produce competent, material and substantial evidence that the Hotel is reasonably compatible with significant natural and topographic features of the site and within the immediate vicinity of the site given the proposed site design and any mitigation techniques or measures proposed by the applicant;

(3) The Applicant failed to produce competent, material and substantial evidence that the Hotel will not substantially injure the value of the adjoining or abutting property;

(4) The Applicant failed to produce competent, material and substantial evidence that the Hotel will be in harmony with the scale, bulk, coverage, density, and character of the area or neighborhood in which it is located and, moreover, the evidence instead showed the Hotel would not be in harmony with the scale, bulk, coverage and character of the area and neighborhood;

(5) The Applicant failed to produce competent, material and substantial evidence that the Hotel will generally conform to the comprehensive plan, smart growth policies, sustainable economic development strategic plan and other official plans adopted by the City and, moreover, the evidence instead showed the Hotel would not generally conform to the City's 2036 Vision Plan; and

(7) The Applicant failed to produce competent, material and substantial evidence that the Hotel will not cause undue traffic congestion or create a traffic hazard.

ACCORDINGLY, based on the foregoing FINDINGS OF FACT and CONCLUSIONS OF LAW, the Applicant's request for a CUP for the Hotel is denied.

This the 14th day of February, 2017.

Esther Manheimer
Mayor

Friday – February 17 - 9:00 a.m.
UNC-Asheville - Overlook Hall

Retreat

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Mayor Manheimer welcomed everyone to the City Council Annual Retreat.

Mayor Manheimer then convened the retreat and introduced Ms. A. Tyler St. Clair, who would be facilitating the retreat. Ms. St. Clair said the purpose of the retreat is to assist City Council in reaffirming its vision and priorities and to develop roles and operating guidelines that maximize its success as an elected body.

Ms. St. Clair reviewed the roles of Council members and the facilitator.

Council had a brief climate setting which included their family of origin, a person from their early life that had the most impact on who they are today, an event from their early life that had the most impact on who they are today, what they liked to do in their spare time, and one way they would like to contribute leadership to Council.

Ms. St. Clair reviewed the Local Elected Leadership model which is a model that can assist Council in providing effective governance for the City.

She shared the characteristics of an effective vision that Council used last year to craft their 2036 Vision - vivid, unique, challenging, clarity, focused and shared. Last year, Council thought about what they wanted to keep and what they wanted to change. Then they sorted them into vision themes with a list of priorities which turned into goals and individual action plans.

Council reviewed and reaffirmed their Vision statement to provide intent and inspiration for the role and direction of City Council. They then identified many successes in moving toward the Council's vision over the past year, some being, but are not limited to: revision of the use of force policy; overwhelming support for the bond program; moving ahead on planning for Comprehensive Plan; working on form-based code; 29 neighborhoods did the Plan on a Page; moving ahead on hiring an Equity Inclusion Manager; new investments in transit; regarding zoning, created new and improved opportunities for people to weigh in on development - first in subdivisions, then for downtown; Energy Innovation Task Force was created and is moving forward solidly in partnership with the County, Duke Energy and other stakeholders; won the water lawsuit; big jump in funding for affordable housing due to approval of bonds; made first agreement to transition City-owned land to affordable housing with private partner; unanimously created many task forces to addresses difficult issues; used Land Use Incentive Grant to advance affordable housing; created our partnership with NCDOT to improve the I-26 Connector; improved communications with the community, including new website; becoming more of an open data city; implemented Ban the Box; started asking about renter/homeownership on board & commission applications to make sure we were getting diversity; started construction of River Arts District Transportation Improvement Project; co-funded the African American Heritage Commission's visioning process for deciding how to honor contributions of the African American community; funded a disparity study; secured funding for other multi-modal improvements (outside of bonds/other sources), including $4 Million for Craven Street bridge; adopted new 5-Year plan on homelessness, aimed at ending veteran homelessness by the end of this year as its highest priority; retained Southern Conference Basketball; unanimously passed resolutions on several social/civil rights issues; committed funding for the reconstruction of Lee Walker Heights;

have done a lot of technology - parking technology, the Asheville App, Open City Hall, SimpliCity; partnership with Arboretum on Holiday Downtown Lighting Display; open streets and walkable Wall Street; busking regulations that everyone loves is pleased with; 3% growth in private investment; more businesses in Asheville (predominantly in the City's Innovation District, and especially in the South Slope, Downtown, River where infrastructure is targeted; managing the substation placement process to minimize impacts on neighborhoods and have adequate power for the downtown area; partnerships with Buncombe County and others (African American Heritage Commission, Equity, Family Justice Center, Energy Innovation Task Force, second phase of composting study, and potential for affordable housing and transit, etc.); advanced greenways; Transit Department worked with N.C. Dept. of Transportation on analyzing pedestrian safety issues; provided funding to Festival of Neighborhoods; approved improvements to Pritchard Park; still working on major projects/major works partnership with TDA, including $20 Million proposal for Central Business District and South Slope improvements; In Real Life Program now has a permanent line item; and participated in planning and co-funded universal access to Pre-K.

After reviewing the successes over the past year, Council and management staff each listed out their observations of those accomplishments.

Council reviewed the three-year primary goals to assess the status and reaffirm intent. They identified them as completed, continue or eliminate and agreed not to add new priorities.

Ms. St. Clair then assisted City Council in clarifying roles and establishing operating guidelines that will maximize its success as an elected body. Council broke out into two groups to discuss two areas each - Council decision-making effectiveness; Council's ability to facilitate staff productivity/use resources effectively; Council cohesive/Ability to work together; and Council ability to us boards/commissions/committees effectively. The following were the draft results of the discussion, with Ms. St. Clair to tweak the guidelines for Council approval:

Council Cohesion/Working Together

1. Mayor's monthly meetings - mix up composition regularly
2. Use more worksessions for bigger issues
3. Upcoming agenda items at end of each agenda, discuss process, timing

Boards/Commissions/Committees/Liaisons/Task Forces

1. Maintain (neutral) interested citizenry list from boards & commission process for appointment (consideration) to Task Forces
2. Simultaneous process for review of complex issues by multiple boards & commissions; specific agenda item and timeline for each board & commission so they each see the same proposal
3. Annual assessment/review of boards & commission by Boards & Commission Committee (checking to make sure some boards/commissions are making good policy, if they are within their role, etc.)
4. Re-evaluation of the effectiveness of Council liaisons. Should we keep and if so, better define roles. Need to define liaison role and make sure the applicable board/commission members committee know of Council's liaison role.

Council decision making

1. Council will delegate to the City Manager and Mayor review all items on agenda to make sure it has gone through the appropriate committee/commission if needed.

2. Council will ask Boards & Commission Committee to identify a systematic process (template) for for gaining community input/engagement for special advisory task forces (i.e., outlining the task and timeline, what are the expectations, parameters on decision-making process; whether a Council liaison should be appointed, etc.)

3. Boards & Commissions Committee will be responsible for evaluating community engagement process and roles with special issues. Evaluate issues that don't fall into regular decision-making structure - task forces.

Staff productivity:

1. Council will send questions to City Manager and copy his assistant.

2. Council will ask for updates or status of committees and commissions issues from committee chairs or council liaisons (or other knowledgeable resources)

3. Council will indicate their expectations regarding a response (such as fyi, may be worth looking into, etc.) when they send e-mails to the City Manager.

4. Council will direct emerging issues to appropriate council committee, and if none, then refer to Governance Committee

5. Stronger leadership role by Council/liaison/commission chair & staff guidance with boards and commission committees and their scope of work

6. If one member of Council is requesting information-gathering on emerging issues that exceeds a certain amount of staff time that it should receive four nods before staff proceeds with obtaining that information.

Council instructed the City Clerk to add tentative upcoming agenda items on each agenda.

It was the consensus of Council to move forward with the next steps as outlined by Ms. St. Clair as follows: (1) Ms. St. Clair will send report to City Manager and his assistant, including the operating guidelines; (2) City Manager will share report with Council and ask for comments; (3) City Manager will then realign any changes in priorities with staff and communicate any relevant notes; (4) Strategic Operating Plan will be revised to reflect any changes and will be sent out again; (5) staff to send out via social media successes; and (5) Council to approve the operating guidelines at a future Council meeting under New Business.

Mayor Manheimer adjourned the meeting at 4:40 p.m.

Magdalen Bleiker
City Clerk

Esther E. Manheimer
Mayor

Tuesday – February 28, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and Deputy City Clerk Sarah Terwilliger

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF VOLUNTEER OF THE YEAR - STEVE MITCHELL

Mayor Manheimer, along with Ms. Elaine Poovey, Chair of the Neighborhood Advisory Committee, was pleased to present Mr. Steve Mitchell with the 2017 Volunteer of the Year Award. Mr. Mitchell has left an indelible mark on the places where he has lived and it is clear that his caring and concern for his neighbors defines his mission. The hard work and time he has devoted to Wilshire Park, Malvern Hills, and the City of Asheville as a whole has had a lasting and inspiring effect. He is an outstanding example of a neighbor and citizen.

B. PROCLAMATION PROCLAIMING MARCH 10, 2017, AS "ZELDA FITZGERALD DAY"

Mayor Manheimer read the proclamation proclaiming March 10, 2017, as "Zelda Fitzgerald" in the City of Asheville. She presented the proclamation to Mr. James MacKenzie, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

Mayor Manheimer asked that a resolution denouncing threats against those of the Jewish faith be added to the Consent Agenda.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 14, 2017; AND THE CITY COUNCIL RETREAT HELD ON FEBRUARY 17, 2017

B. MOTION ADOPTING THE 2017-18 ANNUAL OPERATING BUDGET SCHEDULE

Summary: The consideration of a motion to approve the Fiscal Year 2017/2018 Budget Schedule.

As a part of the Fiscal year 2017/2018 Operating and Capital Budgets development process, which began internally in the Fall of 2016, staff is proposing a budget schedule which encompasses the following:

- A series of Budget Worksessions with City Council beginning in March 2017,
- Formal presentation of the City Manager's Proposed Budget on May 9, 2017,
- Budget public hearing on May 23, 2017, and

- Budget adoption on June 13, 2017.

The proposed schedule, which outlines the key dates in the budget process.

Staff recommends that City Council review the proposed Fiscal Year 2017/2018 Budget Schedule, make changes as needed, and approve the motion to adopt the Fiscal Year 2017/2018 Budget Schedule.

C. RESOLUTION NO. 17-42 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN AMENDMENT TO THE EXISTING LEASE AGREEMENT WITH EAST ASHEVILLE YOUTH ACTIVITIES BOOSTER CLUB FOR CHARLIE BULLMAN PARK LOCATED ON NEW HAW CREEK ROAD

Summary: The consideration of a resolution authorizing the City Manager to execute an amendment to the existing lease agreement between the East Asheville Youth Activities Booster Club (East Asheville) and the City of Asheville for Charlie Bullman Park, located at New Haw Creek Road and Bell Road.

The recreation area known as the Charlie Bullman Park is owned by the East Asheville Youth Activities Booster Club. In 2011, the City of Asheville entered into a lease agreement with East Asheville for property located at New Haw Creek Road and Bell Road (identified as PIN # 9659-92-4876-00000). The property and any improvements thereupon were to be used exclusively for recreational purposes. The park was needed for recreational programming activities in East Asheville.

The current lease expired in August 2016 and the City approached East Asheville expressing interest in renewing the lease for an additional 5 (five) years at the current rate of $1.00 per year. East Asheville is agreeable to an extension of the lease for another 5 years.

Existing terms of the lease will continue, such as the City's commitment to maintain the facilities, make any necessary repairs and cover all utility costs.

Pros:

- City utilizes the facility for nominal rent.
- City is free to make any improvements it deems appropriate.

Con:

- None Noted

The lease commits the City to costs to maintain the facility. Parks and Recreation staff, however; negotiated with local leagues relative to the provisions of an MOU. This MOU specifies and limits the City's obligation to issues such as field readiness for play.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an amendment to the lease agreement with East Asheville to continue recreational programming at this site.

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D. RESOLUTION NO. 17-43 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION AGREEMENT WITH COOPER CONSTRUCTION COMPANY INC. FOR THE NEIGHBORHOOD ENHANCEMENT PLAN AREA 1 WATER DISTRIBUTION SYSTEMS PHASE I PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Cooper Construction Company, Inc., for the NEP Area 1 Water Distribution Systems Phase I Project for the bid amount of $1,244,068.00 plus a 10% contingency in the amount of $124,406.00 for a total project budget in the amount of $1,368,474.00.

On January 3, 2017, the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 1 Water Distribution Systems Phase I Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the installation of approximately 11,650 Linear Feet of 8-inch and 6-inch Ductile Iron Pipe and related appurtenances located in the Bingham Road, Lindsey Road and Starnes Cove Areas of the City of Asheville Water Distribution System.

In response to the Advertisement for Bids, the department received 3 bids on January 31, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: $1,845,088.00
2. Cooper Construction Company, Inc.; Hendersonville, NC – Bid: $1,244,068.00
3. Thunder Contracting, Inc; Waynesville, NC – Bid: $1,558,413.00

Following a review of the bids by City Staff and the project engineers, McGill Associates, Cooper Construction Company, Inc., was selected as the lowest responsible, responsive bidder for the bid amount of $1,244,068.00. A contingency amount of $124,406.00 has been added for a total project budget in the amount of $1,368,474.00.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure. Replacement of these lines will help to improve the service and reliability of the water system.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to award a construction contract would prevent the completion of the water system improvements.

The funding needed for the construction agreement is currently allocated within the Water Resources Capital Improvements Project (CIP) Fund in the 2015 NEP Area 1 Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Cooper Construction Company, Inc., for the NEP Area 1 Water Distribution Systems Phase I Project for the bid amount of $1,244,068.00 plus a 10% contingency in the amount of $124,406.00 for a total project budget in the amount of $1,368,474.00.

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E. ADOPTION OF REPORT OF SETTLEMENT STATEMENT WITH ALISON ROSE KERN PURSUANT TO N.C. GEN. STAT. SEC. 143-318.11 (A) (3)

Summary: Settlement Statement is attached to and made a part hereof.

F. RESOLUTION NO. 17-45 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE EASEMENT AGREEMENTS WITH PRIVATE PROPERTY OWNERS WHO DONATE EASEMENTS TO THE CITY FOR THE

PURPOSE OF THE CITY CONSTRUCTING NEW SIDEWALKS OR IMPROVING EXISTING PUBLIC SIDEWALKS

Summary: The consideration of a resolution authorizing the City Manager to execute easement agreements with private property owners who donate easements to the City for the purpose of the City installing new sidewalk or improving existing public sidewalks.

Currently, staff brings each easement for sidewalk maintenance, repair or installation to city Council for approval. In 1988, Resolution 88-28 gave the City Manager authority to execute easements with private property owners for constructing and/or maintaining storm sewer systems. The current request for consideration would allow easements for sidewalks to be handled in a like manner.

In 2015, the city recorded 13 sidewalk easements, under the current practice, each easement would require time and resources to develop necessary staff reports and resolutions to be approved by City Council for each specific easement. With the recent approval of the bond program, the need for executing new public sidewalk easements will likely increase.

Pros:

- Helps to standardize how easements donated to the City by private property owners for sidewalks construction are handled by the City.
- The easements would allow for installation of new public sidewalks and improvements to existing public sidewalks.
- Allow for a more expedient acceptance of easements for sidewalk construction.
- Reduce staff time associated with development of staff reports and resolutions for each individual easement request when the easements are donated.

Con:

- None.

There will be no fiscal impacts with this resolution; all easements which would be purchased would still require Council's approval.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute easement agreements with private property owners who donate easements to the City for the City to construct and improve City owned sidewalks.

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G. RESOLUTION NO. 17-46 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SIDEWALK MAINTENANCE AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION TO MAINTAIN A NEW SIDEWALK THAT THE N.C. DEPT. OF TRANSPORTATION WILL CONSTRUCT ALONG A PORTION OF THE NORTH SIDE OF SMOKY PARK HIGHWAY

Summary: The consideration of a resolution authorizing the City Manager to execute a sidewalk maintenance agreement between the N.C. Dept. of Transportation (NCDOT) and the City of Asheville for the city to maintain a new sidewalk that NCDOT will construct along a portion of the north side of Smoky Park Highway.

The NCDOT has developed plans and has the necessary funds to construct a new sidewalk along the north side of US 19-23-74 (Smoky Park Hwy) from the McDonalds restaurant to the existing sidewalk at the Shell Station, for a distance of about 700 linear feet, in the immediate area of the I-40 interchange at Exit # 44. Daily traffic volumes along I-40 in the

immediate area exceed 80,000 vehicles per day and 20,000 vehicles per day along US 19-23-74 (Smoky Park Hwy). From a pedestrian perspective, sidewalks are an important feature through interchange areas to clearly define the area that pedestrians should use.

Per NCDOT policy, local governments typically are required to participate in the construction cost for pedestrian facilities within the public right-of-way for state-maintained streets, which is 40% for the City of Asheville. In this case, the NCDOT is fully funding the project. Pursuant to NCGS 160A-296 and a longstanding NCDOT policy, the City will be responsible for maintaining the new sidewalk. .

Pros:

- Increases the inventory of completed sidewalk sections.
- NCDOT is fully funding the construction of the sidewalk section.
- Enhances pedestrian flow and safety through a high traffic volume interchange area.

Con:

- The City is responsible for all maintenance responsibilities.

There is no immediate fiscal impact regarding this action and future maintenance needs will be addressed with the Public Works Department's operating budget along with other existing sidewalk needs.

Staff recommends that City Council approve a resolution authorizing the City Manager to execute a sidewalk maintenance agreement between the NCDOT and the City of Asheville for the city to maintain a new sidewalk that NCDOT will construct.

RESOLUTION BOOK NO. 38 - PAGE 361

H. RESOLUTION NO. 17-47 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE BROADWAY AVENUE SIDEWALK AND RETAINING WALL REPAIR PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Appalachian Paving and Concrete, Inc. for the amount of $94,510 and to authorize change orders up to the $9,451 or 10% of the contract price for the project known as Broadway Avenue Sidewalk and Retaining Wall Repair, City of Asheville CPM-14-15-013.

The section of sidewalk that is in need of repair was built over a vaulted area used for storage from a previous building.

The scope of this project includes the demolition of the existing sidewalk, drive apron, concrete piers, hand railing and concrete curb and gutter. The project also includes construction of a retaining wall, sidewalk, 6 inch thick drive apron, aluminum safety railing and granite curb. The retaining wall will support the sidewalk and hand rail that will rest above it. The new hand railing will be safer and aesthetically pleasing to pedestrians in the downtown area.

The project was advertised on January 3, 2017, and bids were opened on February 1, 2017, with the following results:

Appalachian Construction, Swannanoa, NC	$94,510
Graham County Land Company, Robbinsville, NC	$94,628
K and T Construction, NC, Green Mountain,	$105,000
Cherokee Enterprises, Cherokee, NC	$123,151
Carolina Cornerstone, Asheville, NC	$123,625

Patton Construction, Asheville, NC	$160,430
Armen Construction, Charlotte, NC	$209,880

Pros:
- Confirms Council's commitment invest in Asheville's roads and streets.
- Provides safe transportation and access to communities and attractions to maintain a vibrant city.

Con:
- Construction may cause temporary pedestrian detours and lane closures along the section of Broadway near the intersection of Walnut St.

Funding for this project is included in the Adopted Capital Improvement Program Budget.

City staff recommends City Council adopt the resolution awarding the contract to Appalachian Paving and Concrete, Inc. and authorizing the City Manager to execute a contract with Appalachian Paving and Concrete, Inc. for the project known as Broadway Avenue Sidewalk and Retaining Wall repair and further authorizing the execution of any change orders up to a cost of $9,451 or 10% of the contract which may arise during execution of said project up to the budgeted amount.

RESOLUTION BOOK NO. 38 - PAGE 362

I. RESOLUTION NO. 17-48 - RESOLUTION DENOUNCING THREATS AGAINST THOSE OF THE JEWISH FAITH

Summary: Mayor Manheimer read the following resolution: "WHEREAS, on Monday, February 27, 2017 the Asheville Jewish Community Center (JCC) received a bomb threat; and WHEREAS, according to the JCC Association of North America, on February 27, there were 31 incidents of bomb threats called into 23 JCCs and eight Jewish day schools in Alabama, Arizona, California, Delaware, Florida, Indiana, Maryland, Michigan, New Jersey, Nevada, New York, North Carolina, Pennsylvania, Rhode Island, Virginia, Washington state, and Calgary (Canada); and WHEREAS, these incidents are part of several waves of threats and vandalism against centers of Jewish Faith that have occurred over the past few months; and WHEREAS, in December 2016 the City of Asheville passed No. 16-254, "Resolution Against Discrimination and Intimidation," stating that we take great pride in being a welcoming and diverse community where all citizens can live and work without fear of physical violence, threats or intimidation; and WHEREAS, hate crimes, threats or intimidation that target the Jewish people or any other people will not be tolerated. NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT the City Council strongly denounces the vandalism and threats made against those of the Jewish faith.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. SECOND QUARTER FINANCIAL UPDATE

The financial information in this report reflects the City's overall financial position for the fiscal year through December, 2016.

"Amendments. The General Fund budget presented in this second quarter report reflects the adopted budget of $110,834,666 along with two budget amendments approved by City Council. A summary of the budget amendments is presented below.

Adopted Budget	110,834,666
Budget Amendments:	
Asheville/Buncombe Preschool Planning Collaborative*	6,200
County Participation – African American Heritage Commission	10,000
12/31/2016 General Fund Budget	$110,850,866

*Fund Balance Appropriation

Revenues. Through December 31, 2016, the City has collected $59.5 million in General Fund revenue, which represents approximately 54% of the total General Fund revenue budget. This percentage is driven primarily by property tax collections. The City receives the majority of these revenues in December and January of each year. 74.5% of the budgeted property tax revenue for FY 2016-17 has been received fiscal year-to-date. The City has received four months of sales tax revenue this fiscal year, and collections are up 7.3% compared to the prior fiscal year. Intergovernmental revenue is trencing on budget. Revenue from Development Service fees is trending lower than anticipated through the first six months of the year, and currently stands at 42% of budget. Overall, based on collection trends through the first two quarters, staff is currently projecting that *FY 2016-17 General Fund revenue will exceed budget by $617,000 or 0.56%.*

Expenditures. General Fund expenditures through December 31, 2016 totaled $49.2 million or 44% of budget, which is typical for this point in the fiscal year. Personnel expenses, the largest component of the General Fund budget, are trending slightly under budget through the first two quarters. It should be noted that even though overall personnel expenses are on budget, expenses in the Fire Department are running approximately $800,000 ahead of budget at the end of December. Solutions to the ongoing overtime challenges in the Fire Department are being discussed as part of the FY 2017-18 Budget. The simplest solution would be to increase the overtime budget; however, this is a short-sighted solution that fails to evaluate the underlying cause of excessive overtime costs. While the overtime budget will likely be increased going forward, it will be as part of a comprehensive plan to track trends and better manage staffing. As of February, interviews for the Fire Analyst position are complete and there should be someone in the role by the end of March, which will enable more analysis by the Budget Division in concert with the Fire Department. There are no other areas of concern with regard to current expenditure trends. Overall, staff is projecting that *FY 2016-17 expenditures (including actual expenses and encumbrances) will finish the year at $109.84 million.*

Fund Balance. The City began FY 2016-17 with unassigned fund balance of $18.0 million, after subtracting out the $960,000 fund balance appropriation included in the adopted budget. Since the start of the fiscal year, Council has appropriated an additional $6,200 from unassigned fund balance. An additional $197,175 appropriation for the operating costs associated with the capital improvement program was approved by Council on February 14, 2017. Based on *current revenue and expenditure projections for FY 2016-17, staff estimates that unassigned fund balance at June 30, 2017 will increase to $19.6 million or 17.9% of estimated expenditures.* Unassigned fund balance in excess of the City's policy minimum is being considered as a funding source for one-time expenditures in the upcoming fiscal year. Recommendations will be included as part of the FY 2017-18 Budget."

B. QUARTERLY I-26 CONNECTOR UPDATE

Director of Transportation Ken Putnam updated the Council on the I-26 Connector. The Project Page was launched on February 10, 2017. There has been seven working group meetings, along with internal working group meetings and N.C. Dept. of Transportation (DOT) community meetings. The Consultant Team Request for Qualifications was released on February 22, 2017, with the proposal deadline being March 17, 2017. The selection team will consist of five members and the contract decision/award will be made on April 25, 2017.

Councilwoman Mayfield said that the DOT is in the midst of a lot of analysis now about the number of lanes, design changes, etc. Most of their last meeting they talked about bike and pedestrian betterments that the City wanted to see. DOT provided their responses and cost estimates for those and because the cost would be an extraordinary amount of money that the City would have to pay, we are going through the list to perhaps look at different ways to get to the same objective.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR 338 HILLIARD AVENUE (TRIBUTE COMPANIES)

Mayor Manheimer announced that this public hearing has been withdrawn from the agenda.

V. UNFINISHED BUSINESS:

A. RESOLUTION NO. 17-44 - RESOLUTION APPOINTING MEMBERS TO THE ASHEVILLE CITY BOARD OF EDUCATION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that this is the consideration of appointing members to the Asheville City Board of Education. She said that all background checks on the potential candidates came back with no flags or negative items.

The terms of Peggy Dalman, Leah Ferguson and Matt Buys expire on April 1, 2017. Ms. Dalman is not eligible for reappointment; and Ms. Ferguson and Mr. Buys were not interested in reappointment.

The following individuals have applied for a vacancy on the Asheville City Board of Education and completed the necessary essay questions to be qualified for consideration for appointment: Pepi Acebo, Margaret Hutchison Allan, Joyce Brown, Margaret Ervin Bruder, Steve Cochran, Brian John Dockery, Patricia Griffin, Lockie Hunter, Yvette Jives, John Michael Kledis, Julie Koenke, James Lee, Mary Ellen Lewis, Dewana Little, Joe Lordi, Morgan Marshall-Clark, Mary McDermott, Sallie Porter, Amy Ray, Adam Reagan, Drew Shelfer, Kathleen Slowiczek, Phyllis Utley, J. Vann Vogel, Elizabeth Ward, Mary Ann Warren, Melissa Weiderman and Larry Wilson.

After reviewing all applications and essay questions, Council chose to interview the following candidates: Yvette Jives, James Lee, Amy Ray, Joyce Brown, Patricia Griffin and Mary Ellen Lewis.

Council spoke highly of all the very qualified candidates and after noting it was a difficult decision, Yvette Jives received 1 vote, James Lee received 5 votes, Amy Ray received 4 votes, Joyce Brown received 5 votes, Patricia Griffin received 5 votes, and Mary Ellen Lewis received 1 vote.

Therefore, James Lee, Joyce Brown and Patricia Griffin were appointed as members of the Asheville City Board of Education, to each serve a four year term respectively, terms to begin April 1, 2017, and expire April 1, 2021, or until their successors have been appointed.

RESOLUTION BOOK NO. 38 – PAGE 359

B. DISCUSSION REGARDING OUTREACH OPPORTUNITIES FOR POTENTIAL DISTRICT ELECTIONS

Mayor Manheimer read the following letter from Senator Chuck Edwards, which she received earlier in the day: "It has come to my attention that it is the intent of the Asheville City Council, maybe as early as tonight, to conduct discussions to the "possibility" and mechanics of partitioning the city into districts for the purpose of municipal elections. I applaud the openness of the council to engage this topic. I further understand that the matter may be tabled and no actionable items may take place. Having learned this and out of respect for the time and possibility the monetary resources of your council, I wanted to inform you of my intent to soon file a bill in the Senate that will require Asheville to conduct district elections. It will also provide that 'six' will be the number of required districts. It will offer some flexibility for your council to determine the geography of the districts. I am open to realistic conversation as to the timing of the requirements. I am confident that this measure will pass both the Senate and the House. As a courtesy I am informing you of this intent with the hope that your discussion may revolve more around 'how' to district, and forego the discussion of 'should' we district. My actions are the result of trends taking place in municipalities as well as a great deal of feedback from citizens of Buncombe County. If I or the resources of the General Assembly may assist you in the development of your district plans please do not hesitate to call on me."

Council members were disappointed in this overreach of ignoring municipalities and their citizens wishes.

Councilwoman Mayfield not only supported polling our citizens but also suggested that we schedule, during the legislature's spring break in April, a public forum on this issue inviting our local delegation to be present.

Councilman Bothwell said that the districting question really doesn't have a right or wrong answer - it's just an opinion. Since the City will be spending money on a poll, he suggested two other questions be posed as well - one regarding the disposition of the Haywood Street property, and the other one regarding short term rentals in the City.

Councilwoman Mayfield noted that she met with Senator Edwards about a month ago and he said that he was continuing to get calls from people who are advocating for re-districting. Since she has not received any calls to re-district, she urged the citizens to contact City Council with their thoughts on this issue. She stressed that it's City Council's duty to be responsive to the people who elected them.

Communication & Public Engagement Director Dawa Hitch provided a brief overview of options for gathering public input on the subject of district elections.

The City of Asheville's Charter states the Council consists of a mayor and six council members, "all nominated and elected by the city at large."

North Carolina General Statute (N.C.G.S.) § 160A-101 allows a city to "alter its form of government," including the "[m]ode of election of the council" by one of five ways. Four of the five options relate to district elections. These five options are summarized in Table 1.

Table 1.

Options outlined in N.C.G.S.	Candidates	All Voters	Voters residing in each district
Option "a" (Current mode) AT LARGE ELECTION		x	
Option "b" DISTRICT ELECTION	Candidates reside in and represent each district May also include "at-large" seats which represent the entire city	(x) Elect at large candidates for entire city, if any	(x) Elect candidates who reside in the district
Option "c" DISTRICTS	Candidates reside in and represent each district May also include "at-large" seats which represent the entire city	(x) Elect candidates who reside in and represent each district (x) Elect at large candidates for entire city, if any	
Option "d" DISTRICTS	One half of Council seats are "at-large" seats with candidates residing in and representing a specific district One half of Council Seats divided into "ward seats" with candidates residing in and representing a specific district	(x) Elect "at-large seat" in each district	(x) Elect "ward seat" in each district
Option "e"	Candidates reside in and represent specific district May also include "at-large" seats representing the entire city	In non-partisan primary election, all voters elect two at-large candidates for each seat apportioned to the entire city at-large (x) Elect all candidates during Regular Election	In non-partisan primary election, voters residing in the district elect two candidates who reside in the district

Before committing to a formal council vote to adopt a different mode of election, a city council has a range of options for better understanding community opinion regarding the mode of

election. Options range from general engagement using tools in the city's engagement portfolio (e.g., Open City Hall, community meetings) to scientific polling.

General Engagement
PROS: no fiscal impact, creates an outlet for interested residents to share input, input is openly available to any interested party

CONS: While open City Hall does allow for the tracking of some demographic data, there is no mechanism to measure whether or not input received is representative of the community at large.

Polling
PROS: by design, polling intentionally seeks to gather input from a representative sample of the community and includes measurements that assess how likely the results represent the opinion of the community at large.

CONS: there is a fiscal impact to pay a professional firm to administer a research poll.

In soliciting community feedback on the subject of redistricting, there are a number of areas that could be explored through general engagement or polling such as:

- Preference for the options outlined in N.C.G.S. 160A-101(6)
- input on the # of districts
- input on the # of at-large seats
- whether or not there is a preference for a referendum

General engagement and polling are two options that could be performed in the short-term. Specifically, general engagement could be completed by the beginning of April. The polling option could be completed by the beginning of May. If Council chooses to add a referendum question to the ballot, that decision would need to be made by June 1, 2017, in order to meet statutory requirements for meetings and other process steps.

It is worth noting that there are also aspects of redistricting that are limited by general statute. Clearly communicating these aspects will set the essential context for a successful public engagement effort. For example, if a council chooses to change a mode of election to an option that involves district elections, G.S. 160A-101 sets forth that district boundaries be drawn by the council.

Finally, if a council decides on a formal vote to amend the City Charter to change the mode of election, general statutes require three separate meetings take place, each allowing time for public comment before the formal vote is taken. The agenda items for each of the three separate meetings would include: 1) Adopt a Resolution of Intent and set a public hearing, 2) Public hearing and 3) Adopt ordinance. Another relevant statutory provision that provides opportunity for public input is N.C.G.S. S. § 160A-102 which allows for a change adopted by ordinance to be effective only upon a vote of the people. If that option is not taken, the ordinance is subject to a referendum petition if enough signatures are obtained.

A poll with a margin of error of +/- 4.9% is estimated to be approximately $10,000. This cost is not currently budgeted.

General public engagement can be run in house. The impact would be in opportunity costs for upcoming public engagement efforts. In other words, staff resources would be redirected to supporting this engagement effort and may delay upcoming efforts or impact the design of upcoming efforts.

This item was discussed at the February 14, 2017, Governance Committee meeting where it was the unanimous direction of the committee to bring a recommendation for polling forward to the full Council. Committee discussion also identified the following five areas as areas to explore through polling:

- Preference for the options outlined in N.C.G.S. 160A-101(6)
- input on the # of districts
- input on the # of at-large seats
- whether or not there is a preference for a referendum
- preference for how district boundaries would be drawn (e.g., independent third party working with Council, independent third party working with Council with input from a task force, etc.)

Staff is seeking direction on 1) Council's preference, if any, for short-term engagement approaches and 2) if an engagement effort is desired, the type of input City Council is interested in seeking.

Councilman Bothwell noted that there is an automated (landline) poll available that was only $350 and it was quick.

Discussion surrounded the timing of the poll, launching Open City Hall, trying to get the results of the poll by the end of March, and the arrangement of a public meeting during the April 12-21 legislature spring break.

Ms. Hitch said that she will do everything possible to find a viable poll source geared at getting the results by the end of March, noting that the expedited timeframe for results might affect the estimated $10,000 to conduct the poll.

Ms. Pat Thobe felt that if a poll is performed, the person being polled should be asked to read an information sheet explaining the pros and cons prior to stating their preference. She stressed that the public should be educated prior to any re-districting questions being asked.

Mayor Manheimer agreed with Councilwoman Mayfield that at some point a public forum is a good idea because this is a complicated issue and we need to talk about all various options and how they work. Legislatures should also be invited to listen and explain why they might be supporting the potential bill.

Councilman Smith moved to move forward to poll with the five areas outlined above because at least it will provide information that will help us determine what the districts should look like if Raleigh requires us to district. This motion was seconded by Councilman Young and carried unanimously.

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mayor Manheimer said that since there is some interest in looking at the definition of "homestay", she asked Council if they had any interest to explore expanding the definition of "homestay" to include rooms under the roof of a house. Vice-Mayor Wisler felt that opening this issue up so soon after the task force completed its work is unfair and insulting to the task force members. After a brief discussion, the majority of Council agreed to direct staff to look at expanding the definition of "homestay" to include rooms under the roof of a house and that staff bring it back to City Council for review, prior to taking it to the Planning & Zoning Commission as a Unified Development Ordinance text amendment.

In response to Councilman Smith, City Attorney Currin briefly explained the issue regarding signs on vehicles. In summary, business signs are permitted when the vehicle is part of the business operation and used during the normal course of business, but would not be allowed when the sign becomes an off-premise advertisement for the business or for any other third party. City Manager Jackson said that the issue will be reviewed again at the City Council Planning & Economic Development Committee as to how they are working with business groups and property owners.

Mr. Mike Lewis felt that Councilman Young should reveal the details of the property he purchased in Arden, North Carolina.

Councilman Smith urged the public to attend the Southern Conference Basketball Tournament at the U.S. Cellular Center from March 2-6, 2017.

II. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 6:19 p.m.

Magdalen Bourleson
CITY CLERK

Edwin G. Manheimer
MAYOR

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SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT (the "Agreement") is made and entered into by and between Alison Rose Kern ("Ms. Kern") and the City of Asheville (the "City") (collectively the "Parties") as of the date provided below.

WITNESSETH

WHEREAS, on or about June 25, 2014, Ms. Kern alleges she fell and injured herself while walking on a sidewalk located at 82 Patton Avenue, Asheville, North Carolina;

WHEREAS, on May 13, 2016, Ms. Kern filed an action against the City in the Superior Court Division of Buncombe County, file number 16 CVS 02087, and asserted a claim of negligence based on her June 25, 2014 fall and injury (the "Lawsuit");

WHEREAS, the City disputes its liability to Ms. Kern for any damages pertaining to her June 25, 2014 fall;

WHEREAS, on December 19, 2016, the Parties participated in a mediated settlement conference and reached an agreement to settle fully and finally all disputes between them, as well as any other claims that could have been asserted;

WHEREAS, the agreement reached by the Parties, attached hereto as Exhibit 1, in the mediated settlement conference was contingent upon the approval by the Asheville City Council (the "Council") of such agreement;

WHEREAS, at its meeting on January 10, 2017, the Council approved the agreement reached by the Parties in the mediated settlement conference;

NOW, THEREFORE, in consideration of the mutual promises, covenants, and agreements set forth herein, the sufficiency of which the Parties hereby acknowledge, it is agreed as follows:

1. **Payment to Ms. Kern.** The City agrees to pay to Ms. Kern Seventy Thousand Dollars ($70,000.00) as full and complete settlement of any and all asserted claims (the "Payment"). The Payment shall be paid by no later than February 9, 2017, and shall be paid to the Trust Account of Plaintiff's counsel, Mark Melrose of Melrose Law, PLLC.

2. **Payment of Mediator's Fees.** The City agrees to pay, on behalf of the Parties, the mediator's fees in the amount of Two Thousand Sixty-Two Dollars and Fifty Cents ($2062.50), associated with the mediated settlement conference which occurred on December 19, 2016.

3. **Dismissal of Lawsuit.** In addition to all other consideration provided herein, Ms. Kern, within five (5) days of Plaintiff's counsel's receipt of the Payment and prior to the disbursement of the Payment to Plaintiff by Plaintiff's counsel, shall voluntarily dismiss with prejudice the Lawsuit.

4. **Release of the City by Ms. Kern.** For valuable consideration, the receipt and adequacy of which is hereby acknowledged, including the consideration provided in Paragraphs 1 and 2 herein, Ms. Alison Rose Kern, on behalf of herself and her heirs, executors, administrators, assigns, and any and all persons or entities claiming by and through her, hereby releases, acquits, and forever discharges the City of Asheville and its predecessors, successors, affiliates, subsidiaries and assigns, and any person or entity acting for or on the City's behalf, including, in their capacities as such, without limitation, their respective past, present and future officers, directors, employees, attorneys, agents, administrators, representatives, successors, and assigns, and their respective administrators, representatives, successors, and assigns, from any and all past, present, or future claims, demands, obligations, rights, damages, actions, causes of actions, suits, costs (including court costs), expenses, attorneys' fees, judgments, sums of money or claims of any kind or nature whatsoever, known or unknown, whether named or unnamed, both to person and property, absolute or contingent, whether at law or in equity, up to and through the date of this Agreement. These claims include, but are not limited to, claims arising under federal, state, and local statutory or common law, and the law of contract and tort.

5. **No Admission of Liability.** The terms and conditions outlined herein are not to be construed as an admission of any liability or violation of any federal, state, or local statute or regulation or of any duty owed by and between the Parties, and the Parties expressly deny and continue to deny any and all liability.

6. **Acknowledgement.** The Parties acknowledge that this Agreement effects important rights and includes an agreement to release any and all claims arising out of any violations of Ms. Kern's rights. Ms. Kern has been advised to consult with an attorney prior to executing this Agreement and has had the counsel of Mark Melrose, an attorney of her choosing, in negotiating and reviewing this Agreement.

7. **Execution by the Parties.** This Agreement may be executed in multiple counterparts, all of which taken together shall collectively constitute one agreement binding the Parties.

8. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of North Carolina.

9. **Amendments, Changes, and Modifications.** This Agreement may not be amended, changed, modified, or altered except by written agreement signed by both Parties.

10. **Entire Agreement.** This Agreement, including Exhibit 1 incorporated herein by reference, constitutes the entire agreement between the Parties, superseding all prior written and oral agreements.

11. **Severability.** Each provision of this Agreement is intended to be severable. If any provision or any part of any provision of this Agreement shall for any reason be held invalid, unenforceable, or contrary to public policy or any law, then the remainder of this Agreement shall not be affected thereby.

12. **Interpretation.** For purpose of construction or interpretation of this Agreement, it is stipulated and agreed that this document has been jointly prepared and drafted by counsel to all of the Parties hereto.

13. **Binding Effect.** This Agreement shall be binding upon Ms. Kern and her respective executors, heirs, estate, legal representatives, beneficiaries, and other successors in interest, and shall inure to the benefit of the City and its respective successors and assigns.

14. **Voluntary Execution.** The Parties hereto, who are each represented by counsel, intending to be legally bound, apply their signatures voluntarily and with full understanding of the contents of this Agreement and after having had ample time to review and study this Agreement with their counsel.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed as of the date indicated below.

ALISON ROSE KERN

Date: 17TH JAN/2017

CITY OF ASHEVILLE

By: _____
Esther Manheimer, Mayor

Date: 2/13/2017

4827-0239-3150, v. 1

STATE OF NORTH CAROLINA

COUNTY OF BUNCOMBE

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
16 CV 02087

ALISON ROSE KERN

Plaintiff,

v.

CITY OF ASHEVILLE,

Defendant.

MEDIATED SETTLEMENT AGREEMENT

The parties hereto stipulate and agree that at the Mediated Settlement Conference held on the 19th day of December, 2016 at the law offices of McGuire, Wood & Bissette, P.A. in Asheville, North Carolina, a full and final agreement of all issues was reached. The terms of this agreement are:

1. Contingent upon approval by the Asheville City Council ("Council") at its meeting scheduled for January 10, 2017, Defendant shall pay to the Trust Account of Plaintiff's Attorney the sum total of Seventy Thousand Dollars ($70,000).00) within thirty days of Council's approval.

2. Plaintiff shall execute such general releases as required by Defendant, in a form acceptable to Defendant and shall file a Voluntary Dismissal with Prejudice within five (5) days of receipt of such funds and prior to the disbursement of such funds to Plaintiff by Plaintiff's counsel.

3. Also contingent upon approval by Council, the City shall pay the mediator's fees associated with this mediation.

Plaintiff

Defendant City Attorney

Plaintiff's Counsel

Defendant's Counsel

EXHIBIT 1

Tuesday – March 14, 2017 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Director of Finance and Management Services Barbara Whitehorn used a PowerPoint while she provided the Council with a brief discussion of the revaluation, building a budget, operating budget, and capital budget.

Regarding property revaluation, the City-wide increase is between 25-30%. The current revenue neutral estimate is 39.5 cents, not including the General Obligation Bonds). The current rate is 47.5 cents.

In building the base budget, it assumes revenue neutral tax rate, growth in revenue, increasing cost and continuation budget (no significant operational changes).

As of December 31, 2016, the Fiscal Year 2016-17 performance is (1) revenue performing about 4% ahead of budget (sales tax 8% over prior year; and forecast $600,000 over budgeted revenue); and (2) expenditures at 44% of budget (forecast 99% of budgeted expenditures; and $1 Million savings). The estimated forecast of increase to Fund Balance is $1.6 Million.

Regarding revenues, licenses and permits are down 10%; sales tax receipts are +5-7%; and property tax receipts are +2.4%. Regarding expenditures, health insurance is $600,000; compensation (general increase, public safety steps) is $1.75 Million; and transit (full year service improvements) is $267,000.

Possible budget priorities which will require adjustments to the base include Transit Master Plan, Energy Innovation Task Force (energy study; weatherization program); downtown safety; Facilities Master Plan; and downtown sanitation improvements.

Regarding the existing 5-Year Capital Improvement Plan, pressures include construction costs, right-of-way costs and utility relocation. Opportunities include value engineering, cost management/re-scope projects to fit budget, pursue state and federal grant funding, and evaluation of Capital Improvement Plan scheduling.

Ms. Whitehorn then reviewed the Capital Program planning and implementation; along with General Obligation Bond information.

All-in Revenue Neutral is 25-30% revaluation increase; 3.5-cent General Obligation Bonds; and Revenue Neutral with Bonds: 39.5-cents + 3.5-cents = 43.0-cents. The opportunity would be the current property tax rate is 47.5-cents; all-in revenue neutral rate of 43.0-cents; and remaining 4.5-cents = $6.28 Million.

The budget forecast is (1) planning for Council priorities and commitments; (2) community input; (3) operational needs and serve improvements; and (4) capital investment decisions (a) construction cost increases; and (b) developing needs.

Throughout Ms. Whitehorn's presentation and discussion, she responded to various questions/comments from Council, and those which could not be readily responded to would be

provided to Council in either a memorandum format at or prior to the March 28 worksession. Some questions raised and information requested include: has staff taken into consideration in this budget of the federal government talking about increasing interest rates; has staff taken into consideration the sales tax reallocation bill reintroduced again; has this budget planned for the possibilities of Community Development Block Grant and HOME funds being eliminated and question on how far is Council willing to go to backfill any lost funds; request for information on our Fund Balance and what kind of one-time funds would be available; does the continuation budget include pay increases for staff and request for more information about those increases; do we have any information on the proposed County tax rate; how much of the $3 Million of improvements can the Transportation Department implement in one year; request to see the breakdown and timing of the $3 Million for transit; does the continuation budget absorb the new transit management contract; who sets the school tax rate; information on the federal reduction of funds for transit over the next three years; request for information about public safety - status quo, needs and price tag; request to see numbers on the downtown APD unit; are the River Arts District Transportation Improvement Plan funds secure; reasons why crime increase in downtown and if it involves locals or guests so we can understand the need; request for detailed map of downtown showing high crime area and the time of day of the crimes; request for more information on the Facilities Master Plan, and downtown sanitation improvements; and information on when the Facilities Master Plan analysis is being performed in the buildings, whether a review of the energy efficiency of that building could be folded into the scope of work and if so, the increase in cost.

Councilwoman Mayfield presented draft recommendations from the Energy Innovation Task Force that leverage existing resources and effectively address both peak and overall energy demand in Buncombe County. The initial investment requested is meant to be a first step in further development and implementation of a two-year work plan. The existing City goals from the County-approved clean energy framework totals $60,000. New programs or projects total $1,160,000, with the investments in existing programs that provide low income weatherization to city homes being $1 Million. She asked for Council to include some or all of these recommendations in the budget. She asked for a commitment on the overall policy objective in moving forward with energy as a priority and making investments that way. Buncombe County is developing their own set of recommendations, which focus is around institutions and structures. Her thought is the City should be focused on people's lives and saving people money.

Mayor Manheimer was not comfortable in supporting anything over a tax rate of revenue neutral plus the GO bond tax increase.

Councilman Young could support the weatherization program; however, his main concerns are transit and affordable housing.

Mayor Manheimer said that she will need to see other recommendations and priorities for next year and then determine what they can realistically move forward with.

Councilman Smith wanted to approach the budget with caution due to the uncertainties of the federal and state budgets and the revaluation.

Councilman Bothwell said that the Tree Commission is requesting $25,000 to begin a canopy study and a Tree Master Plan, which is stipulated in the Unified Development Ordinance but has not bee implement. Also, Homeward Bound will be sending a proposal to the Housing & Community Development Committee for $150,000 to provide afternoon programming 365 days a year.

Mayor Manheimer said that when Council looks at the Capital Improvement Plan budget, she wanted to make sure to preserve the funds we set aside for Lee Walker and to preserve funding for the choice of improvements to swimming pools. She also wanted to make sure that we are careful in prioritizing our Capital Improvement Plan due to the increase cost of

construction. She would be open to staff being flexible with the timeline and re-prioritizing those projects.

Regarding the Capital Improvement Plan budget, Vice-Mayor Wisler would prefer that Council see what is currently budgeted and that staff highlight what we are seeing as potential cost increases. She also preferred that staff not rearrange the timing without Council's input.

Ms. Whitehorn said that staff will bring Council the 5-Year Capital Improvement Plan with cost pressures and models on how projects might be re-arranged.

Ms. Whitehorn then reviewed the upcoming dates associated with adoption of the budget, with the next worksession on the operating budget being on March 28, 2017; the worksession on the capital budget on April 11, 2017; the City Manager's proposed budget presentation to City Council on May 9, 2017; the Fiscal Year 2017-18 budget public hearing on May 23, 2017, and the budget adoption on June 13, 2017.

At 4:01 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – March 14, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and Deputy City Clerk Sarah Terwilliger

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON FEBRUARY 28, 2017

B. RESOLUTION NO. 17-49 - RESOLUTION DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF 0.013 ACRES (APPROXIMATELY 550 SQUARE FEET) OF REAL PROPERTY LOCATED AT FLINT STREET AND MAGNOLIA AVENUE TO LYNN M. REDDEN

Summary: The consideration of a resolution proposing to accept an offer for sale of 0.013 acres (approximately 550 square feet) and directing the City Clerk to advertise for upset bids, and if no upset bid, authorize the City Manager to execute any and all documents necessary to convey the property located at Flint Street and Magnolia Avenue to Lynn M. Redden.

The City of Asheville owns a parcel of property located at 51 Magnolia Avenue (PIN # 964913853200000). The property is currently vacant and is being maintained by the City's Parks and Recreation Department. Short Flint Street traverses this parcel and provides access for several parcels that would otherwise be landlocked. The City maintains the lot which includes trees that are between the house at 229 Flint and Short Flint Street roadway. The house at 229

Flint Street was built in 1920 with part of the house and a small side porch encroaching on the City's property. It also appears that the front porch appears to be infringing on the City's right of way on Flint Street. It was sold "as is" by heirs of the original owner in February of 2017. It is the new owner who is requesting this action in order to clear the title and to bring the house into compliance with current zoning requirements The new owner has offered to tear down the side porch, but wants to rehabilitate the house and possibly add an additional story. A survey was done to determine the minimum amount of land that would be needed to eliminate the house encroachment and to accommodate six foot setbacks. It was determined that this would be roughly 550 square feet. The new homeowner at 229 Flint Street has approached the City with an offer to buy the land for $12,557. This bid was determined by examining comparable sales of vacant land in the area.

The Parks and Recreation Department and Development Services have been consulted and do not object to the sale of this small amount of land in order to remove the encroachment and comply with zoning requirements.

The method chosen to establish fair market value is the upset bid process set forth in NCGS 160A-269. If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the bid of $12,557. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $13,144.85 or higher). Since the function of the upset bid process is to confirm fair market value, the resolution provides that if no qualifying, competing bid is received, then the City Council agrees to convey the parcel to Lynn M. Redden for $12,557.

Pro:

- Private sale will convert public land into taxable real property and will relieve the City of Asheville of ongoing maintenance responsibility.

Con:

- The City is relinquishing land albeit a small amount.

Proceeds from the sale will benefit the General Fund.

City staff recommends City Council adopt a resolution proposing to accept an offer for sale of 0.013 acres (approximately 550 square feet) and directing the City Clerk to advertise for upset bids, and if no upset bid, authorize the City Manager to execute any and all documents necessary to convey the property located at Flint Street and Magnolia Avenue to Lynn M. Redden.

RESOLUTION BOOK NO. 38 - PAGE 364

C. ORDINANCE NO. 4564 - BUDGET AMENDMENT FOR GRANT FUNDS RECEIVED FROM THE STATE OF NORTH CAROLINA, DEPT. OF HEALTH & HUMAN SERVICES, DIVISION ON AGING AND THE LAND OF SKY REGIONAL COUNCIL/AREA AGENCY ON AGING THROUGH FISCAL YEAR 2016-17 FOR SENIOR CENTER GENERAL PURPOSE FUNDING AT THE SENIOR OPPORTUNITY CENTER AND THE HARVEST HOUSE

Summary: The consideration of budget amendments in the amount of $3,625 for Senior Opportunity Center and $3,625 for Harvest House for an appropriation from the State of North Carolina, Department of Health and Human Services, Division on Aging and the Land of Sky Regional Council/Area Agency on Aging through the Senior Center General Purpose Funding.

Funds will be used at the Senior Opportunity Center to clean and paint the exterior of the building. The allocation requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Funds will be used at Harvest House to purchase 1) materials for the woodworking shop to support classes, 2) flower planters for the main entrance, and 3) deck furniture. This allocation also requires a 25% local match which will be provided via in-kind services of staff time to manage the project.

Pro:

- Purchases and improvements will enhance the customer experience and expand programming opportunities

Con:

- None

The allocation will increase the City's General Fund budget by $7,250 in accounts designated for the Senior Opportunity Center and Harvest House. The 25% local match will be provided through in-kind services of staff time to manage the projects.

Staff recommends City Council approval of the budget amendment authorizing the City Manager to establish a budget in the amount of 1) $3,625 for Senior Opportunity Center, and 2) $3,625 for Harvest House for facility improvements and equipment.

ORDINANCE BOOK NO. 31 - PAGE 145

D. RESOLUTION NO. 17-51 - RESOLUTION DIRECTING THE CITY MANAGER TO SELL CITY PROPERTY LOCATED AT 600 N. SKYLOFT DRIVE, UNIT A-201, TO CAMERON ORTIZ

Summary: The consideration of a resolution directing the City Manager to sell City property located at 600 N. Skyloft Drive, Unit A-201, to Cameron Ortiz for $145,000.

In 2008, the City established a deferred Housing Trust Fund Loan on property at 600 N. Skyloft Drive, Unit A-201 (PIN 9648-68-1640-C201) in the amount of $30,000. In July 2014, the City of Asheville purchased this condominium at a foreclosure auction in order to resell it and protect the City's original investment. The City's total purchase price at auction was $100,438.00. As of February 28, 2017, the City has paid out an additional $8,697 in bills to include an unpaid property tax bill, utility bills, condominium owner fees, and repairs to the unit. Including the original Housing Trust Fund loan, the foreclosure purchase price, and additional fees, the City has invested a total of $139,135 in this property.

Following the acquisition of this property, the Housing and Community Development Committee approved marketing the property to City Employees with affordable housing restrictions placed on the deed, including (1.) households must earn 100% or less the of Annual Median Income (AMI); (2.) the Skyloft condo must be their primary residence; and, (3.) the affordability restrictions would apply to any resale. Marketing was extended to all County employees and then to all government employees after a period of time. This did not yield a qualified buyer, therefore, City staff posted the listing on Zillow for $140,000 and on November 12, 2015, the City received an offer for the asking price, but the deal fell through because of the equity split provision within the deed restriction. Staff undertook work to restructure the deed restriction to satisfy the needs of a potential lender for future buyers. On January 31, 2017, staff finalized the revised deed restriction and adjusted the price to $145,000 to cover additional costs to the unit and to cover real estate broker listing and sales fees. This price would allow the City to break even if the sale included buyers' agent fees and some closing costs and still maintain affordable for income eligible buyers. Before staff actively listed the property with a real estate

agent, agent Chrissy Edwards of Keller Williams Realty, representing Cameron Ortiz, responded to the Zillow add and submitted a qualifying application at the asking price of $145,000.

N. C. Gen. Stat. sec. 153-163 authorizes a city that acquires a property by foreclosure in order to secure a debt due to the city, to sell said property by private sale for not less than the amount of its bid. According to N.C. Gen. Stat. sec. 160A-267 (private sale procedure), the City Council can authorize the appropriate City official to dispose of property by private sale at a negotiated price. The resolution provides authorization for the City Manager to sell the property at 600 N. Skyloft Drive, Unite A-201 to Cameron Ortiz for $145,000, subject to income eligibility, permanent deed restrictions concerning long-term affordability of the unit, and a requirement that the unit must be the primary residence of the owner. If the following resolution is adopted, a public notice summarizing the resolution will be published and the transaction will not take place until at least 10 days after publication.

Pros:

- Sale of an affordable unit to an income eligible buyer.
- Deed restrictions will preserve the property as permanently affordable.
- Private sale will recoup funds spent by the Housing Trust Fund to further affordable housing goals.

Con:

- None

Because this property is associated with the Housing Trust Fund Loan Program, the financial proceeds are to benefit that program as managed by the Community and Economic Development Department, and will reimburse the HTF account with the $139,135 that was invested in the property.

City staff recommends City Council adopt a resolution authorizing the City Manager to sell the property located at 600 N. Skyloft Drive, Unit A- 201A to Cameron Ortiz for $145,000, subject to income eligibility, permanent deed restrictions concerning long-term affordability of the unit, and a requirement that the unit must be the primary residence of the owner. In the event that Cameron Ortiz cannot complete the transaction due to financing issues or otherwise, then the City Manager is hereby directed to dispose of the property for the amount of $145,000, with a 10% increase or decrease in price subject to affordability standards, to an eligible buyer subject to the affordability restrictions as recognized above. Additionally, the City Manager is hereby authorized to execute any and all documents necessary to give full effect to this resolution subject to approval by the City Attorney, and compliance with applicable North Carolina law.

RESOLUTION BOOK NO. 38 - PAGE 366

E. RESOLUTION NO. 17-52 - RESOLUTION GRANTING THE CONVEYANCE OF 16.26 SQUARE FEET OF PERMANENT EASEMENT FOR EXISTING COLUMNS IN THE CITY RIGHT-OF-WAY AND PROPOSING TO ACCEPT AN OFFER FOR SALE OF 602.52 SQUARE FEET OF AIR RIGHTS AT 68 PATTON AVENUE TO MRK 68 PATTON ASHEVILLE LLC; AND DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS FOR THE SALE OF AIR RIGHTS AND IF NO BIDS ARE RECEIVED OR ACCEPTED, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY AND ALL DOCUMENTS NECESSARY TO CONVEY THE EASEMENT AND AIR RIGHTS

Summary: The consideration of a resolution (1) granting the conveyance of 16.26 square feet of permanent easement for existing columns in the city right-of-way and proposing to accept an offer for sale of 602.52 square feet of air rights at 68 Patton Avenue to MRK 68 Patton Asheville, LLC; (2) directing the City Clerk to advertise for upset bids for the sale of air rights, and,

if no other bids are received or accepted, authorizing the City Manager to execute any and all documents necessary to convey the easement and air rights.

The City of Asheville controls the sidewalk and street right-of-way located at 68 Patton Avenue and in turn controls encroachments into the overhead airspace above the sidewalk. At this time, MRK 68 is planning to renovate the current structure in order to convert it into a hotel/ commercial building with balconies starting at the third floor. The plans call for the balconies to extend into the City controlled air space on the back side of the building on Commerce Street. Being that balconies are permanent, this encroachment into the public air space must be treated as a sale of property, and therefore the City requires that the sale of air rights follow certain disposition procedures; specifically the upset bid process. Exhibit A shows a sketch of the air space that is being requested on the back side of the building, which overlooks Commerce Street

The project was approved in January by the Technical Review Committee (TRC) with conditions. The project design was reviewed by the Downtown Commission but not approved. Only a review was mandatory. The project was presented to the Planning and Zoning (P & Z) Committee in February and approved contingent upon satisfying the conditions in the TRC report. Discussion of the air rights and easement by the Downtown Commission and P & Z was minimal due to the fact that this is not new construction and the columns that require an easement already exist and the balcony that requires a grant of air rights is being added onto an existing roof that encroaches into the right of way. Additionally, the granting of easements or sale of air rights is a City Council decision. There is an air rights policy that was drafted by the Planning Department and reviewed by the Downtown Commission, but not officially approved. Because the air rights being requested are on the back side of the project, namely on Commerce Street, it is in compliance with the draft policy which limits the balcony to five feet and requires that it be opaque.

On February 20, 2017, a qualifying bid was received from MRK 68 in the amount of $6,628 for the purchase of 602.52 square feet of air space for the purpose of constructing a permanent balcony onto an existing roof overhang during the proposed building renovation at 68 Patton Avenue. The proposed balcony is on the back side of the building which faces Commerce Street. This bid was based on a 2016 Commercial Appraisal of a nearby commercial property and reflects fair market value for the air rights. If the City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $6,628. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder (i.e. $7,010 or higher). Since the function of the upset bid process is to confirm fair market value, this resolution provides that if no qualifying, competing bid is received, then the City Council agrees to convey this specified area of air rights to MRK 68 for $6,628.

MRK 68 has also requested that they be granted a permanent easement for the existing structural columns that are on the Commerce Street side of the parcel. The City Staff recommends that the easement be granted at no cost because the columns have existed within the right-of-way since the building was constructed. The easement was calculated on the exact footprint of the columns that extend into the City's right of way. The total amount of square footage is 16.26 square feet.

Pros:

- The sale of the air rights will be at fair market value.

Cons:

- There is no negative impact.

Financial proceeds associated with this disposition are to benefit the City's General Fund.

City staff recommends City Council adopt a resolution (1) granting the conveyance of 16.26 square feet of permanent easement for existing columns in the city right of way and proposing to accept an offer for sale of 602.52 square feet of air rights at 68 Patton Avenue to MRK 68 Patton Asheville LLC; and (2) directing the City Clerk to advertise for upset bids for the sale of said air rights; and if no other bids are received or accepted, authorizing the City Manager to execute any and all documents necessary to convey the easement and air rights.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilwoman Mayfield moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. STRATEGIC OPERATING PLAN UPDATE

A written report was provided to the Council regarding edits to the Council's adopted strategic priorities from the 2017 Council Retreat.

In February 2017, Asheville City Council held the 2017 Council Retreat. At this time, Council reviewed their adopted Strategic Vision and Priorities. There were requested edits to Goals 9b, 10a/b, and 25. Below is also additional information to provide context for the edits.

Council Direction from Retreat:

Insert Goal 9c: Develop North Charlotte Street Innovation District (to start in 1-2018)
Continue; in examining the street, discovered some controversy that suggested that a new approach might be needed. The neighborhood is prepared to do something and the City may be out of sync. We should keep this goal queued and evaluate when to move it to the priority list. We may want to work with property owners to review and revise the current overlay district.

- Goal 9c has been added. The work plan will be developed by Cathy Ball and Todd Okolichany.

Goal 10a: Implement Zero Waste Asheville, including effective implementation of a pilot program and change management strategies for Pay As You Throw
Goal 10b: Implement Zero Waste Asheville, including the use of composting programs
Continue, but merge 10a and 10b again as "Goal 10: Implement Zero Waste Asheville" and revise the work plan

- Goals have been merged, an overall Zero Waste Asheville plan will be designed by Cathy Ball and Amber Weaver using components of the work plans developed for Pay As You Throw and Composting.

Goal 25: Research and recommend a portfolio of options toolbox for small business support (Zoning, Retention, Minority Business, Economic Incentives, and Communication regarding the work opportunity tax credit)
Continue; Break this goal into sub-goals (i.e. 25a, 25b, etc.) with components such as retention, incentives, small business support, zoning, and communication on the work opportunity tax credit. Create a work plan for each sub-goal.

Small Business Support –

- Minority Business Program -actively seeks to identify minority and women-owned businesses for an opportunity to participate as providers of goods and services to the city
    - Bidding Process - City staff works to promote minority business participation in the City's Capital Improvement Program projects by outreach with construction companies when they bid for work with the City.
    - Government-Business-Connect Fair aims to connect minority and women-owned business with City departments that contract out various jobs, from landscape maintenance to consulting.
    - Training and Workshops –
        - Doing Business with the Airport: NCDOT conducted training on certification but also the Airport staff met with attendees on how to find opportunities.
        - Public contracting training to help these businesses learn the process.
        - Small Business Program presentation on services and assistance they can receive as businesses.
        - Lending session hosted by Mountain BizWorks, with information about community development financial institutions, such as Self Help Credit Union, Carolina Small Business Development Fund, as well as traditional lenders

- Start Up in a Day Grant – used to launch Asheville Open For Business online tool to assist business owners in determining the zoning and business requirements for starting a new business in Asheville. http://openforbusiness.ashevillenc.gov/

- DSD Restaurant Guide – produced to help Asheville restaurateurs navigate the ins and outs of needed permits and inspections.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER THE PERMANENT CLOSING OF AN UNNAMED ALLEY BETWEEN 7 AND 19 AUSTIN AVENUE

RESOLUTION NO. 17-53 - RESOLUTION PERMANENTLY CLOSING AN UNNAMED ALLEY BETWEEN 7 AND 19 AUSTIN AVENUE

Interim Street Superintendent McCray Coates said that this is the consideration of a resolution to permanently close an unnamed alley between 7 and 19 Austin Avenue. This public hearing was advertised on February 17, 24, March 3 and 10, 2017.

N. C. Gen. Stat. sec 160A-299 grants cities the authority to permanently close streets and alleys.

Pursuant to this statute, adjoining property owners, Mark and Melissa Essig owners of parcel 9649460040 and David and Nancy Stainback owners of parcel 9649460150, have requested the City of Asheville to permanently close a portion of an unnamed alley between unnamed alley between 7 and 19 Austin Avenue. A copy of this resolution of intent was sent by registered or certified mail to all owner of this property abutting this alley, not joining in the petition to close.

Public Works staff notified other city departments and the utility companies and received no concern with this closure.

The Multimodal Transportation Commission met on January 25, 2017, and approved the closure.

Pros:

- There will be no future compromise of ingress/egress to other property
- The closure would allow for more efficient use of the existing adjacent properties
- Meets Council's goals of efficient land use and planning.

Con:

- None

There will be no fiscal impact related to this closure.

City staff recommends City Council adopt the resolution to permanently close an unnamed alley between 7 and 19 Austin Avenue.

Mayor Manheimer opened the public hearing at 5:02 p.m.

Ms. Melissa Essig, applicant, was available for questions.

Mayor Manheimer closed the public hearing at 5:02 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilman Bothwell moved for the adoption of Resolution No. 17-53. This motion was seconded by Councilman Smith and carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. ORDINANCE NO. 4565 - ORDINANCE ADOPTING THE 2017-18 FEES & CHARGES

Budget Manager Tony McDowell said that this is the consideration of an ordinance adopting the fee adjustments for Fiscal Year 2017-18.

Fees and charges are a significant revenue source for the City of Asheville, comprising 35% of city-wide revenue and 10% of General Fund revenue. Utilizing a fee for service model allows the City to recover service costs directly from those that benefit from the service. These fees generally fall into three major categories: general user fees and charges; regulatory fees; and public enterprise fees and charges.

Fees and charges are evaluated throughout the year, taking into consideration changes in service levels, demand for the service, and related costs of providing service. The proposed FY 2017-18 fee adjustments were reviewed by the City Council Finance Committee in detail on February 28, 2017, and unanimously suggested the changes in the fees. A full summary of the proposed adjustments to fees and charges was provided to Council. As staff continues preparation of the FY 2017-18 Manager's Recommended Budget, there may be additional fee adjustments that are brought forward as part of the budget presentation in May. All of the proposed fee adjustments would be effective July 1, 2017, but changes to the charges on the combined utility bill for water and stormwater will not be applied until September 1, 2017, to ensure that only services provided at the new rate are being billed.

Pros:

- Provides opportunity to recover the cost of services from those that directly utilize or benefit from the service where appropriate, reducing the financial burden of city services on taxpayers.
- Provides additional revenue to help balance the FY 2017-18 budget.
- Allows staff to communicate fee changes to citizens, customers, and stakeholders so they are aware of changes that will be implemented on July 1.

Con:

- A slight increase in the annual costs to Asheville citizens and customers.

Fees	FY17 Annual Cost	FY18 Annual Cost	Increase
Water - Single Family (5 CCF avg. monthly usage)	$323.76	$328.62	$4.86
Stormwater - Single Family (2,001-4,000 sq ft)	$52.92	$55.56	$2.64
Total Average Cost	$376.68	$384.18	$7.50

The proposed adjustments would generate estimated revenue as follows:

GENERAL FUND	$147,000
WATER FUND	$506,100
STORMWATER FUND	$423,700
TRANSIT FUND	$48,000
PARKING FUND	$266,100
US CELLULAR CENTER FUND	$120,000

Staff recommends City Council review the proposed fee adjustments for Fiscal Year 2017-18 and adopt the ordinance.

Vice-Mayor Wisler asked that the rental charge fee for 14 Riverside Drive be reviewed in approximately one year after the building is up and running.

Councilman Bothwell wondered if there is an estimate on increased parking revenues after the new parking meters are installed and they can be extended to a couple of more hours after 6:00 p.m.

When Mayor Manheimer asked for public comments, none were received.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the ordinance and it would not be read.

Councilman Smith moved for the adoption of Ordinance No. 4565. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. RESOLUTION NO. 17-50 – RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the term of Hilliard Carlisle as the homeless or formerly homeless member on the Homeless Initiative Advisory Committee passed away.

The following individuals applied for the homeless/formerly homeless vacancy: Joey Grisanti, Angela Dubs and Randy Stoudt.

At the recommendation of the Homeless Initiative Advisory Committee (HIAC), Vice-Mayor Wisler moved to appoint Randy Stoudt to serve as the homeless/formerly homeless member on the Homeless Initiative Advisory Committee, term to expire November 1, 2019, or until his successors has been appointed. This motion was seconded by Councilman Smith and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Dee Williams, Rev. Amy Cantrell and Ms. Angel Archer all spoke to Council about the need to gather additional information before any increase in Asheville Police Department budget. They all felt that the $1 Million request for additional officers would be better spent on people and other life changing resources that create a safer community.

Mr. Joe Pendergraff spoke to Council about the need for more police presence at the Western North Carolina Aids Project parking lot.

Mayor Manheimer reminded Council to refrain from communicating with Task Force members while they deliberate on the task Council assigned to them.

Closed Session

At 5:24 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C. Gen. Stat. § 143-318.10(a)(3). The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved. The statutory authorization is contained in N.C. Gen Stat. § 143-318.11(a)(3). This motion was seconded by Councilman Bothwell and carried unanimously.

At 5:37 p.m., Councilman Smith moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 5:37 p.m.

Magdalen Bowlesan
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – March 28, 2017 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Transit Expenditures Forecast and Planning Priorities

Assistant City Manager Cathy Ball said that Asheville's transit system is in a transitional period as we implement changes to transit operations, update the transit master plan, and absorb reduced federal funding.

The last transit master plan occurred in 2009. The following key statistics compare today's system to 2009:

Transit Statistics	**2009**	**2018**
Operating budget	$5,089,593	~$6,700,000
Number of routes	24	18
Number of buses	20	22
Revenue Hours	64,000	75,000
Peak demand	16 buses	17 buses
Ridership	1.6 million	2.2 million

2009 transit plan recommendations that have been accomplished include the following:

- Sunday service added to 9 routes for a total of 81 hours per week
- Improved service through fewer deviations
- Improved southbound service with the S6

2009 transit plan recommendations that did not occur include the following:

- Yearly commitment to purchase buses
- Design and construction of new Transit Center, Maintenance Facility, and Satellite Facilities
- Headway increases (to 15 min)

The Transit Committee recommendations (12/20/16) include 1) maintaining existing service, 2) expanding service until 10 p.m. on select routes, and 3) high-frequency service on major corridors.

New transit management contract. Looking forward, although we will not have a contract in place until Fiscal Year 2018, an independent transit operations estimate was developed that assumes a cost of $89.38 per hour of service for a total estimate of $6,722,359.

This budget is approximately $1,000,000 more than Fiscal Year 2017 due to:

- increased service as a result of a new route (S6) and additional service hours started in January 2017, and
- expected additional costs associated with the new 'turn-key' contract, which may also require additional city staff for management and oversight

It is possible that total costs may decrease as the contractor will carry incentives to reduce costs under the model. The current estimate was developed in order to help staff determine the responsiveness of bids, and the new contract will be solidified by July 1, 2017.

FTA apportionment. At the same time that transit costs are rising, the funding formula for FTA Section 5307 will reduce Asheville's share of federal dollars as Buncombe and Haywood County now qualify for a share of the urbanized area apportionment. It is expected that Asheville's share of 5307 funding will be reduced from 82.8% to 42.6% over a three year period, a 51% reduction. This cut will primarily affect the transit budget's capital needs.

Transit master plan. In one month we will release an Request for Proposals for a transit master plan to review the transit system comprehensively. The plan is expected to be complete in the Spring of 2018.

Key Considerations:

- Bus Fleet. The bus fleet has not kept up with an adequate replacement schedule. Under current conditions, ten (10) new buses should be purchased within the next three years or we jeopardize bus service. After this replacement, we need to begin a regular bus purchase schedule of two to three vehicles per year just to maintain a balanced fleet.
- On Time Performance. On Time Performance (OTP) for buses was 63% in FY15, 60% in FY16, and is currently 55% for FY17. Staff have determined that poor OTP is due to both operational issues and systemic issues related to route timing and configuration. The operational issues will be addressed through the new 'turn-key' contract, and the systemic issues will be addressed with the new Transit Master Plan.
- Transit Center and Maintenance Facility. The Downtown Transit Center is at capacity and the interior is in poor condition. The Maintenance Facility ("Transit Garage") that houses and repairs buses was built in 1971 and is reaching the end of its 50 year useful life.

Staff recommends that near-term budget decisions prioritize funding to support an adequate bus fleet and any needs associated with the new transit management contract, including an additional city transportation staff person. Next year the transit master plan will deliver a thorough review of the transit system, which will allow us to prioritize the budget accordingly.

She provided Council with the Bus Replacement Schedule, which provides the current and proposed bus fleet projected over the next fifteen years. The expected life of buses is twelve years or 500,000 miles. The bottom of the chart highlights the number of buses that should be ordered each year in order to maintain a healthy fleet.

She also provided Council with the ART service expansion estimate (Just Economics' request). This document provided the financial impacts of expanded ART service that would occur should the transit service be expanded according to the following alternative scenarios: (1) Expansion of service to all routes to 10:00 p.m. and midnight service on major corridors; and (2) Only midnight service on major corridors.

She asked for Council's support to (1) implement the management contract change; (2) update the Transit Master Plan; and (3) begin design for the capital improvements to the transit facility.

Throughout the presentation and discussion, City Manager Jackson and various staff responded to various questions/comments from Council, and those which could not be readily responded to would be provided to Council in a memorandum format. Some questions raised include: what is the cost difference between the old management contract vs. what we expect with the new management contract; details on the FTA reduced amount to Asheville; request to have the numbers in the Transit Master Plan early in order to prepare the budget for 2018-19; need to focus on the federal legislative agenda and make sure that our representatives are aware of the impact further cuts would have on people in their districts; how will the City try to make up the reduction of Asheville's share of federal dollars; possibility of creating additional revenue when parking meters are programmed longer in the evenings; request for a breakdown of cost recovery from the following sources: ridership, grant resources, parking subsidy and General Fund subsidy; and is there transit service expansion possible without capital investment.

Councilwoman Mayfield encouraged communication with transit advocates to figure out what the high priorities should be coming out of the Transit Master Plan.

It was the consensus of Council to support implementation of the management contract change, to update the Transit Master Plan, and to begin design for the capital improvements to the transit facility.

Energy Innovation Task Force

Councilwoman Mayfield presented a list of Energy Innovation Draft Recommendations to City Council, similar to what was presented to Council at the March 14, 2017, worksession.

After considerable discussion and responses from Councilwoman Mayfield and staff, the City Manager was directed to build the Fiscal Year 2017-18 budget with the following elements to come out of Fund Balance: (1) Implement education and training for city staff, building professionals, HVAC contractors, building owners and the general public - $25,000; (2) pursue opportunities for renewable energy and storage installations on City facilities and properties - $25,000; (3) encourage voluntary, quantifiable efficiency retrofits in privately owned commercial buildings - $25,000; (4) promote program offerings from EITF with City employees via education, outreach and support/remove barriers - $2,500; (5) Comprehensive Energy Audit for all City-owned facilities -$75,000; and (6) support ongoing engagement of Rocky Mountain Institute in analysis of programs and creation of EITF 2-Year Action Plan - $50,000. In addition, the investments in existing programs that provide low income weatherization to city homes (amount to be determined) to be reviewed by the Housing & Community Development Committee for use of Housing Trust Fund monies.

Master Urban Forest Plan

Councilman Bothwell said that the Tree Commission shared information to the City Council Planning & Economic Development Committee regarding guiding Asheville toward creating and implementing a Master Urban Forest Plan. The tree canopy study is part of the master plan. Eventually, the plan may require adding an Urban Forester position to City staff.

A summary of the overview of the Master Urban Forest Plan implement activities are as follows: (1) Gap Analysis - estimated cost $20,000 - 1 year estimated time to complete; (2) Urban Tree Canopy Analysis - estimated cost $10,000 ($5,000 NCFS match) - 9 months estimated time to complete; (3) Inventory of City-owned Streets & Park Trees - estimated cost $75,000 - gap analysis plus 1 year is estimated time to complete; (4) Community Engagement - estimated cost $20,000 - gap analysis plus 1 year is estimated time to complete; (5) Valuation

and Analysis - estimated cost $30,000 - inventory plus 6 months is estimated time to complete; (6) Plan Preparation - estimated cost $25,000 - valuation and analysis plus 6 months is estimated time to complete; and (7) Requisition of Application of Custom Monitoring System in Support of Management Outputs - estimated cost $15,000 - inventory plus 6 months is estimated time to complete.

City Manager Jackson was directed to build the Fiscal Year 2017-18 budget with the $25,000 for the Tree Canopy Study to come out of Fund Balance.

City Manager Jackson updated the Council on some of the outstanding items out of the March 14, 2017, worksession.

Mayor Manheimer announced at the April 11, 2017, worksession, the discussion will be on the capital budget and fund balance.

At 4:20 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – March 28, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF DONATION OF AUDIO FREQUENCY INDUCTION LOOP SYSTEM IN COUNCIL CHAMBER

Mayor Manheimer said that in August, 2017, Mr. Carl Chesnick of All Ears Hear Hear reached out to the City to donate an Audio Frequency Induction Loop System in the Council Chamber on behalf of the Asheville Breakfast Rotary Club. This system is a tool for people with hearing loss. The system is tied into the existing PA system and will work for hard of hearing people who have a t-coil app installed on their hearing aid device. The system has been installed for the last month and we have received positive responses from those who have used the system.

On behalf of the City Council and the citizens of Asheville, she thanked Mr. Chesnick and Mr. Danny LaSure, President of the Asheville Breakfast Rotary Club, and Mr. David Nelson, representing the Asheville Chapter of the Hearing Loss Association of America, for enabling our citizens to better hear and engage in Council meetings.

B. PROCLAMATION PROCLAIMING APRIL 4, 2017, AS "NATIONAL SERVICE RECOGNITION DAY"

Councilman Bothwell read the proclamation proclaiming April 4, 2017, as "National Service Recognition Day" in the City of Asheville. He presented the proclamation to Ms. Stacy

Friedsland, Foster Grandparent Program Manager of the Land-of-Sky Regional Council, and others, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING APRIL 6, 2017, AS "NATIONAL TARTAN DAY"

Vice-Mayor Wisler read the proclamation proclaiming April 6, 2017, as "National Tartan Day" in the City of Asheville. She presented the proclamation to Mr. Judson Lohr, and others, who briefed City Council on some activities taking place during the day.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 14, 2017

B. ORDINANCE NO. 4566 - BUDGET AMENDMENT FOR THE TRANSIT MASTER PLAN STUDY

Summary: The consideration of a budget ordinance amendment in the amount of $120,000 from federal grant funding and a local City match from the Transit Operating Fund to set up the project budget for the update of the City of Asheville Transit Master Plan.

The City of Asheville was awarded federal Surface Transportation Program - Directly Attributable (STP-DA) funds for the update of the Transit Master Plan on October 14, 2015. The City received $120,000, with 80% or $96,000 funded by the grant with 20% or $24,000 match requirement.

The City of Asheville was awarded federal Surface Transportation Program - Directly Attributable (STP-DA) funds for the update of the Transit Master Plan on October 14, 2015. The City received $120,000, with 80% or $96,000 funded by the grant with 20% or $24,000 match requirement.

As the city grows the system is facing new challenges that affect performance, such as congestion, events, festivals, etc. that require a fresh look and a close analysis of the operational conditions. The update of the Transit Master Plan will reexamine operational and maintenance requirements and projected capital needs in the short, medium and long term.

The Request for Proposals will be released when this budget amendment is approved. Staff estimates that it will take 13-15 months to go through the evaluation process and project development. The update will be available for public review in about 12 months and eventual Council adoption thereafter.

Pro:

- These funds will allow the city to update the Transit Master Plan, seeking operational efficiencies and planning for future capital needs.

Con:

- Project is funded with Surface Transportation Program - Directly Attributable (STP-DA) funds in the amount of $96,000. The city is responsible for the local match in the amount of $24,000 that come from the Transit Operating budget.

The total financial impact for the subject projects is $120,000, 80% funded with federal funds and 20% from the Transit Operating budget. The match will come from the existing FY 2016-17 Transit Fund budget.

Staff recommends that City Council adopt a budget ordinance amendment in the amount of $120,000 from Federal Funds to setup the project budget for update of the Transit Master Plan.

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C. RESOLUTION NO. 17-54 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY A SANITARY SEWER EASEMENT AT 172 S. CHARLOTTE STREET TO THE METROPOLITAN SEWERAGE DISTRICT FOR MAINTENANCE

Summary: The consideration of a resolution authorizing the City Manager to convey a sanitary sewer easement to the Metropolitan Sewerage District of Buncombe County (MSD) to accommodate maintenance on the service lines at the White Labs site at 172 S. Charlotte Street.

The City of Asheville owns property at 172 South Charlotte Street. In 2015, the City approved an economic development agreement wherein the property was leased to White Labs, Inc. to locate a yeast manufacturing facility in this location. White Labs, Inc. is currently making improvements to the property and this includes changes to the utilities on site. The MSD sewer line that crosses the property will now terminate at a new manhole which is near the entrance on South Charlotte Street. White Labs installed the manhole and has been required by MSD to extend an easement beyond the manhole to the first cleanout of each of the existing service lines in order to allow maintenance.

MSD is requesting an easement that is 10 (ten) feet on either side of the service line for a total of 701.5 square feet of permanent easement. The City of Asheville has consulted with White Labs to insure that the easement serves their needs. City stakeholders have also been consulted and City staff finds no issues with the granting of this easement.

Pros:

- Granting of the easement will allow MSD to continue regular maintenance on sewer infrastructure that serves 172 S. Charlotte Street.
- Utility Improvements have been made that were paid for by the tenant.

Cons:

- None

No monetary consideration involved in this conveyance.

City staff recommends City Council approve a resolution authorizing the City Manager to convey a 701.5 square foot permanent easement across City-owned property at 172 South Charlotte Street.

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D. RESOLUTION NO. 17-55 - RESOLUTION ACCEPTING THE DOWNTOWN COMPREHENSIVE PARKING STUDY

Summary: The consideration of a resolution to accept the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff.

Although the Parking Enterprises Fund has been and continues to be very healthy, staff continues to receive requests regarding parking needs on a regular basis. In order to address

these needs and to make the most efficient use of the overall limited funds, staff is developing a long-term parking program (LTPP).

The steps in developing a long-term parking program (LTPP) include having a consistent and ongoing revenue stream, having available resource documents (for example; the comprehensive parking study), and having a 10-year parking capital improvements program (PCIP).

The comprehensive parking study includes a background section listing general statutes and City ordinances related to parking functions, a benchmarking section providing information on public on-street and off-street parking facilities for 50 peer cities, a section on various parking strategies used throughout the United States, a section on various funding strategies used throughout the United States, and analyses regarding the possibility of a downtown shuttle that includes two phases. The first phase includes the downtown central business district and the second phase includes the downtown central business district, Biltmore Village, the River Arts District, and Haywood Road in West Asheville. In addition, a 10-year financial model has been prepared that helps staff determine when additional debt could be incurred including any fee and rate increases that would be needed to meet the anticipated capital needs. The comprehensive parking study will be a valuable resource document that complements the various parking studies that have been completed including the downtown parking study that is updated on a two-year cycle with new occupancy data for on-street and off-street parking facilities. The next update is scheduled to occur during October 2017. Staff is currently working with Buncombe County to update all of the land uses in the Central Business District.

The 10-year parking capital improvement program (PCIP) is reviewed and updated on an annual basis and appropriate adjustments are made during each budget cycle. The foundation or anchoring piece of the program is the need to make sure that the parking infra-structure, especially the four parking garages, is well maintained, up-to-date, and customer friendly. Since the Civic Center Parking Garage is 40 years old, a structural engineer has performed an assessment and has prepared an action plan to extend its service life by 30 years by investing a total of $9,000,000 over the 30-year period. This action plan is now incorporated into the PCIP. Similar assessments are now being done for the Rankin Avenue and Wall Street parking garages.

Table 1 includes parking strategies that have been accomplished, are currently underway, and are identified within a 10-year timeframe.

Table 1

Parking Strategy	Status
Prepare a parking study in the CBD including supply and demand.	This strategy was accomplished in 2008 and the occupancy rates are updated on a two-year cycle. The next update is scheduled to occur during October 2017.
Initiate an advertising program regarding parking in the CBD.	This strategy has been accomplished. A yearlong contract has been executed with Asheville Radio Group for 2017.
Seek the Accredited Parking Organization (APO) award from the International Parking Institute (IPI).	This strategy is in process. The application has been submitted and the site visit has occurred.
Replace the existing elevator in the Civic Center Parking Garage.	This strategy is in process. Construction bids have been opened and are currently being reviewed. The contract should be coming to City Council during April 2017.
Implement the action plan to extend the service life of the Civic Center Parking Garage to 30 years.	This strategy is in process. Appropriate steps will begin during FY 2018 (the action plan is now included in the 10-year PCIP).

Assess the Rankin Avenue Parking Garage to prepare an action plan to be able to extend its service life by 30 years.	This strategy is in process. A structural engineer is currently assessing the parking garage and preparing the appropriate action plan.
Assess the Wall Street Parking Garage to prepare an action plan to be able to extend its service life by 30 years.	This strategy is in process. A structural engineer is currently assessing the parking garage and preparing the appropriate action plan.
Replace existing on-street parking meters in the CBD with smart (credit card) parking meters.	This strategy is in process. A RFP has been issued and proposals are due on March 24, 2017. All the existing on-street parking meters should be replaced by June 30, 2018.
Install new smart (credit card) parking meters in the South Slope of the CBD.	This strategy should begin during FY 2019 (after the existing parking meters are replaced).
Install new smart (credit card) parking meters in other areas of the city.	This strategy is subject to City Council policy direction (establish new meter zones).
Expand enforcement hours for on-street parking in the CBD beyond 6:00 pm.	This strategy is subject to City Council policy direction (could begin during FY 2019 after the existing parking meters are replaced).
Replace and/or update existing parking equipment including gates and associated software.	This strategy should begin during FY 2019.
Consider a reduced parking rate for city residents.	This strategy is subject to City Council policy direction (could be studied after the strategy to replace and/or update the existing parking equipment including gates and associated software is completed).

The Downtown Commission reviewed the document on March 10, 2017.

The Planning and Economic Development Committee reviewed the document on February 21, 2017, and recommended that it move forward to City Council.

Pros:

- Serves as a resource document including extensive benchmarking from peer cities.
- Complements various parking studies that have been completed.

Cons:

- There are no known cons.

There is no immediate fiscal impact for the recommended action.

Staff recommends that City Council accept the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff.

At the request of Councilman Bothwell, Traffic Engineer Jeff Moore said that he would provide Council with information on how the Parking Study is being applied (since it is dated July, 2016) and how we are moving forward on some of the ideas.

Councilman Smith said that after the Planning & Economic Development Committee review of the document, they asked the City Manager to work on action steps that came out of that based on previous Council direction. City Manager Jackson noted that the resolution includes direction to staff as follows: (1) The City Council hereby accepts the Downtown Asheville Comprehensive Parking Study to be used as a resource document and to provide policy direction to staff; (2) The City Council accepts the recommendation for a series of rate

adjustments to fund multiple capital projects for system growth as well as enhancements; (3) The City Council accepts the recommendation to revisit the Code of Ordinances as they relate to the parking violation fines, penalties, and late fees. Additionally, the City Council accepts the recommendation to investigate expanding the hours of enforcement later in the evening; (4) The City Council accepts the recommendation to establish a "Repair and Replacement" Fund and make pre-determined annual budget allocations for this purpose; and (5) The City Council accepts the recommendation to continue investing aggressively in short and long-term "smart" parking technologies and programs. He said that he will come back with an action plan for the Parking Study.

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E. RESOLUTION NO. 17-56 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR GRANTS OF FEDERAL TRANSPORTATION FUNDS, TO SIGN A LETTER OF COMMITMENT FOR LOCAL MATCHING FUNDS, AND IF THE APPLICATIONS ARE SUCCESSFUL, TO ACCEPT GRANTS AND SIGN THE APPROPRIATE AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (MPO) for grants of federal transportation funds, to sign a letter of commitment for local matching funds, and if the applications are successful to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

The French Broad River MPO plays a role in programming federal transportation dollars for local projects. Some of the funding is programmed through a competitive call for projects.

A call for projects is currently open until March 31, 2017 from the funding source of STBG-DA (formerly STP-DA) for fiscal years 2018 and 2019. Local governments in Buncombe, Haywood and Henderson counties and NCDOT Division offices are eligible to apply.

In the past, the City of Asheville received awards from this funding source for sidewalks on Hendersonville Road and New Leicester Highway, right of way funding for the RADTIP, and other small projects.

City staff evaluated eligible projects in the City's Capital Improvements Program, and developed an application for funds based on the following criteria:

- Alignment of the project timeline with availability of the funds in FY 18 and FY 19.
- Ability of the project to meet all federal requirements.
- Competitive project that will provide multi-modal transportation facilities.

Based on these criteria, City staff selected the Beaucatcher Greenway Project as a candidate for these funds. City staff intends to submit an application requesting funding in the amount of $4 million, which is 80% of the projected cost of approximately $5 million. This most recent estimate accounts for rising construction costs in the current economic climate. The cost estimate reflects a revised scope based on the main alignment for the greenway and does not include spur connections.

Staff has not identified an alternate project that meets the above criteria, specifically projects with available matching funds in the FY 18 and FY 19 budget.

The Finance Committee will review this recommendation at their March 28, 2017 meeting.

Pros:

- This funding will enable the City to deliver a multi-modal transportation project that is programmed in the CIP.
- Funding availability is aligned with the scheduled construction timeline.
- The required matching funds are already budgeted for this project.

Con:

- None

This project is currently programmed in the City's Capital Improvements Program. The amount of programmed funding already in the City's approved capital budget will provide the required match for these federal funds.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply to the French Broad River MPO for grants of federal transportation funds, to sign a letter of commitment for local matching funds, and if the applications are successful to accept grants and sign necessary agreements with the MPO, or state or federal agencies to receive the funds.

RESOLUTION BOOK NO. 38 - PAGE 372

F. ORDINANCE NO. 4567 - ORDINANCE AMENDING THE DOWNTOWN COMMISSION MEMBERSHIP

Summary: The consideration of a resolution amending the Asheville Downtown Commission ordinance relative to the Asheville Downtown Association seat on the Asheville Downtown Commission.

The Asheville Downtown Commission was established by City Council to serve as an advisory body for the sustainability and continued development of downtown. The Commission consists of 11 members, including two members appointed by the Buncombe County Board of Commissioners, one member of the City Council appointed by the City Council, seven members appointed by the City Council from the private sector of the community, and one member as a representative from the Asheville Downtown Association.

Chapter 2, Article III, Division 3 of the Asheville City Code specifies the requirements for the Asheville Downtown Association seat. In the past, the code has required that the representative in this seat be the President, a Board Member and/or a Member of the Asheville Downtown Association.

At the January 10, 2017, Downtown Commission meeting, Commissioners voted to recommend a wording amendment to the affiliation requirements for the Asheville Downtown Association seat. The wording of Section 2-76(b)(4) in Division 3 of Chapter 2 would read, "A member of the board of directors or the executive director of the Asheville Downtown Association." The wording of 2-76(c) would be amended to remove "the President of" the Asheville Downtown Association.

The proposed amendment aligns with the City Council 2036 Vision, most specifically with the goal of having a connected and engaged community. While the Asheville Downtown Commission as a whole contributes to this Vision, the wording amendment also ensures that the City is building upon its partnership with the Asheville Downtown Association to support effective engagement and enhanced communication between organizations. Specifying that the Asheville Downtown Association representative be a board member or the executive director of the organization helps ensure that the initiatives from both bodies are being communicated and coordinated, thus more effectively representing downtown interests and advising Council.

With strengthened coordination between the Asheville Downtown Association and Asheville Downtown Commission, other goals identified in City Council's 2036 Vision may be supported more effectively, such as supporting local businesses (Thriving Local Economy) and improving walkability (Transportation and Accessibility), both of which are initiatives of the Asheville Downtown Association.

This item was reviewed by the Boards & Commissions Committee on March 14, 2017, and they unanimously recommended approval and that the item be moved forward to City Council.

Pro:

- Strengthens Asheville Downtown Association representation on the Asheville Downtown Commission, supporting enhanced communication and coordination.

Con:

- Provides Asheville Downtown Association with limited flexibility on who they may appoint as their representative on the Asheville Downtown Commission.

City staff and the Downtown Commission recommend that City Council approve revisions to the wording of Ordinance 2-76(b)(4) and 2-76(c) in Article III, Division 3 of Chapter 2 in the City Code of Ordinances

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G. RESOLUTION NO. 17-60 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONSTRUCTION CONTRACT WITH BUCKEYE BRIDGE, LLC, FOR THE NEIGHBORHOOD ENHANCEMENT PROJECT AREA 2 WATER DISTRIBUTION SYSTEMS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a construction agreement with Buckeye Bridge, LLC, for the NEP Area 2 Water Distribution Systems Project for the bid amount of $2,674,820 plus a 12% contingency in the amount of $321,000 for a total project budget in the amount of $2,995,820.

On February 20, 2017 the Water Resources Department (WRD) issued an Advertisement for Bids for the NEP Area 2 Water Distribution Systems Project. The scope of work for this project includes, but is not limited to, all labor, materials, equipment, and incidentals required for the installation of approximately 26,100 Linear Feet of 6-inch Ductile Iron Pipe and related appurtenances located in the Tiny Farms and Mt. Carmel Acres Subdivisions located in the northwest area of the City of Asheville Water Distribution System.

In response to the Advertisement for Bids, the department received five bids on March 14, 2017. Companies responding were:

1. Buckeye Bridge, LLC; Canton, NC – Bid: $2,674,820
2. Cooper Construction Company, Inc.; Hendersonville, NC – Bid: $2,677,467
3. Hall Contracting Corporation; Charlotte, NC– Bid: $3,787,920.00
4. Steppe Construction, Inc; Mill Springs, NC - Bid: $3,473,855.00
5. T&K Utilities, Inc.; Asheville, NC– Bid: $3,312,200.00

Following a review of the bids by City Staff and the project engineers, W.K. Dickson & Co., Inc., Buckeye Bridge, LLC, was selected as the lowest responsible, responsive bidder for the bid amount of $2,674,820. A contingency amount of $321,000 has been added for a total project budget in the amount of $2,995,820.

Pros:

- This project will replace existing waterlines. The subject lines are undersized, provide inadequate fire protection, and/or have a high risk of failure.
- This project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.
- Replacement of these lines will help to improve the service and reliability of the water system with an overall reduction of water loss due to the older lines being more prone to undetectable leaks and failures.

Con:

- Failure to award a construction contract would prevent the completion of the water system improvements.

The funding needed for the construction agreement is currently allocated within the Water Resources Capital Improvements Project (CIP) Fund in the 2015 NEP Area 2 Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a construction agreement with Buckeye Bridge, LLC, for the NEP Area 2 Water Distribution Systems Project for the bid amount of $2,674,820 plus a 12% contingency in the amount of $321,000 for a total project budget in the amount of $2,995,820.

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H. RESOLUTION NO. 17-58 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY TO THE FRENCH BROAD RIVER METROPOLITAN PLANNING ORGANIZATION FOR SECTION 5310 FUNDS, AND IF AWARDED, TO SIGN ALL APPROPRIATE AGREEMENTS

Summary: The consideration of a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grant(s) and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

The FBRMPO has opened a call for projects to use FTA Section 5310 Funds, which are used to provide enhanced mobility to seniors and individuals with disabilities with an application deadline of March 31, 2017.

The FBRMPO expects to have about $324,822 available from the FY 2016 FTA apportionment and the funds are expected to be distributed via this competitive call for projects.

Staff is pursuing funding in the amount of $187,500 to help offset the annual cost of providing paratransit service. If the city is awarded the grant, the funds would be programmed in the city's operating fund for FY 2018-19.

The project is ready to move forward as funding becomes available.

This action complies with the City Council's 2036 Vision in the Transportation and Accessibility focus area by making sure that transportation options are available for everyone.

Pros:

- Enables the use of Federal funds to help provide needed assistance.
- Enables the City to offset part of the annual operating cost to provide transit service.

Con:

- City would be responsible for the local match which would be a maximum of $37,500.

The maximum amount of the grant is $187,500 and it includes the local match which would be $37,500 which is 20% of the total amount. The local match would come from the transit operating budget for FY 2018-19.

City staff recommends that City Council adopt a resolution authorizing the City Manager to apply to the French Broad River Metropolitan Planning Organization (FBRMPO) for Section 5310 Funds, and if the application is successful, to accept the grant(s) and sign all the appropriate agreements with the FBRMPO, State, and/or Federal agencies to receive the funds.

RESOLUTION BOOK NO. 38 - PAGE 374

I. RESOLUTION NO. 17-59 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AMENDED MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF ASHEVILLE, BELL ATLANTIC MOBILE OF ASHEVILLE INC (D/B/A VERIZON WIRELESS), AND NEW CINGULAR WIRELESS, LLC (D/B/A AT&T) FOR THE TOWER REPLACEMENT PROJECT AT 166 RESERVOIR ROAD

ORDINANCE NO. 4568 - BUDGET AMENDMENT REGARDING THE TOWER REPLACEMENT PROJECT AT 166 RESERVOIR ROAD

Summary: The consideration of a resolution to authorize the City Manager to enter into an amended Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road; and a budget amendment in the amount of $300,000 to eliminate (reduce) the project budget previously established in the City's General Capital Projects Fund for this project.

On February 14, 2017 the City Council adopted a resolution authorizing the City Manager to enter into a Memorandum of Understanding concerning the replacement of the lower telecommunications tower on City-owned property at 166 Reservoir Road. After further discussions with the primary tenant, AT&T, staff is bringing forward a revised project concept for Council's consideration.

Under the prior arrangement, AT&T had agreed to provide funding for the project with the City serving as project manager for the engineering, design and construction of the project. Last fall, the City had engaged a Raleigh-based tower engineering firm, Vertical Solutions, Inc., to provide preliminary engineering services for the tower project and the City planned to continue working with Vertical Solutions through the construction phase. A major setback occurred when this firm abruptly closed its business in late February. Although preliminary engineering work for the new tower was complete, the City faced a significant hurdle to achieve an on-time project with the loss of its primary engineering lead.

Upon sharing this information, AT&T proposed a new arrangement to essentially modify the roles for each entity in the project, with the same financial and timeline objectives as originally agreed upon. Rather than the City serve as the project and construction lead, AT&T would assume responsibility to construct the tower. At this time, the following modified terms have been discussed and agreed upon in principle as an updated project concept:

- AT&T will serve as project manager for the engineering, design, and construction of this project. AT&T will perform the construction of the new tower and demolition of the old tower.
- AT&T agrees to pay for the total construction costs of the new tower and demolition of the existing tower. The current estimate is $275,000 and will be determined by final bids and true costs.

- In consideration of AT&T's contribution, the City would agree to rental abatement for the full construction amount. The rental abatement will be set forth in a license agreement wherein AT&T is granted a 15 year term of occupancy (structured as 3 - 5 year terms.) and rental abatement is calculated at the current fair market value ($37,500 per year), plus a 3% escalation rate of each year. No rent is paid until construction costs are abated. Current estimates indicate that AT&T will commence paying rent sometime in year seven of the agreement at a graduated rate of approximately $44,700 per year.
- Construction completion is expected before the end of the calendar year 2017.

As a new tenant to the tower, Verizon's agreement remains the same as before. Terms have been set forth, as follows:

- Verizon requests a 15 year term (structured as 3 - 5 year terms.)
- Verizon's rent will commence once the tower construction is complete, at the established fair market value of $37,500 per year with annual increases of 3% per year.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.
- Verizon must also execute the MOU acknowledging the construction project and process.

The City will continue to work hand in hand with AT&T to ensure a quality final product. The design, placement and other project elements that were represented in the prior report will remain unchanged. Given their experience in tower construction, AT&T has capacity to perform this project on time and on budget.

Pros:

- Capital improvements - tower construction costs - fully funded and construction managed by AT&T.
- Long term commitment from the tenants will secure revenue stream for the City.
- Dedicates a portion of the site to long term public safety communications use.
- New tenant (Verizon) contributing rent to the general fund; AT&T will commence paying rental once construction costs have been abated.

Cons:

- Future recreational use will need to accommodate public safety telecommunication towers into the design.
- Uncertain if the existing tenant, T-Mobile, will seek to relocate to the new tower or will move to a different location. T-Mobile's existing lease will end once new tower is completed.

Replacing the existing tower benefits the general fund through continued tower lease revenues and supports upkeep of the City's public safety communications infrastructure with minimal capital expenditures from the City. The Capital Projects budget will be amended to eliminate the budget previously established for the tower replacement project.

Staff recommends that the Council adopt the amended resolution authorizing the City Manager to enter into a Memorandum of Understanding between the City, Bell Atlantic Mobile of Asheville, Inc. (dba Verizon Wireless), and New Cingular Wireless, LLC (dba AT&T) for the tower replacement project at 166 Reservoir Road and the associated budget amendment.

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ORDINANCE BOOK NO. 31 - PAGE 155

J. ORDINANCE NO. 4569 - BUDGET AMENDMENT FOR BIKE SHARE FEASIBILITY STUDY

Summary: The consideration of a budget amendment in the City's Special Revenue Fund in the amount of $50,000 to budget $25,000 in federal grant funds awarded through the French Broad River Metropolitan Planning Organization (MPO) along with the City's budgeted match of $25,000 for the city's bike share feasibility study.

In July 2014 City Council authorized the City Manager to apply for and to execute agreements to accept the funding for several grants from the French Broad River MPO, including $25,000 for a bike share feasibility study. The agreement for the study is now in place, and matching funds are in the budget, but the budget must be amended to authorize the receipt and expenditure of the grant funds.

Pros:

- allows the City to move forward a bike share feasibility study to explore the opportunity before committing significant labor and capital
- leverages $25,000 in grant funding

Con:

- grant requires $25,000 in local match, which is already in the budget

As noted above, the City's local match is $25,000, and it is already included in the Transportation Department's Adopted FY 2016-17 General Fund budget.

Staff recommends City Council adopt the budget amendment in the City's Special Revenue Fund in the amount of $50,000 to budget $25,000 in federal grant funding awarded through the French Broad River MPO along with the City's match of $25,000.

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K. RESOLUTION NO. 17-57 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A SERVICE AGREEMENT WITH BBC RESEARCH & CONSULTING FOR THE 2016 DISPARITY STUDY PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a service agreement with BBC Research & Consulting for the 2016 Disparity Study Project in the amount of $319,948.

On December 14, 2016, the Community & Economic Development Department issued an Advertisement for Request for Proposals for consultant services to conduct the Minority Business Program Disparity Study. The project will include:

- Study of the City's contractual awards in construction, goods, services, architectural and engineering services for the period Fiscal Year 2011 through Fiscal Year 2016.
- To determine the effectiveness of the current programs and recommend modifications and adjustments, if necessary, to the City program that are in compliance with law based on the opinion of an attorney licensed in the State of North Carolina who has substantial experience in this area of law.
- To provide current legal guidance not only relative to new legislation, policies and procedures to meet any constitutional mandates, but also the programmatic needs of the constituencies of the City.

In response to the advertisement, the department received six (6) consultant proposals on January 18, 2017. Companies responding were:

Name of Company	Cost Proposal Amount	Business Main Office
Drakeford, Scott & Associates L.L.C.	$151,200.00	Durham, NC
BBC Research & Consulting (BBC)	$319,948.00	Denver, CO
MGT of America	$321,496.00	Tallahassee, FL
Mason Tillman Associates, Ltd.	$324,144.00	Oakland, CA
Griffin & Strong P.C.	$345,025.00	Atlanta, GA
Miller[3] Consulting, Inc.	$455,825.00	Atlanta, GA

The proposals were reviewed by City Staff and BBC Research & Consulting was selected in the amount of $319,948. Criteria for this RFP included:

- Experience and qualification of firm
- Experience and qualifications of proposed staff
- Understanding of the project (proposed project plan)
- Proposed cost
- Overall proposal and completeness
- Legal requirement that any legal opinions be provided by NC licensed attorney

This action went before the Planning and Economic Development Committee on March 21, 2017, and their recommendation was support to move forward to City Council.

Pros:
- Study will replace outdated disparity study completed in 1993.
- The project will result in an updated Minority & Women Business Plan that is up to date with all current legal requirements and best practices.

Con:
- None identified.

Funds for this consultant agreement are currently allocated within the Community & Economic Development Department budget for FY17.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a service agreement for consultant services with BBC Research & Consulting for the 2016 Disparity Study Project in the amount of $319,948.

In response to Councilwoman Mayfield, Economic Development Specialist Brenda Mills said that the study is specifically for contracting and purchasing. City Manager Jackson noted; however, that our Equity Program is intended to look at far more than just the disparity study.

Mr. Grant Millin provided Council with a PowerPoint which addressed the Asheville and Buncombe County's Agenda for People with Disabilities and the City's Disparity Study.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Smith and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. HAYWOOD STREET COMMUNITY VISIONING

Councilwoman Mayfielc gave a brief background of how the Haywood Street Visioning Task Force was created.

On behalf of City Council, Mayor Manheimer thanked the Asheville Design Center and the Haywood Street Visioning Task Force for the thousands of volunteer hours they devoted to this task.

Mr. Chris Joyell, Executive Director of Asheville Design Center provided a brief update from the Asheville Design Center regarding the community visioning process for city-owned properties located at 68-76 Haywood Street and 33-37 Page Avenue in Downtown Asheville. He reported that the Haywood Advisory Team (AT) has completed its assignment, having recently voted 16-1 to approve their final recommendations.

Mr. Andrew Fletcher, Chair of the Haywood Street Visioning Task Force, briefly reviewed with Council their 17-page final report, which included their vision statement, site analysis, full exploration of uses and amenities, and appendix of collected community input.

Beginning in June, 2016, the AT held eleven regular meetings, two alternate meetings (to accommodate members who could not attend the regularly scheduled meetings), and a four-hour visioning workshop on February 18, 2017. Buncombe County's representative bowed out of the process in November, citing the demanding time commitment, leaving us with 17 voting members. Overall, AT meetings enjoyed an attendance rate of over 90%.

The AT's recommendations include a desired "sense of place," a site analysis, an overview of the team's process, and preferred site uses. The AT's vision includes a combination of active civic space and passive civic green space contained and activated on its edges by mixed-use development. The AT really wants a future that animates the site sooner than later.

The following table illustrates the various compatible and complimentary uses identified by the AT.

	Civic	**Mixed**	**Other**
Active	Community Gardening Farmers Market Performance Play Area Public Art	Local Food Local Retail Business Incubator Education Housing	Services & Utilities Offsite Public Gathering Safety / Security Traffic Calming
Passive Green Civic Space	Shade Native Landscaping Seating Water Feature Urban Trail Station Information Kiosk	Public Rest Rooms	Trash/Recycling Lighting Views Neighborhood Identity

When Mayor Manheimer asked if a decision was reached whether the alleyway that bisects the property has to remain open for vehicular traffic, Mr. Fletcher said that the AT didn't want to box in a single solution to that concern, so they acknowledged the issue and would let people with greater expertise to solve the problem.

At the request of Councilman Bothwell, Mr. Fletcher read the AT Sense of Place statement.

Councilman Smith thanked the Asheville Design Center and the AT for this monumental task of considering topography, site lines, history and all the viewpoints to come up with a common-sense compromise vision that honors all the different pieces. He would be hopeful to see some kind of housing at the 33-35 Page Avenue area.

Councilman Smith then moved to direct staff to design and issue a Request for Proposals for a design firm to deliver several design options using the Haywood Street visioning process outcomes. This motion as seconded by Vice-Mayor Wisler.

The following individuals spoke regarding the visioning process:

Ms. Kim Roney thanked the volunteers.
Ms. Sharon Willin asked Council to consider middle-class housing in this area.
Ms. Clare Hanrahan wanted a public plaza and public garden to honor people in the neighborhood.
Mr. Coleman Smith questioned how people not part of a professional firm can have their visions be considered.
A gentlemen felt the area should focus on the local community and artist community.
Ms. Dee Williams supported a park.

Councilman Bothwell felt that the City would do well to follow the advice of the Project for Public Spaces. Their website states that the best spaces evolve by experimenting with short-term improvements that can be tested and refined over many years. Examples include places to site, sidewalk café, community event, garden, painted crosswalks. These are examples of lighter, quicker, cheaper changes that capitalize on the creative energy of the community. If one thing doesn't work then you can try something else. If there is a success, you can build on it. He wondered if we want to seek a design firm first, or try these lighter, quicker, cheaper things which the AT recommended to Council in December.

Mayor Manheimer noted that the motion made by Councilman Smith is for long-term and not to side-step the short-term uses. To be clear, it was the consensus of Council to support proceeding with the action plan for implementation of the interim uses for the Haywood Street property as outlined in the following report provided by Downtown Development Specialist Dana Frankel.

"At City Council's December 12, 2015 meeting, staff was directed to recommend a process to consider the future use and design of city-owned parcels located on Haywood Street and Page Avenue downtown following a long history of potential development opportunities. In March 2016, City Council approved a public visioning process for the properties, contracting with Asheville Design Center to serve as a facilitator for a Council-appointed community advisory team to develop a long-term vision for the properties, while also identifying opportunities for temporary installations to enliven the space in the short term.

The Community Advisory team began meeting in June of 2016, soliciting feedback from the public and taking steps towards developing both a long term vision and recommendations for interim uses. At the October 25, 2016, Council Meeting, the Community Advisory Team presented a list of possible temporary uses and installations for the site. With direction from City Council to narrow down the list, the Advisory Team returned to City Council's December 13, 2016, meeting and presented the following temporary uses and installations to be considered:

1. Raised garden beds
2. Interactive public art
3. Mobile food vending
4. Open vendor markets
5. Movable seating
6. Designated performance space

Following their presentation, City Council directed staff to consider feasibility and recommendations for implementation of the proposed temporary uses.

Objectives and Overview - The primary objective of the temporary installations is to activate the subject sites on an interim basis while permanent solutions are being planned and implemented. A secondary goal is to test particular uses and installations in order to learn more about their function, successes and impacts in this public space and in the community at large.

The recommendations that follow are intended to support flexible use of the sites, including those proposed, with a fair and consistent approach to site access and programming. Recommendations also consider efficiency in terms of staff time, administrative processes and costs.

Implementation of the uses and installations as proposed are achievable, with an estimated *$73,871* for site improvements, furnishings and management of installation, *$43,765* for the first year of operations and maintenance, and a minimum of *$78,000* for management of programming and to help fund programming itself (*$195,636 total*). Additional funds may be requested annually for capital needs related to maintenance and site enhancements, as well as budget adjustments for additional operational and staffing needs.

Recommendations are presented below, beginning with site planning and analysis of needs, designation of respective parcels for each proposed use, site improvements recommended for success of those uses, and processes for implementation for those components. Site maintenance and management of programming is then considered including staff and community roles, and a timeline is included at the end of this report.

Site Planning and Analysis of Needs

Use of parcels - The temporary uses proposed by the Community Advisory Team are not site specific. The group and City staff acknowledged together that the lots currently used for parking should remain available for parking, considering the needs for both short term and monthly parking.

Without disrupting those areas, sites available for temporary uses are the parcels on Page Avenue (Area A) and on Haywood Street (Area B). Both sites are relatively flat with gravel surfaces, and are currently vacant secured by fencing.

Garden Beds - Considering the unique needs for raised garden beds including open and easy access and availability of sun, Area A is recommended for use. Accessible from the sidewalk and self-contained from the other proposed uses, the site is well-positioned for maximum community benefit. Staff is proceeding to include Area A in the City's Community Garden Program, an Asheville Edibles initiative being managed by the Office of Sustainability. A request for applications (including design, management and public art) is expected to be released in April, 2017.

Interactive Public Art - Public art will be included in both Area A and B.

Area A: requested for incorporation in Area A as part of the Community Garden program being coordinated by the Office of Sustainability.

Area B: For implementation of "interactive public art" recommended by the Advisory Team, an RFP can be released for the design and installation of an artistic intervention or semi-transparent covering to be placed on the fence on Haywood Street. Through specification in the RFP, the artist would include interactive elements in the design and/or incorporated into the installation. The City's Public Art and budget may be able to contribute up to $10,000.

In addition, a "free expression wall" could be considered in Area B as part of an initiative underway by the City's Public Works Department.

Other interactive public art such as music, projection art, movies and performances would be encouraged in Area B. Informal, non-permitted performances such as busking would be allowed and encouraged in Area B during times when permitted events are not occurring.

Mobile Food Vending, Vendor Markets, Movable Seating, Performance Space
Implementation of the other proposed uses is recommended for Area B.

Site Improvements - Site planning and improvements would support flexible uses, including those proposed. Investments in site improvements are intended to support temporary uses and activities for 1-3 years, while planning and implementation of long-term uses is underway.

Staff recommends contracting with an external entity through a competitive process to manage design-build services for site planning, material purchasing and physical installations of required/recommended infrastructure, furnishings and amenities. A total budget could be outlined in a RFQ (*estimated $73,871*). Applicants would be encouraged to identify supplemental sources of funding for completing the work required, and would be asked to use creatively produced/ sourced materials and furnishings including reused and recycled. By contracting with an external party, the timeline for implementing the improvements can be expedited, expertise on site-design is enabled, and staff capacity can be conserved while participation and community buy-in can be garnered. A team of staff including representatives from Parks and Recreation, Capital Projects, Planning and Urban Design, Community and Economic Development, Development Services and Public Works would participate in the RFQ review process.

Possible site improvements are outlined below. Expanded details on each component are available but not included for the purposes of this memo.

1. **Electrical Access – required by UDO (Area B)**
2. **Trash cans – required (Area B)**
3. **Furnishings, landscaping and placemaking – required but flexible (Area B)**
   To include movable seating and designated performance space. Items may be sourced/built and could include re-purposed materials. Other furnishings are recommended in order to create a safe, inviting, interesting and comfortable experience for passive and active uses.

3. **Surface treatment – recommended (Area B)**
   Uses permitted as outdoor special events can be legally accommodated on gravel lots/uneven surfaces, however, the Community Advisory Team and staff recommends accommodating access for all citizens, including those with limited mobility and those in wheelchairs. A non-slip surface can be installed in areas adjacent to the primary uses/amenities.
4. **Water Access - recommended (Area A)**
   Installation of a water spigot is recommended in Area A to support the feasibility and success of the community garden program.
5. **Informational signage - recommended (Area A and Area B)**
   Signage may be designed and installed for the purpose of posting rules/ordinance regulations, hours of access, background information on the initiative, programming schedules and to display community partners and sponsors.
6. **Restrooms - optional**
   Existing public restrooms are available nearby. Event organizers may be responsible for providing on-site restrooms to meet the needs of their events. Temporary restroom facilities including toilets and portable sinks could be added to the site and are included in cost estimates.

Site Operations, Maintenance and Management

In Area A, the designated community garden contact (as specified in the program) will be primarily responsible for managing maintenance.

For maintenance and on-going management of Area B, staff recommends that it be managed as a "temporary park" by the City's Parks and Recreation Department, with secured access open to the public during standard hours (dawn until dusk) and used as flexible, programmable space with curated events managed by an external entity.

Maintenance, Access and Security - The City's Parks and Recreation department would oversee maintenance of Area B's amenities, as well as access to the site, though the expansion of existing maintenance and security contracts. Maintenance will include amenity cleaning, litter control, trash removal, leaf removal, debris removal, horticultural maintenance and pest control as needed. Security services include opening and closing of the gate at specified times in Area B. There may be other requests for budget adjustments from the Parks and Recreation Department due to increased staff necessary to support maintenance and security management.

The Asheville Police Department would extend downtown coverage to monitor and respond to issues in Areas A and B. The current $1M budget request for additional downtown unit staffing would support coverage of this site. If the budget request is not approved, there may be other requests for budget adjustments due to increased staff necessary to support patrol and response of these areas. The hiring of a full time Park Warden may be considered for the site.

The City's Public Works department would add Areas A and B to their service routes for trash collection, litter pick-up and graffiti removal. The Public Works department may submit budget adjustments due to increased staff necessary to support additional coverage of these services.

Programming and Permitting - Staff recommends that an RFP be released to contract with an external entity to manage programming of the site and promotion of that programming, following specified guidelines on the type and frequency of activities and engagement that should take place.

The City's Community and Economic Development would coordinate the application and review processes for both the site improvements and for programming. The department would provide assistance to both management entities, helping to coordinate department review processes. A budget adjustment would be submitted for a part-time position required to assist with increased special event permitting and overall coordination.

The minimum estimated budget to pay for event management is *$78,000* for one year, based on a rate of $1,500 per week (or $500 per event if programmed three times per week). The fee would include management and a modest budget for programming and promotion, with requirements specified (i.e. 80% of the funding used towards programming). The management entity or would follow the existing outdoor special event permitting process, which enables all departments to participate in review.

The management entity would be responsible for management of the space during programming, carrying appropriate liability coverage and returning the site to its original condition following events. Existing guidelines in the City's Outdoor Special Event Guide would be followed, as well as the City's fees and charges that may be applicable. Supplemental services required in the Outdoor Special Event Guide or requested by the City would be paid for by the management entity.

Role of Community - The Community Advisory Team's designated temporary use sub-committee would be expected to assist the event management company to identify possible programming partners and help garner participation, as well as to assist with promotional efforts. Staff including Dana Frankel (downtown development specialist) will support and advise the sub-committee and event management company in these efforts.

The sub-committee may also help with fundraising efforts led by the event management company, which may include opportunities for sponsorship and crowdfunding.

Timeline

Target Start Date: ***QUARTER 2, 2017***

Q2, 2017	Develop and issue RFQ for site design and installation services
	Release application requests for community garden in Area A
	Develop and issue an RFP for public art
Q3, 2017	Develop and issue RFQ/RFF for management of programming
	Review RFQ/RFP responses for site design and installation; execute contracts
	Review proposals for public art; install
	Design and install of site features
Q4, 2017	Review RFQ/RFP for management of programming; execute contracts
	Programming on Haywood Street site begins
2018	On-going programming, evaluation and adjustment"

Councilman Bothwell also felt we need to make a front-end piece of that consideration of vehicular traffic.

Councilwoman Mayfield asked that there be a significant public involvement piece as part of this Request for Proposals process.

The motion made by Councilman Smith and seconded by Vice-Mayor Wisler carried unanimously.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED ON 236 CHARLOTTE STREET AND 336 HILLSIDE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH RESIDENTIAL DENSITY DISTRICT AND COMMUNITY BUSINESS I DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF AN EXISTING COMMUNITY CENTER AND CHILD DAY CARE FACILITY

ORDINANCE NO. 4570 - ORDINANCE TO CONDITIONALLY ZONE PROPERTY LOCATED ON 236 CHARLOTTE STREET AND 336 HILLSIDE STREET FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH RESIDENTIAL DENSITY DISTRICT AND COMMUNITY BUSINESS I DISTRICT TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION OF AN EXISTING COMMUNITY CENTER AND CHILD DAY CARE FACILITY

Mayor Manheimer disclosed that she is a member of the Jewish Community Center; however, she has no conflict of interest.

Urban Planner Jessica Bernstein that this is the consideration of an ordinance to conditionally zone property located on 236 Charlotte Street and 336 Hillside Street from RM-16

Residential Multi-Family High Residential District and Community Business I District to Community Business II District/Conditional Zoning for the expansion of an existing community center and child day care facility. This public hearing was advertised on March 17 and 24, 2017.

The project site consists of two separate parcels, located at 236 Charlotte Street and 336 Hillside Street. There is an overall project area of 1.57 acres. The community center lot (Charlotte Street) is split-zoned RM-16 and CBI and the daycare parcel on Hillside Street is zoned RM-16.

Surrounding parcels are zoned RM-16, CBI and RS8 (across Charlotte Street). Additionally, portions of this site fall within the Charlotte Street Transition Overlay District (7-9-10).

Uses in the vicinity include both single and multi-family residential to the north, west and south as well as retail, office and commercial to the north and south along Charlotte Street. The sites contain existing buildings and surface parking and have multiple street frontages for each parcel.

The proposal for 236 Charlotte Street is to demolish the existing pool area (which will be relocated to 40 Clyde) and expand the existing building in that location. The existing structure is two-stories and 18,397 square feet and the project proposes a 7,588 square foot, one-story expansion resulting in a total gross floor area of approximately 25,985 square feet.

The application also includes 336 Hillside Street, Hilde's House, which is a 1,020 square foot existing child day care use that does not comply with the specific special requirements (USSR) for this use in the underlying zoning district. The plans would keep the use and site operating as-is.

An additional component of the overall project is the construction of the new pool facility, open space areas and associated parking at 40 Clyde Street, which has been reviewed and approved under a Level II permit (16-12163PZ) and is not included under the conditional zoning application.

Access to the site(s) and parking is proposed to remain in the current configuration with all vehicular traffic entering from Lennox Court. The driveway onto Hillside Street will remain exit-only. The existing parking area for the community center is located to the west of the building and plans show 27 spaces in the lot. There are two staff spaces in the driveway at Hilde's House, resulting in 29 actual parking spaces provided on-site for this project. Taking into account the 20% reduction allowed in the CBII zoning district, the uses in the building(s) (day care facility and community cultural center) requires a minimum of 43 parking spaces.

Additional parking for users of the community center is provided in the pool parking lot at 40 Clyde Street, *although the lot location exceeds the maximum distance allowable by-right for remote parking and this will be addressed in a condition specific to the project.*

There are either existing or proposed sidewalks along all street frontages, ranging in width from approximately five to ten feet. Existing sidewalks along Charlotte Street do not meet the City's standard and are proposed to remain where the rock wall and vegetation are proposed to be preserved. Staff recommends widening sidewalks along the remainder of Charlotte Street and along Hillside adjacent to the parking area to a minimum of ten feet where possible. The applicant will be eliminating the existing loading area and curb cut on Hillside close to Charlotte Street and proposes to replace with sidewalk matching the existing width in this section.

Landscaping is required for this project and includes a property line buffer along four areas adjacent to or facing residential zoning (Lennox Court, interior property line, Murdock Avenue and a portion of Hillside Street), a street buffer in three locations (Lennox Court, Hillside and Murdock), street trees along all five street frontages, parking lot landscaping and building

impact landscaping. The applicant is requesting specific conditions relating to landscaping as detailed below. Open space is adequately provided in the playground areas on both sites and through the active and passive recreational uses at 40 Clyde Street.

The majority of the Charlotte Street parcel falls under the Charlotte Street Transition Overlay which applies architectural standards to new development and restricts gross floor area. See requested conditions below.

Due to the reuse of the majority of the site layout and the practical challenges from including an addition onto the existing site, there are a number of site-specific conditions detailed below as well as in the Exhibit B.1 list.

1. Setbacks
    - Front setback Charlotte Street (overlay) - maximum 20 feet / minimum 5 feet (request to 35 foot maximum for existing building and 80 foot maximum for new addition on Charlotte Street)
    - Second front Lennox Court (overlay) - maximum 20 feet (request maximum 25 feet)
    - Corner side setback Lennox Street (overlay) -10 feet (request to reduce to eight feet for new building along Lennox Street)
    - Corner side setback Murdock - minimum 15 feet (request to allow encroachment of existing shed into property line)

2. Landscaping
    - Property line buffer for 236 Charlotte Street (eliminate type A buffer requirement along internal property line, Lennox Court, Murdock and Hillside due to existing condition to maintain parking lot and placement of new building addition)
    - Property line buffer for Hilde's House (reduce type A buffer requirement along internal property lines to maintain existing conditions)

3. Parking
    - Number of spaces (minimum required 43 spaces, 27 provided in parking lot on-site and 2 at Hilde's House for a total of 29 actual spaces)
    - Distance to remote parking (maximum distance per UDO is 500 feet, additional parking provided at 40 Clyde Street, 620 feet away)
    - Parking within setback (existing parking area encroaches into setback along Hillside Street)

4. Sidewalks
    - Existing sidewalks along Charlotte Street do not meet the City's standard and are proposed to remain where the rock wall and vegetation are proposed to be preserved. Staff recommends widening sidewalks to ten feet along the remainder of Charlotte Street and along Hillside to the driveway at a minimum.

5. Charlotte Street Transition Overlay Requirements
    - Gross floor area - maximum 12,000 square feet allowed (addition is 7,588 square feet, existing building is 18,397 square feet GFA; resulting total is approximately 25,985 square feet).
    - Orientation of building - required to interact with Charlotte Street (building is oriented towards Lennox Court and away from Charlotte Street due to the nature

and programming of the use as described in the narrative)
- Number of stories - required to have two-stories at Charlotte Street (addition is for a one-story expansion, however existing building to remain is two-stories)
- Facade variation - required to break up facade every 35 feet (while there is one long roof line from both Charlotte Street and Lennox Court, the building is articulated under the roof along classroom divisions and provide recesses)
- Fenestration - required 40% on ground level (request to reduce to 20% due to the use and orientation towards Lennox Court rather than Charlotte Street)

This proposal was evaluated by the Technical Review Committee on February 20, 2017, and approved with conditions. The proposal requires review by the City Council and Final TRC prior to zoning approval.

The Planning & Zoning Commission reviewed this request at their meeting on March 1, 2017, and voted 6-0 in support of the proposed request. A member of the public was present and spoke about the need for wider sidewalks in this area, especially along Hillside Street.

The day care and community center uses are permitted in the underlying and proposed zoning; however there are aspects where the proposal does not comply with standards due to the continuation of the existing site layout and the programming of the existing use in the new building area, thus resulting in the need for the conditional zoning application.

There is a conditional zoning currently under review several blocks south at 95 Charlotte Street. The Level II was approved for 40 Clyde Street, as noted above, on January 24, 2017.

The expansion of the existing child care facility and community center in this location fits with the mix of uses along the Charlotte Street corridor. The use was established in this location around 1990 when the existing building and parking area were constructed. The Charlotte Street Transition Overlay and Community Business II districts both anticipate medium intensity, community-based businesses and uses in this location. While the request includes eliminating buffers, modifying setbacks and orienting the addition away from Charlotte Street, the plan utilizes an existing layout that has become a part of the fabric of the area. The most intense part of the Community Center use, the outdoor pool and parking demands associated with the recreational facility, has been moved to Clyde Street. This should greatly reduce the impact that the surrounding residential neighbors on Murdock, Lennox Street and Lennox Court have experienced in the past and should increase compatibility despite the reductions in buffers and parking.

The expansion of an existing community-based use in this location supports elements of the Comprehensive Plan in that the development along a corridor surrounded by residential neighbors is accessible by walking or transit and is a use in an established location complementary to the mix of residential, office and commercial activities in the general vicinity. There are aspects of the project that do not align with recommendations found in the plan with regards to activation and urban development along a corridor as this proposal orients the front of the building away from Charlotte Street.

The Charlotte Street Corridor Plan (1999) notes the community center as a positive part of the mix of uses along the corridor and includes recommendations to maintain mature vegetation and existing site features such as rock walls (both of which are proposed to remain along the existing frontage) but also includes recommendations related to the overlay for buildings to activate Charlotte Street.

The proposal aligns with the 2036 Council vision in the following areas: (1) "A Well-Planned and Livable Community" in that the infill expansion is located on a major corridor along complementary uses. The community center, associated green space and recreational uses are

walkable to multiple neighborhoods in the area and provides elements for all ages of the community; and (2) "Transportation and Accessibility" in that this is an ideal location for the use and plans incorporate a transit shelter, sidewalks on all frontages and bicycle spaces.

Considerations:

- Expands an existing community-supported use in the existing location
- The most intense part of the use, the pool and recreation facility, is relocated to a location with sufficient parking, alleviating some of the parking demand and residual impact from the primary site
- Building addition consolidates child care component under one roof rather than in multiple locations as currently provided (with the exception of the infant care at Hilde's House)
- Parking and lobby/drop-off are interior to the site (from Lennox Court)
- Streetscape improvements are proposed along multiple frontages, resulting in some new or upgraded sidewalks, but additional width should be provided to maintain and improve pedestrian safety and accessibility
- Existing mature vegetation and rock wall will be preserved along Charlotte Street; however the building does not activate the corridor and the placement of the rock wall means the sidewalk would not be widened in this location

Based on policies stated in the Comprehensive Plan and other plans, staff does find this request to be reasonable and within the best public interest and does recommend support of the proposed conditional zoning as proposed with the conditions as noted in Exhibit B.1. Staff suggests widening of the sidewalk along most of Charlotte Street and Hillside; however, the applicant does not agree to this condition.

Ms. Dorothea Schultz, architect representing Clark Nexsen, showed various pictures and explained the overall Master Plan and the addition in particular.

Mr. Chris Day, representing Civil Design Concepts, did explain that the rezoning necessitated a lot of conditions since this is an established use. He asked that Number 3 in the Exhibit B.1 Conditions be amended to allow them to explore Lennox Court to be a 2-way access (with no loss of their parking area) with the Transportation Department reviewing it with final TRC approval. In looking at this briefly, they do have the ability to widen the access and still maintain the parking spaces. Due to the rising construction costs, they asked that not be required to widen the sidewalks to ten feet along the remainder of Charlotte Street and along Hillside Street. And finally, he requested Number 17 in the Exhibit B.1 Conditions be amended that the fenestration along Charlotte Street on the new addition be reduced to 20% for a more solid wall for security.

City Attorney Currin and Mr. Day agreed to revising (1) Condition No. 3 to read "Access to the sites will remain as currently used with vehicles entering the surface parking area from Lennox Court and the driveway onto Hillside Street," again noting that there would be no parking reduction; and (2) Condition No. 17 to read "Fenestration along Charlotte Street on the new addition is 20% due to the nature of the use as child care and the interior orientation."

Mayor Manheimer opened the public hearing at 6:36 p.m.

Ms. Lael Gray, Executive Director of the Jewish Community Center, spoke in support of the conditional zoning, noting that they wish to explore Lennox Court as a 2-way access for security purposes. They want the ability to look at ways to reconfigure the entry and exit to their parking lot.

Mayor Manheimer closed the public hearing at 6:39 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the conditional zoning request from Residential Multi-Family High Density (RM-16) and Community Business I (CBI) districts to Community Business II Conditional Zone (CBII-CZ) with the requested conditions as noted in the Exhibit B.1 list (with the amendments to Condition 3 and 17 as noted above) and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) The project expands an existing community-supported use in the existing location; (2) The most intense aspect of the use, the pool and recreation facility, is relocated to a location with sufficient parking, alleviating some of the parking demand and residual impact from the primary site; (3) Streetscape improvements are proposed along multiple frontages and vehicular access is interior to the site; and (4) Existing mature vegetation and rock wall will be preserved along Charlotte Street. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 159

B. PUBLIC HEARING TO CONSIDER CONDITIONAL ZONING OF PROPERTY LOCATED AT 95 CHARLOTTE STREET FROM OFFICE DISTRICT/CONDITIONAL ZONING TO COMMUNITY BUSINESS II DISTRICT/CONDITIONAL ZONING TO ALLOW LODGING AND OFFICE USES

At the request of Councilman Smith, Councilman Bothwell moved to recuse Councilman Smith from participating in this matter due to a developing reciprocal referral relationship with the applicant. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Urban Planner Jessica Bernstein that this is the consideration of an ordinance to conditionally zone property located at 95 Charlotte Street from Office District/Conditional Zoning to Community Business II District/Conditional Zoning to allow lodging and office uses. The site was previously reviewed and approved as a conditional zoning in 2015 (Ordinance No. 4454). This public hearing was advertised on March 17 and 24, 2017.

The project site consists of a single parcel, 1.23 acres in size, owned by Siemens Real Estate Holdings, LLC (PIN 9649-63-1039). The parcel is located at 95 Charlotte Street on the southeast corner of East Chestnut Street and is zoned Office Conditional Zone (rezoned in 2015).

The site is the location of the historic Patton Parker House - built in 1868-9 and a designated local historic landmark as well as a contributing resource within the Chestnut Hill National Register Historic District. There is a two-story, two-unit residential building currently under construction on the parcel as shown on approved plans from 2015.

Adjacent zoning includes CBII (vacant) and RM-16 (vacant and multi-family apartments) with Office, CBI and CBII (retail, restaurant) zoning in the immediate area. The Charlotte Street corridor is largely commercial in this vicinity with some residential to the north and there is a residential neighborhood to the east, immediately adjacent.

The 2015 approval permitted use of the main historic house for offices and for the construction of two new residential units on the rear of the site, all under Office conditional zoning. Plans also included site improvements including parking in both the front and rear and landscaping. The applicant is not proposing any deviation from those approved site plans but is requesting to change the zoning to CB-II so that additional uses would be allowed: two short-term lodging units using the newly constructed structure at the rear of the site and occasional special events.

Access, sidewalks and parking for the site are proposed to remain in the existing

locations, both from Charlotte Street and East Chestnut Street. The approved plans from 2015 remain for this proposal with a total of 18 parking spaces on the site.

The site is proposed to remain according to plans reviewed and approved by the Historic Resources Commission in accordance with the Local Landmark designation and the Secretary of the Interior's Standards for Rehabilitation.

The Historic Resources Commission has reviewed and approved the various aspects of building and site design for this project.

As there are no changes to the site plan approved in 2015, the conditions related to landscaping and parking location from ordinance 4454 will carry over.

This proposal was not required to be reviewed by the Technical Review Committee as they had already issued final approval on the site plan in 2015. No communication has been received from the public as of the writing of this report.

The Planning & Zoning Commission reviewed this request at their meeting on March 1, 2017, and voted 5-1 in support of the proposed request. Commissioners noted that the existing zoning along the corridor already allows for lodging while also discussing the need to preserve and maintain residential options.

The change in zoning is being requested to allow for uses allowed in CB-II, notably lodging.

There is a conditional zoning currently under review several blocks north at the Jewish Community Center.

The mix of office and residential originally approved for the parcel in 2015 is consistent with other uses along the Charlotte Street corridor and provides a transition to the residential zoning adjacent to the east. Community Business II (CB-II) zoning is adjacent to the south on the large vacant parcel, which could be developed with any uses allowed in that district, including lodging. As per Section 7-8-13 of the UDO, the CB-II District is "...Established to provide areas for medium-to-high-density business and service uses serving several residential neighborhoods. This community business center may serve as a workplace for many residents in the surrounding neighborhoods and should be sensitive to a significant pedestrian population, but also provide for adequate and safe vehicular access. The Community Business II District is designed to be located primarily along minor and major thoroughfare streets which serve multiple residential neighborhoods". Because of this, allowing lodging on this site is not entirely incompatible. Also, this block along East Chestnut Street has another lodging use already, the historic Princess Anne Hotel.

However, the site plan was approved with a reduced property line buffer between the new building and the residential zoning to the east. Both the existing Office and proposed CB-II zoning districts would require a 20 foot wide landscaped buffer along the property line adjacent to RM-16 to the east. Typically, less incidences of negative impacts (noise, trash, etc) are expected from a long-term residential use rather than a short-term lodging use and the reduced buffer would not have been as supported by staff for a commercial use in the structure.

The adaptive reuse of the historic structure for office uses and incorporation of residential on the site is aligned with multiple aspects of the Comprehensive Plan, including strategies supporting historic preservation and infill development. The Plan also notes that quality tourism is a key component of Asheville's economic development; however in that same section, the lack of and the high cost of housing is highlighted as a top weaknesses for the City.

The proposal both aligns and conflicts with the 2036 Council vision in the following areas: (1) "A Well-Planned and Livable Community" through the mix of uses and adaptive reuse provided for with this project, but maintaining residential choices is also highlighted in this strategy; (2) "Transportation and Accessibility" in that this is an ideal location for residential uses, on a transit line and walkable to urban amenities; and (3) "Quality Affordable Housing" in that while this project does not provice "affordable" housing units but the strategy on housing also notes that the City should have "innovative and historic housing options".

Considerations:

- Adjacent zoning to the north and south permits lodging
- Allowing short-term lodging uses does not preclude long-term residential in the future
- Housing, especially close to downtown, urban amenities and transit, continues to be in high demand
- The reduced property line buffer in this location was based on a long-term residential use and not a commercial lodging activity

Based on policies stated in the Comprehensive Plan and other plans related to the need to maintain and preserve existing residential opportunities and protect existing residential neighborhoods, staff does not find this request to be reasonable and within the best public interest and does not recommend support of the proposed conditional zoning as proposed.

In response to Vice-Mayor Wisler, Ms. Bernstein said that lodging facilities, which definition includes short-term rentals, is allowed in Community Business I District and Community Business II District, but not allowed in Office District.

Mayor Manheimer asked why the rezoning request is not a straight rezoning request to Community Business II District. Ms. Bernstein responded that the site is conditionally zoned and has particulars that go along with it. It was RM-16 to Office District/Conditional Zoning. Given the nature of the historic landmark for the building as well as the site, the landmark designation went to the landscaping, use of the yard, to artifacts that may be on the site, etc. Staff wanted to give more particular careful consideration to what happens on this site than just a straight rezoning. Also, with a straight rezoning, the applicant could do any use allowed in the Community Business II District. In addition, when the applicant came to staff, he wanted the ability to use the two residential units for long-term rental or have the ability to use them on a shorter-term basis. He was not interested in doing any real commercial activity on the site. When the request originally came in to rezone it to Office District/Conditional Zoning, the landscape requirement in the rear was 20-foot wide property line buffer between Office District and Community Business II District. Staff supported that slight buffer reduction because it had RM-16 on one side and this would be a similar long-term residential use. If that request came in for a lodging use (expected to be more intense), staff would have wanted that 20-foot wide buffer protection in place for the long-term residents on the RM-16 parcel.

Mayor Manheimer was uncomfortable about allowing short-term rentals in this location because it seems like it's a case by case scenario where people come and ask their property to be rezoned for a short-term rental. But, when she looks at the property embedded in the Community Business II District corridor, her initial thought is why isn't this being rezoned to Community Business II District where lodging is allowed. She is not inclined to support this request because she doesn't want to start a precedence where Council allows short-term rentals on a case by case process.

In response to Councilwoman Mayfield, Ms. Bernstein said that staff talked to the applicant about the Office District/Conditional Zoning vs. Community Business II District/Conditional Zoning but because the primary use of the property was for an office and not for a commercial use, the zoning chosen was Office District.

When Councilwoman Mayfield asked if the zoning were changed to Community Business II District/Conditional Zoning would any changes be allowed to the main house, Ms. Bernstein replied that the only changes would be for the two residential units in the back. He would have the ability to use those as short-term rentals.

In response to Councilman Haynes, Mr. Jim Siemens, applicant, said that the buffer was reduced to preserve a tree. He has spoken with neighbors and they have no objection to this request.

In response to Mayor Manheimer, Mr. Siemens said that the buffer cannot be increased because of the property line and building; however, he can build a fence but now there is a bamboo thicket that is very thick.

Mr. Siemens felt this is not a precedent-setting case because this is the only property like it in Asheville with the landmark status that has a combination of uses and a degree of restriction that he has gladly accepted. He has to comply with numerous federal, state and local regulations on this property and has a legal obligation to preserve the property. The conditions approved when his offer on the Patton-Parker House was accepted included conditions included rezoning to Community Business I or II District. He recalled that Stacy Merten, the Executive Director of the Historic Resources Commission, suggested the Office District/Conditional Zoning. It was his mistaken in not looking at the Unified Development Ordinance to see that lodging was not a use in the Office District. He said that he was not planning to do lodging but he didn't want to rule it out in the conditional zoning in August of 2015. In August 2015 he advised his architect to design the new building to make sure that they design it to R-1, which is the lodging code, which is more expensive. He felt this would be the only short-term rental in Asheville that is actually built to a lodging code. He read a portion of the 2010 Plan regarding the Charlotte Street corridor that provided a history of the development of Charlotte Street. He carefully prepared the Patton-Parker House to be a law office by day and it can also be available to the community and people interested in the history by night. He asked for Council's support.

Mayor Manheimer opened the public hearing at 7:02 p.m.

The following individuals spoke in support of the conditional zoning request, for various reasons, some being, but are not limited to: relatively minor change of the two units and will fit into the pattern of the surrounding neighborhood; there is existing lodging in the neighborhood; the applicant has demonstrated an excellent track record in the area; fit into the vision on Charlotte Street; and businesses may not want to come to Charlotte Street because this may been seen as not pro-business area:

Mr. David Nutter
A gentlemen who was the closest full-time resident to the property
Mr. Patrick O'Cain, restaurant owner on Charlotte Street
Mr. James Parker, great grandson of Thomas Patton

The following individuals spoke in opposition of the conditional zoning request, for various reasons, some being, but are not limited to: this will take away long-term housing at a location were they are sidewalks and buses; short-term rental and occasional special events will increase the traffic and noise on the property, along with an increase in commercial activity immediately adjacent to a residential area; possible precedent to lower buffer areas between residential and commercial areas; what will be done about parking for the special events; need for long-term housing units; applicant has other tenants in house to receive additional income; applicant currently receives various tax credits; and applicant didn't have to build to lodging code:

Ms. Grace Curry, resident on Edgemont
Mr. David Rodgers
Mr. Mike Lewis, north Asheville resident

Mayor Manheimer closed the public hearing at 7:21 p.m.

Councilman Bothwell recognized the concerns expressed about spot zoning for short-term rentals; however, he felt this is a different situation because it has commercial properties on both sides, along with the Princess Ann hotel on the same block.

Councilman Bothwell moved to approve the conditional zoning request from Office conditional zone to Community Business II conditional zone with the requested conditions to include lodging as a use on this site, subject to limiting the short-term rental use to the smaller accessory structure and not to the main house, and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) Adjacent zoning to the north and south permits lodging; and, (2) allowing short-term lodging uses does not preclude long-term residential in the future. This motion was seconded by Councilman Haynes.

Councilwoman Mayfield said that the short-term rental aspect does not bother her because she agrees that the area is largely commercial; however, she felt this is a property owner coming to Council to spot-zone specifically for a short-term rental. Whether we are intending to set precedence, she felt we might see more of these.

Vice-Mayor Wisler didn't hear any reason to change the zoning other than the applicant wanting to make more money and that isn't a valid reason to change it.

The motion made by Councilman Bothwell and seconded by Councilman Haynes failed on a 3-3 vote, with Councilman Bothwell, Councilman Haynes and Councilman Young voting "yes" and Mayor Manheimer, Councilwoman Mayfield and Vice-Mayor Wisler voting "no." Councilman Smith was recused from participating in the discussion and vote.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Mr. Richard Fireman urged Council to put more energy into creating Asheville as a solar city.

Ms. Bridget Herring encouraged support for the Energy Innovation Task Force recommendations.

Closed Session

At 7:30 p.m., Councilman Young moved to go into closed session for the following reasons: (1) To prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties - PHG Asheville, LLC vs. City of Asheville; and Kron vs. City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:59 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilwoman Mayfield and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:59 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – April 11, 2017 - 3:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Director of Finance and Management Services Barbara Whitehorn said that this worksession will provided a recap of where we have been and what impact it potentially holds for the operating budget; and review of the basic assumptions and building blocks for the CIP/bond implementation in 2018.

Staff summarized summarize where Council discussions have led us over the past two sessions, using examples of revenue neutral plus three cents for CIP, energy out of CDBG/housing trust, transit assumptions and tree canopy from base budget. Staff then requested Council's preferences and a relative measure of priority for possible additional transit operating budget alternatives, in order to address Council's question about "what can be done without new buses?" Staff then summarized the additional pressures added in building the base budget, recurring and which may qualify for use of non-recurring fund balance.

Regarding the base budget additions - recurring, Ms. Whitehorn noted that the following are included in the General Fund operating budget: Transit south service improvements - full year - $267,000; Reduction in Federal transit funds - $281,143; In-Source temporary labor (10.25 positions added) - $248,000; and Police staffing (15 positions added) - $567,000. This totals $1,363,143.

Ms. Whitehorn then provided Council with the Fund Balance analysis. The Fund Balance above policy minimum is estimated at $1,692,662. She then outlined the following base budget additions - one-time allocations of Fund Balance: Energy Innovation Task Force - $205,000; Tree Canopy Study - $25,000; Payroll/Benefits Audit Recommendations - $200,000; Accident Replacement Fire Truck - $520,000; Police Staffing Vehicles - $384,000; and Election Costs - $275,000. This leaves an estimated balance of $81,662 of unallocated Fund Balance.

Following the review of the operating budget, staff provided details on the 2017-18 capital budget priorities and the major building blocks of the capital program. The existing 5-year capital plan was reviewed with a discussion of projects that have changed in scope, cost or timing. They then reinforced how they are staffing the CIP project management, and said that they plan to leave the base CIP intact while allowing for budget amendments for TIGER VI and RADTIP, as well as specifically earmark $2 million for Walton Street pool and increasing future year allocations for Malvern Hills pool. They also reminded Council about what the bond referendum projects get implemented in 2017-18.

Ms. Whitehorn responded to questions from Council regarding the one-time allocations, in particular the payroll/benefits audit recommendations and possible saving outcomes.

Councilman Bothwell suggested a Request for Proposals be developed for an audit to see how much our banking is costing us. He wondered if there might be a savings in changing banks. A $30,000 audit (one-time allocation from Fund Balance) might cover analyzing our total cost for banking, since that has not happened for over 70 years. Vice-Mayor Wisler responded that at the Finance Committee, they directed staff to look at local banking arrangements and try to figure out whether there are certain functions of our banking that could be taken over by a local bank. That information was requested to come back to the Finance Committee in 60 days.

Councilman Haynes said that his position is not meant to show a lack of support or respect for either Chief Hooper or the APD. The Chief is to be applauded for working with community leaders to come up with a Use of Force Policy, emphasizing de-escalation training and recognizing the importance of building trust in the community. However, he did not support Chief Hooper's request for $1 Million to expand the police force, and that he agreed with the over 500 signees of the petition "A Million Dollars for the People." He would rather see these funds go towards the root causes of crime, poverty, substance abuse and mental illness. Like the County's recently passed measures, we seek ways to keep people in the workforce and out of the criminal justice system. He does not believe this request could have come at a worse time: (1) at a time when African American communities distrust of police forces across our nation are at an all-time high; (2) at a time when over a two-year period roughly 3 people a day have been fatally shot by police in the United States; (3) at a time when police forces across the U.S. are militarized at an alarming rate; (4) at a time when militarized police forces used dogs, water cannons, rubber bullets and other excessive force measures against the peaceful water protectors at the Dakota Access Pipeline; and (5) at a time when at least 18 states including North Carolina have introduced legislation to curb the rights of protesters. Some even suggesting that protesters causing property damage could be charged as economic terrorist.

Councilman Bothwell asked for downtown crime statistics. He felt that increased police patrol makes some people feel more secure but doesn't make any impact on crime. He would like to see studies from other cities on how that increase would decrease crime.

Chief Tammy Hooper provided Council with a PowerPoint outlining the APD's multi-year work plan, noting that the growth of the City has created a substantial increase in demand for services by the Police Department. Calls for service have increased by an average of 1,000 per day for the past eight years and are projected to continue at or above that rate with the City's current planned growth. In Fiscal Year 2016, APD officers responded to over 116,000 calls for service. If growth remains consistent, that number is expected to rise to nearly 121,000 in the next two years. In addition to calls for service, officer workload also includes traffic enforcement, foot and bike patrols, community engagement and many other duties related to community policing. More growth is planned and expected, i.e., South Slope, River Arts District, south Asheville, etc. No officers have been added to address the growth of our City or the increasing demands for police services in those areas. APD is requesting 12 additional officers, two sergeants, and one lieutenant position to address these needs. The addition of these resources is necessary to maintain our current level of service. A minimum of two years will be required to hire and train these positions. She then provided information on various crimes and nuisance crimes in the various locations in Asheville.

In response to Councilman Bothwell, Chief Hooper said that she hoped to get a grant for the $700,000 command post vehicle proposed for in the future.

Chief Hooper responded to Vice-Mayor Wisler when she asked what are some of the things the APD is doing to address the downtown crimes more holistically.

Vice-Mayor Wisler suggested we re-visit the Downtown Improvement District.

In response to Mayor Manheimer, Chief Hooper felt said that these hires would reduce overtime of existing officers. She felt the estimated cost savings when the unit would actually be initiated (July 2019) would be about $375,000 a year.

Councilman Bothwell confirmed that these requested 15 additions would be in addition to the current 20 unfilled vacancies.

Councilman Smith said that Council has received a lot of e-mails about this from people who really want to make sure that City Council is supporting all the people of Asheville and really

interested in assuring justice and equity throughout our community. They've also receive a lot of e-mails wanting to make sure that as our population grows that our police presence can grow along with it and that we can make sure that when you call 911 someone is there fast. There is enormous amount of care for the City of Asheville in all of these things. And we are also in this locally and nationally where we are demanding more accountability from our police forces, and demanding quicker responses from trusted and trained staff. That level of accountability makes perfect sense. He said that officers who choose this line of work choose this life of service to our community. He wanted to acknowledge that and celebrate that at the same time because that call for accountability has been the vilification of many officers who are incredibly ethical and incredibly hard-working who get caught up in a more kind-of blanket move to make sure that police is accountable. He felt that Chief Hooper has embraced the process and policy around use of force and it's going to make us one of the national leaders in the regard. Also, Chief Hooper has been doing bridge building within the department to make sure that the department is working well together and isn't fractionalizing. Also, he commended Chief Hooper for her hiring practices, as well as Critical Incident Training for officers who are too often are front-line mental health responders. He noted that our population is up 28% since 1997. Our police staffing is up 23% since 1997. This proposal would take us to 27%. The 2.9 officers per 1,000 people vs. the state average of 4.8 really resonates with him and even though he didn't know what that number becomes if this proposal goes through, but it certainly doesn't go up to 4.8. He also talked about the dichotomy that is out there - money for the police vs. money for the people. This is not something that resonates with him. He doesn't think that is how this budget process works or how our City should work. We don't have to pit public safety vs. public benefit. This year we are going to have record spending on affordable housing, transit, transportation infrastructure, and our parks. He knows that we are a living wage organization that only gives economic incentives to living wage organizations. And, that we are moving forward with our equity initiatives. He noted that mental health, substance abuse and other social services are not the function of the City of Asheville - they are the function of the County of Buncombe. So, we clearly have an enormous work to do for justice and equity in our community and he doesn't know anyone on this Council who isn't committed. We also have to meet the responsibilities of the public safety of the community. He was open to this request and he's also open to a portion of this request if Council feels it's too big an ask. But he didn't think we can ignore the population rise, the figures that we are seeing from APD, and responsibly turn it down.

Director of Transportation Ken Putnam responded to Councilman Bothwell regarding transit and our capacity with buses.

Councilwoman Mayfield said that Mr. Putnam had provided Council with information on what service expansion options might be absorbed. Those were expanding Sunday service on all routes from 8:00 a.m. to 5:00 p.m.; and adding 8 hours of additional evening hours Monday - Saturday at a total cost of approximately $630,000. She understood that the more the buses are used, the increased rate of replacement. She supported those two options to be funded with a ½ cent tax increase, noting that we need to have a bigger conversation on a capital program for buses, with perhaps dedicating a piece of the tax rate for transit. She stressed that her personal priorities in the base budget would be transit, police and employee raises.

Councilman Young said that he is working on a neighborhood opportunity fund reserve for smaller amounts of money into the hands of neighborhood associations and loosely organized groups. That is still being worked out, but he would like to have a placeholder for a pilot program of $50,000, with the assumption of revisiting it in a year or so to fund the program for 5 years. City Manager Jackson said that upon Council's concurrence, we will have the flexibility of providing the $50,000 out of the estimated balance of $81,662 of unallocated Fund Balance.

Councilwoman Mayfield also supporting the Strategic Partnership Fund grant amount from $158,000 to $200,000.

After discussion, it was the consensus of Council to use the estimated unallocated Fund Balance of $81,662 to increase the Strategic Partnership Fund grant amount by $42,000, have a placeholder of $50,000 for the neighborhood opportunity fund reserve, and direct the City Manager to find the additional approximately $10,000.

All of Council agreed, except for Councilman Haynes, to add to the recurring base budget the Transit south service improvements; Reduction in Federal transit funds; In-Source temporary labor; and Police staffing.

All of Council agreed, except for Councilman Haynes, to include the one-time allocations of Fund Balance: Energy Innovation Task Force; Tree Canopy Study; Payroll/Benefits Audit Recommendations; Accident Replacement Fire Truck; Police Staffing Vehicles; Election Costs; Increase to the Strategic Partnership Fund grants ($42,000); and placeholder for the neighborhood opportunity fund reserve ($50,000).

All of Council agreed to add to the recurring base budget expanding Sunday service on all routes from 8:00 a.m. to 5:00 p.m.; and adding 8 hours of additional evening hours Monday - Saturday (approximately $630,000), and funding that with a ½ cent over revenue neutral and the bonds.

At 4:27 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – April 11, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and Deputy City Clerk Sarah Terwilliger

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MARCH 28, 2017

B. RESOLUTION NO. 17-61 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE WITH THE CITY OF ASHEVILLE ALCOHOLIC BOARD OF BEVERAGE CONTROL FOR REAL PROPERTY AT 179 CHARLOTTE STREET, ASHEVILLE, N.C.

Summary: The consideration of a resolution authorizing the City Manager to enter into a Lease Amendment with the City of Asheville Board of Alcoholic Control for real property located at 179 S. Charlotte Street.

The property at 179 S. Charlotte Street has been in operation as an ABC Store since 1984. The property is improved with a brick building measuring 3,406 square feet on a 0.84 acre lot. As a result of the bond referendum passed in November 2016, the Charlotte Street location is under consideration for redevelopment that includes affordable housing. The ABC Board will need time to find an alternate location, particularly one that is capable of servicing downtown commercial locations (e.g. restaurants, bars) with alcoholic beverages and spirits. At this time, the Board of Alcoholic Control has offered to enter into an amendment to their current lease that is consistent with market based pricing, as follows:

(1) Term of two years and a one year renewal option, subject to Landlord approval
(2) Annual rental fee of $55,075 with a yearly escalation of 3%
(3) Lessee to pay all utilities and maintenance associated with premises
(4) Lease can be terminated by either party on 180 days prior written notice

This lease amendment was developed in accordance with the newly approved City of Asheville Lease Policy guidelines.

In order to achieve market-based pricing, City staff established the rate by commissioning a market rent analysis for this location. The rental rate is consistent with area fair market value for this type of building and use at $16.17 per square foot per year. All proceeds of this lease benefit the Community Development Block Grant budget as Program Income.

The Notice of Intent to enter into a Lease Amendment with the City of Asheville Board of Alcoholic Control was published on March 10, 2017, in the Asheville Citizen-Times. Thirty days have passed since the publication and authorization to execute the Lease Agreement is being requested.

Pros:

- Strategic real property management, through the renewal of lease agreements, presents the City with revenue enhancements, which in this case benefits the Community Development Block Grant program.
- The Asheville ABC Board has consistently agreed to pay fair market lease rates.
- The short lease period frees up the property for other uses, but allows the current tenant time in order to find a new location.
- The City of Asheville Board of Alcoholic Control is a consistent and well established tenant in that location

Con:

- None.

The revenue from the annual rental fee of $55,075 with a yearly escalation of 3% will benefit the Community Development Block Grant as program income.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute the lease amendment agreement with the City of Asheville Board of Alcoholic Control on behalf of the City of Asheville.

RESOLUTION BOOK NO. 38 - PAGE 377

C. REQUEST TO MOUNT A CEREMONIAL PLAQUE ON THE EXTERIOR OF THE MUNICIPAL BUILDING RECOGNIZING THE BRICK WORK OF JAMES VESTER MILLER

Summary: Announcement of a request to have a ceremonial plaque honoring James Vester Miller, a prominent African-American brick mason who performed the bricklaying on the Municipal Building in 1925 and 1926, mounted on the Municipal Building.

The City of Asheville has received a request from Ms. Andrea Clarke, grand daughter of James Vester Miller, to mount a ceremonial plaque on the Asheville Municipal Building honoring Mr. Miller's bricklaying on the Municipal Building.

Pursuant to the City's policy on public naming, Ms. Clarke provided City Council with the request including at least 30 signatures of registered voters of the City. Also pursuant to the policy, Council shall make the announcement at a scheduled public meeting so as to provide for an opportunity to receive input from appropriate sources. Prior to voting, the Council may solicit the advice of surrounding property owners, residents, affected parties, and other City officials or anyone else that the Council believes can contribute meaningful input.

In order to receive that input, Council will make a decision at their next regularly scheduled meeting.

The City Clerk's Office has verified with the Buncombe County Board of Elections that at least 30 signatures on the request are registered voters of the City. In addition, the Director of Historic Resources has verified the information on the request. Finally, Ms. Clarke has submitted three possible locations that she wishes the plaque to be placed. The General Services Director is in the process of reviewing the three locations and will submit a location recommendation at the April 25 meeting.

There will be no fiscal impact to the City as the plaque and mounting will be paid for by Ms. Clarke.

Staff recommends City Council solicit input from the public on mounting a ceremonial plaque on the Municipal Building honoring the brick work of James Vester Miller and his construction firm Miller Construction Company.

Ms. Dee Williams thanked City Council for their consideration of this plaque. She suggested the African American Heritage Commission be tasked with a process to recognize Mr. Miller on other buildings and others who provide service to the community.

Ms. Carol Cosgrove spoke in favor of the commemorative plaque and said we owe a big debt to the African American community and was glad we are going to acknowledge Mr. Miller.

D. RESOLUTION NO. 17-62 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED, ACCEPT FUNDING FROM THE DUKE ENERGY GRANT PROGRAM TO COVER COSTS DUE TO INCREASED STAFFING LEVELS DURING THE 2016 FALL WILDLAND SEASON

Summary: The consideration of a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Grant Program to recover costs due to increased staffing levels during the 2016 fall wildland season.

The 2016 fall wildfire season Western North Carolina experienced was exceptionally busy. During the period that started November 1, 2016 to December 5, 2016, The City of Asheville Fire Department (Fire Department) committed staff and apparatus to support North Carolina Forestry Service and Buncombe County Fire Service neighbors. Due to the increased threat that wildland fire posed to customers within the City of Asheville (City) and the depleted mutual aid resources available to assist with those fires in the city, the decision was made to increase staffing levels. An Engine, staffed with 4, as well as a Brush truck, staffed with 2 were placed in service to quickly and aggressively respond to wildland fire calls. The Fire Department, which responded to 44 outside vegetation fires during the aforementioned period, incurred overtime expenses in the amount of $42,862. Due to the increased response levels, these fires

were mostly contained to an acre or less. It should also be noted that these units were available to Mutual Aid partners to assist with additional wildland fires in their areas, had there been a need.

This action went to the City Council Finance Committee for review on March 28, 2017, with the unanimous recommendation that it move forward to the full Council.

Pro:

- Receiving funds from this grant will reduce the impact this service had on the fire department overtime budget.

Con:

- None Identified

These reimbursement funds, available through the Duke Energy Grant Program and once received will be to fund fire department overtime expenses. If the grant is awarded, staff will return to Council for a budget amendment to appropriate the exact amount of the award.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Duke Energy Grant Program to recover costs due to increased staffing levels during the 2016 fall wildland season.

RESOLUTION BOOK NO. 38 - PAGE 378

E. RESOLUTION NO. 17-63 - RESOLUTION ACCEPTING FUNDS FROM PACEBOOK & ASSOCIATES INC. TO PAY THE ADMINISTRATIVE FEE TO REVIEW A POSSIBLE QUIET ZONE IN THE OAKLEY COMMUNITY

ORDINANCE NO. 4571 - BUDGET AMENDMENT TO SET UP THE PROJECT BUDGET FOR A PAYMENT OF THE ADMINISTRATIVE FEE FOR A POSSIBLE QUIET ZONE IN THE OAKLEY COMMUNITY

Summary: The consideration of a resolution, and its associated budget amendment, to accept a payment of $5,400 from Pacebook & Associates, Inc. that would then be sent to Norfolk Southern to pay the administrative fee to begin the process of a possible quiet zone at the Stoner Road at-grade crossing in the Oakley Community in East Asheville.

Historically, railroads have sounded train horns in advance of grade crossings as a safety precaution. In 2005, the federal Train Horn Rule was enacted, which set nationwide standards for the sounding of train horns. Under the current federal regulations, train horns begin sounding 15-20 seconds before entering public highway-rail grade crossings, no more than one-quarter mile in advance.

The 2005 Rule established a process for communities to obtain relief from the routine sounding of train horns, by providing criteria for the establishment of quiet zones. A quiet zone is a section of a rail line at least one-half mile in length that contains one or more consecutive public highway-rail grade crossings at which locomotive horns are not routinely sounded when trains are approaching the crossing. Train horns may still be sounded in emergency situations or to comply with other rules. Only a public authority, the governmental entity responsible for traffic control or law enforcement at the crossing, is permitted to create quiet zones.

Because the absence of routine horn sounding increases the risk of a crossing collision, a public authority that wishes to establish a quiet zone is required to mitigate this additional risk by installing Supplemental Safety Measures (SSM). SSMs are pre-approved risk reduction engineering treatments installed at public highway-rail crossings, such as a four quadrant gate system. Public authorities seeking to establish a quiet zone must finance the installation of SSM. Costs can vary greatly depending on the number of crossings and type of safety improvements

required. The Federal Railroad Administration strongly recommends that all crossings in a proposed quiet zone first be reviewed by a diagnostic team that includes representatives from the public authority, railroad, State agency responsible for crossing safety and FRA grade crossing managers.

The City of Asheville previously went through the Quiet Zone process and established a 24-hour Quiet Zone at the Lyman Street at-grade crossing in the River Arts District with an effective date of January 8, 2014. Unlike the Stoner Road crossing request described below, the appropriate SSM, which was a four-quadrant gate system, was already in place at the Lyman Street crossing and had been installed during November 2011 at an estimated cost of $540,000. The total additional costs to the City to establish the Quiet Zone was approximately $5,500, which included the administrative fee, warning signs, and pavement markings. A developer also contributed funds to establish the quiet zone.

Pacebook & Associates, Inc. is currently building a 254-unit apartment complex known as River Mill Lofts adjacent to Thompson Street and Stoner Road in the Oakley Community in East Asheville. The developer is interested in having a quiet zone established at the Stoner Road at-grade crossing since the crossing is in the immediate vicinity of the project. Only the City of Asheville, as the public authority having jurisdiction, is entitled to establish a quiet zone at this crossing.

On behalf of the developer, staff reached out to Norfolk Southern to get a preliminary "ballpark" cost to add the appropriate SSM to be able to move forward with a quiet zone. The preliminary cost exceeds $700,000 and the developer has now requested an on-site meeting with Norfolk Southern staff (and City of Asheville staff) to be sure that the cost is accurate.

Norfolk Southern staff will not meet with the developer until the $5,400 administrative fee (current standard administrative fee to review quiet zones) is paid and they won't accept payment from the developer since the developer is not the public authority. As such, the developer has requested that the City accept payment from the developer for the cost of the administrative fee; and that the City request the meeting with Norfolk Southern and submit the administrative fee.

The developer's request, and establishing a quiet zone, would require City Council action. Staff has identified several points of consideration, which are listed below:

- Only the City may apply for and establish a quiet zone - which means the City would be ultimately responsible for the quiet zone any costs required to establish and maintain the quite zone.
- The federal rules regarding quiet zones are intended to remove failure to sound the horn as a cause of action in lawsuits involving collisions that have occurred at grade crossings within duly established quiet zones - however, the courts will ultimately determine who will be held liable if a collision occurs, based on the facts of each case.
- There are several railroad crossings within the City where quiet zones may potentially be established. Is this particular location an area where the City would like to establish a quiet zone and how would the City treat similar requests from citizens in the future (ie: requests to establish a quiet zone where there is not already a sufficient SSM)?

The Public Safety Committee reviewed this item on March 27, 2017, and recommended that it move forward to City Council for review and approval.

Pros:

- If the project moves forward and is successfully accomplished, the quiet zone would eliminate routine train horn sounding at the subject at-grade crossing.
- The appropriate funds are coming from a private source.

Cons:

- If the project moves forward and is successfully accomplished, the City would be ultimately responsible for the quite zone and responsible for half of the annual maintenance cost ($1,200 to $3,800).
- May set a precedent for future requests from private citizens to have the City establish a quite zone in their neighborhood.
- Granting requests to establish quite zones when private parties pay the associated costs, may result in establishing quite zones in areas where citizens can afford to pay the associated costs, as opposed to other areas where citizens live near train crossings and cannot afford the cost to establish a quite zone.

There is no direct immediate fiscal impact to the City. The $5,400 payment is coming from a private source and the City is simply sending it to Norfolk Southern to pay an appropriate administrative fee regarding quiet zones.

Staff recommends that City Council approve a resolution and its associated budget amendment to accept a payment of $5,400 from Pacebook & Associates, Inc. that would then be sent to Norfolk Southern to pay the administrative fee to begin the process of a possible quiet zone at the Stoner Road at-grade crossing in the Oakley Community in East Asheville.

In response to Councilman Bothwell, Transportation Director Ken Putnam said that if Norfolk Southern does approve the appropriate SSM to be able to move forward with a quiet zone, the City will be ultimately responsible for any costs required to establish and maintain the quite zone - approximately $2,000.

RESOLUTION BOOK NO. 38 - PAGE 379
ORDINANCE BOOK NO. 31 - PAGE 176

F. RESOLUTION NO. 17-64 - RESOLUTION AUTHORIZING THE APPROVAL OF THE 2017-18 STRATEGIC PARTNERSHIP FUND GRANTS

Summary: The consideration of a resolution approving the recommendations of the Housing & Community Development (HCD) Committee for the 2016-17 Strategic Partnership Fund.

The HCD Committee received applications from 24 eligible organizations for Strategic Partnership Funds for 2017-18. The Committee considered these applications at their meeting on March 24, 2017, and now recommends 15 applications for funding. The recommendations are:

AGENCY	AWARD
Asheville Area Arts Council	$5,000
Bountiful Cities	$11,000
Children First	$20,000
Getting Back to Basics	$3,500
Green Opportunities	$10,000
Homeward Bound	$30,000
i.b.mee (I Be Me)	$3,700
My Daddy Taught Me That	$20,000

OnTrack Financial	$12,000
One Youth at a Time	$5,000
Positive Changes Youth Ministries	$6,500
Read to Succeed	$5,000
The SPARC Foundation	$13,300
United Way 211	$1,400
YWCA	$12,000
TOTAL	**$158,400**

Total recommended funding is $158 400. This amount is unchanged from last year's Strategic Partnership Fund Program.

This Annual Action Plan directly supports Council's 2036 Vision in the following categories: (1) A Diverse Community: Quality education access and family services will support low-income students. Low-income households will receive financial services; (2) Quality Affordable Housing: Homeless support services, financial counseling and support for low-income neighborhoods; and (3) Thriving Local Economy: Job training, skills' development and job creation.

Pros:

- Approval of the Strategic Partnership Fund provides operating support to Asheville-based organizations that are providing direct services for Asheville residents.
- The Strategic Partnership Fund reflects the carefully considered recommendations of the City's Housing & Community Development Committee.

Con:

- Budget constraints continue to curtail the availability of funds; supported organizations will need to find alternate sources of program support. All worthy proposals could not be funded.

Strategic Partnership Funds are funced from the City's general fund. The funding recommendations do not exceed the fiscal limits included in the FY 2017-2018 Budget of $158,400.

The HCD Committee recommends approval of the 2017-18 Strategic Partnership Fund grants as presented.

The following individuals spoke regarding the inadequate funding for the worthy proposals that submitted requests, noting that they understood the fund was increased to $200,000 next fiscal year but that is still not enough:

Dawn Chavez, representing Asheville GreenWorks
Libby Kyles, an elementary school teacher
Dewana Little, Director of Positive Changes Youth Ministry
Nicole Hinebaugh, Program Director of Bountiful Cities
Timothy Sadler

Councilman Smith said that the meeting where the funds were allocated was a difficult meeting and this illustrates how much need is going unmet in our community. The cost for these programs is being pushed from the state and federal levels to municipalities. Even though we will probably never have enough to meet the needs, that responsibility is rapidly shifting to our shoulders. He felt the community also needs to reach out to our state and federal representatives because these are common values.

Councilman Young said that even though the CDBG funds may go away with the financial shift going to local governments, he, as well as this Council, will continue to advocate for the worthy programs. He can't promise that everyone who has an ambition to help others will get funded, but he will try to make sure most of our community is able to keep us in good standing with each other. He is working on a neighborhood opportunity fund, noting that to those that did apply and did not get funds, there are things that are in the works.

Councilman Bothwell said that there are so many good projects but not all of them can get funded and those that get some funds, it's not all of what they need. He stressed how difficult it is to appropriate the allocated funds.

Mayor Manheimer said it was important for people to understand there is a strategy from the top down to force the cuts on non-profits from the federal and state level, to push these decisions and funding burdens on local government. She explained how this decision-making process is really challenging each year. There are so many great initiatives, but we must work within the parameters we have.

RESOLUTION BOOK NO. 38 - PAGE 380

G. RESOLUTION NO. 17-65 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH PATTON CONSTRUCTION COMPANY TO MODERNIZE THE CIVIC CENTER GARAGE ELEVATOR

Summary: The consideration of a resolution authorizing the City Manager to enter in a contract with Patton Construction to modernize the Civic Center Garage elevator.

The three oldest City owned parking garages, Civic Center, Rankin Avenue, and Wall Street, are starting to show age related deterioration. To forestall this, Parking Services is conducting parallel programs to systemically evaluate the structures and elevators to determine their current condition and to plan on how to continue to maintain them for the long term.

In 2016, the City published a Request for Qualifications for interested engineering firms to evaluate the elevators in the three oldest garages. The Wooten Company was chosen and entered in to a contract with the City for evaluation, design, bid, and construction management services for the elevators. The Wooten Company completed the initial condition evaluations in late summer 2016. As expected of elevators between 28 and 40 years old, they require extensive rehabilitation to bring them up to current codes and standards. The 40 year old Civic Center Garage elevator is in the worst shape and selected for modernization first.

The Civic Center Garage elevator is an eight story cable mechanism that is hopelessly out of date and plagued by frequent malfunctions. At times the City's elevator repair company has to have parts handmade to keep it in operation. The engineer determined, that as quickly as possible, the whole thing needed to be replaced and the mechanical room brought up to current building and fire safety standards, to include fire suppression and alarm systems. Repairs will include replacing the elevator car and associated hoisting mechanisms, replacement of all control mechanisms in the mechanical room, structural repairs to the mechanical room, and additions of fire suppression and alarm systems in the mechanical room. The Wooten Company prepared the design and specifications for repairs in the fall of 2016. On January 3, 2017 the City published a

Request for Bids, for interested construction companies, with a proposal due date of February 3, 2017. On that date, the City received two bids. Another Request for Bids with a due date of February 24, 2017 was issued. On that date, again the City only received two bids. The apparent responsive company with the lowest bid was Patton Construction Company at $339,950.00. The Wooten Company has evaluated Patton Construction Company's bid, researched the firm, and contacted references of prior work. They have determined and recommended it as a responsible bid and that Patton Construction is capable of completing the work.

Pros:

- Improves customer service in the garage by proving safe and reliable elevator service.
- Brings the elevator and mechanical room up to current building and fire safety codes.

Cons:

- The elevator will be out of service for about 90 days while the car and hoist mechanisms are replaced.
- Expenditures of $339,950.00.

Funds for the project are available in Parking Services' FY 17 Capital Budget. The construction bid and contingency of $355,000 is less than the original budget estimate of $493,400.

City staff recommends City Council adopt a resolution authorizing the City Manager to enter in a contract with Patton Construction Company in an amount not to exceed $355,000.00 (bid amount plus contingency) for modernization of the Civic Center Garage elevator.

RESOLUTION BOOK NO. 38 - PAGE 381

H. ORDINANCE NO. 4572 - BUDGET AMENDMENT FROM THE N.C. DEPT. OF PUBLIC SAFETY TO PROVIDE REGIONAL HAZARDOUS MATERIALS EMERGENCY FOR REGION 6

Summary: The consideration of a budget amendment, in the amount of $6,000, from the N.C. Dept. of Public Safety, for State Regional Hazardous Materials Response Team Number 6.

On June 26, 2016, the N.C. Dept. of Public Safety and the City of Asheville signed the Notice to Proceed for the contractual agreement to the City of Asheville (City) for Hazardous Materials Emergency Response Services for contract years of July 1, 2016 through June 30, 2020. The signed contract agreement increased the level of Training Funds from the previous contract of $19,000 per calendar year to $25,000 per calendar year. The increase of $6,000 was not captured in the FY 2017 budget due to the contract timing. The City of Asheville Fire Department (Fire Department) requests a budget amendment in the amount of $6,000 for fiscal year 2017 to reflect this revenue increase.

North Carolina is divided into seven geographical regions for the purpose of hazardous material emergency response. The North Carolina Department of Public Safety contracts with municipalities across the state to respond into the geographical regions and provide technician level hazardous materials emergency response. Within the Contract for Hazardous Materials Regional Response Team Services, NC provides funding for training and education to maintain subject matter mastery so that the team can safely respond to incidents involving hazardous materials and/or acts of terrorism.

This action went to the City Council Finance Committee for review on March 28, 2017, with the unanimously recommended it move forward to the full Council.

Pros:

- The State of North Carolina provides funds for training members of the Fire Department to enable it to competently handle hazardous materials emergencies. This amount was increased at the last contract renewal from $19,000 per calendar year to $25,000 per calendar year.
- The City has full use of the truck and all specialty equipment within the City. Without this contract, Asheville taxpayers would need to provide much of resources necessary to properly respond to emergencies within Asheville. With the contract, the City has the benefit of the equipment and resources being funded at the state level, rather than at the local level.
- Firefighter and community safety will be enhanced.

Con:

- None have been identified or known at this time.

This budget amendment will increase the Fire Department's General Fund budget by $6,000 and is entirely funded with revenue from the N.C. Dept. of Public Safety.

City staff requests City Council adopt the budget amendment to increase the Fire Department Training budget by $6,000 to reflect this increase in training funds received from N.C. Dept. of Public Safety to provide regional hazardous materials emergency response for Region 6.

ORDINANCE BOOK NO. 31 - PAGE 169

I. RESOLUTION NO. 17-66 - RESOLUTION ADOPTING THE COMMUNITY DEVELOPMENT BLOCK GRANT POLICY AND PROCEDURE MANUAL

Summary: The consideration of a resolution adopting the Community Development Block Grant Policy and Procedure Manual for the City of Asheville.

The City of Asheville (CCA) is an entitlement jurisdiction for federal formula grants through the U.S. Department of Housing and Urban Development's (HUD) Community Development Block Grant (CDBG) Program. The intent of the grant funds is to provide decent housing, provide suitable living environment and to expand economic opportunities, primarily for low and moderate-income persons. Basic requirements for a local CDBG program are set forth in CDBG Program Regulations 24 CFR Part 570. Federal requirements allow extensive leeway for how a local CDBG program shall be managed. Local community needs, resources, priorities and procedures for managing the CDBG program have been approved by the City Council in the past as part of the City's five-year Consolidated Plan for the Community and Economic Development Department. In addition, each year City Council approves the current year's Action Plan which includes objectives and outcomes identified in the plan, an evaluation of past performance and activities to be undertaken in the next year. Although both the Consolidated Plan and the Action Plan describe the performance standards and procedures City staff will use to evaluate and monitor activities and ensure compliance with HUD requirements, it is necessary to outline and document all programmatic policies and procedures.

The City of Asheville Community Development Block Grant program generally funds public entities or nonprofit organizations to serve as a subrecipient to assist low to moderate income residents. In this role, subrecipients are responsible for screening applicants for eligibility, adhering to program requirements and administering the CDBG program.

24 CFR 570.501(b) states that "The recipient of HUD funds is responsible for ensuring that CDBG funds are used in accordance with all program requirements. The use of designated public agencies, subrecipients, or contractors does not relieve the recipient of this responsibility."

The proposed policy anc procedure manual include:

- General CDBG program rules, regulations and requirements;
- Basic eligibility requirements for subrecipients and low to moderate income participants;
- A listing of ineligible activities;
- Financial responsibilities of subrecipients;
- Explanation of records to be mainta ned;
- How to obtain CDBG funding;
- Detailed home repair and rehabilitation requirements of a program;
- Outline of other federal requirements with a CDBG program;
- And staff monitoring process to ensure CDBG compliance requirements is met.

At HCD's and staff's request, community agencies utilizing CDBG funds were invited to comment on and make suggestions for the policy manual. Comments and suggestions were received and incorporated into the final document.

Pro:

- Ensures City of Asheville compliance with HUD regulations in administering Community Development Block Grant funds

Con:

- None

No fiscal impact. CDBG funds themselves come directly from the federal government.

Staff recommends City Council approve the HCD Committee's recommendation to adopt the CDBG policy and procedure manual, and authorize the City Manager to direct implementation.

RESOLUTION BOOK NO. 38 - PAGE 382

J. ORDINANCE NO. 4573 - BUDGET AMENDMENT TO REFLECT UPDATED FISCAL YEAR 2016-17 REVENUE AND EXPENDITURE PROJECTS FROM THE U.S. CELLULAR CENTER

Summary: The consideration of a budget amendment, in the amount of $460,000 from U.S. Cellular Center Operating Revenue, to increase the U.S. Cellular Center Fund budget to reflect updated Fiscal Year 2016-17 revenue and expenditure projections.

The US Cellular Center event load in FY 2016-17 has been significantly higher than initially forecasted during last year's budget process as numerous large scale events have been added during this fiscal year. Both revenues and expenses are now on pace to exceed budget. The center will, during early 4th quarter, collect revenues equal to that which was budgeted for the entire fiscal year. In order to fund anticipated expenses over the last quarter of the current fiscal year, staff is recommending that the U.S. Cellular Center Fund budget be increased by $460,000. It is anticipated that revenue generated by concessions & other show related revenues will cover all of the cost of the budget amendment; therefore, no additional transfer from the General Fund is required at this time. The U.S. Cellular Center has several events scheduled before June 30 that will generate significant revenues.

This amendment has been presented to the Civic Center Commission and recommended to City Council.

Pro:

- Provides sufficient budget authorization for anticipated expenditures in the U.S. Cellular Center Fund without increasing the General Fund transfer.

Con:

- There is a slight chance that year-end revenues could fall short of current estimates if ticket sales are less than expected or concession revenues are lower, however in this case expense needs will be reduced as well.

As noted above, this budget amendment is funded with U.S. Cellular Center operating revenues that will exceed original budget estimates. Therefore, there is no expected impact to the City's General Fund budget.

Staff recommends City Council adopt a budget amendment to increase the U.S. Cellular Center Fund budget by $460,000 to reflect updated Fiscal Year 2016-17 revenue and expenditure projections.

ORDINANCE BOOK NO. 31 -PAGE 171

K. RESOLUTION NO. 17-67 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR, AND IF AWARDED ACCEPT, FUNDING FROM THE FEDERAL EMERGENCY MANAGEMENT ADMINISTRATION TO RECOVER COSTS ASSOCIATED WITH THE MUTUAL AID RESPONSE FOR THE PARTY ROCK WILDFIRE

Summary: The consideration of a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Federal Emergency Management Association, Fire Management Assistance grant, to cover costs associated with the mutual aid response for the Party Rock Wildfire.

The 2016 fall wildfire season Western North Carolina experienced was exceptionally busy. From November 11, 2016 to November 25, 2016, the City of Asheville Fire Department (Fire Department) committed staff and apparatus to support Buncombe County Fire Service neighbors at the Party Rock Fire, near Chimney Rock. The Fire Department crews were committed to protecting structures around the clock during this time, as well as maintaining the fire line around the fire boundary. This effort was staffed and resourced at a total cost of $23,354 as detailed below:

Resource	Cost
Overtime	$11,421
Equipment	$11,933
TOTAL	**$23,354**

This action went to the City Council Finance Committee for review on March 28, 2017, with the unanimous recommendation that it move forward to the full Council.

Pro:

- Receiving funds from this grant will reduce the impact providing this service had on the Fire Department's overtime budget.

Con:

- None Identified

These reimbursement funds, available through the Fire Management Assistance Grant, will reimburse the Fire Department for overtime expenses and equipment costs. If the grant is awarded, staff will return to Council for a budget amendment to appropriate the exact amount of the award.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for, and if awarded, accept funding from the Federal Emergency Management Association, Fire

Management Assistance grant, to cover costs associated with the mutual aid response for the Party Rock Wildfire.

RESOLUTION BOOK NO. 38 - PAGE 383

L. ORDINANCE NO. 4574 - BUDGET AMENDMENT TO FUND ADDITIONAL FULL-TIME EMPLOYEES, PERMANENT PART-TIME AND TEMPORARY/SEASONAL STAFF TO REPLACE THE CONTRACT STAFFING IN THE PUBLIC WORKS DEPARTMENT

Summary: The consideration of a budget amendment from General Fund fund balance in the amount of $45,285 to fund additional full-time employees (FTE), permanent part-time and temporary/seasonal staff to replace contract staffing in the Public Works (PW) Department.

The City of Asheville has contracted to provide temporary laborers to the U.S. Cellular Center (USCC) and PW Department for several years. In the past year, the City conducted an analysis of its practice of utilizing a temporary workforce for certain services in the City.

Staff has been working to identify various services these temporary workers provided. A breakdown of the various types of services is listed in the table below.

Department	Division	Service
Public Works	Streets	Litter collection and graffiti removal
Public Works	Sanitation	Brush collection
Community and Economic Development	USCC	Food & Beverage - Inventory/Setup
Community and Economic Development	USCC	Operations/Maintenance

Additionally, staff identified and evaluated the various ways in which the service is delivered and considered the time and number of work hours necessary to provide the service.

These services are included in the current operating budget at $317,000 annually. The FY 2016-17 Budget has proven inadequate to the level of service required. An additional $117,717 is needed to allow PW and the US Cellular Center to continue to provide the existing level of service through the end of FY 2016-17. USCC's portion of the funding ($72,432) is included in the budget amendment that is a separate agenda item at the April 11, 2017, City Council meeting. The PW share of the cost $45,285) will be appropriated from General Fund fund balance as a part of this action item.

Four options for continued service were presented to Finance Committee on March 28, and the Committee recommended that staff bring Option 2 to full Council on April 11 for approval.

Option 2 (Finance Committee recommended):

- Adding full-time staff to crews that are not fully staffed;
- Part-time staffing for work that does not require full-time staff; and,
- Temporary staff for large events at the USCC or high volume brush collection services (seasonal).

Additional Budget FY 2016-17: $117,717

Net increase in annual cost (FY 2017-18 Budget): $248,000
TOTAL ANNUAL COST: $565,000

Pros:

- Provides for staffing to meet the City's service demands.
- Services would be provided by staff that are paid a living wage.

- Less expensive than options 3 and 4.

Cons:

- Hiring full-time and part-time employees provides less flexibility to right-size staff during more challenging economic times.
- Does not include the flexibility of a temporary labor pool that is created under options 3 and 4.
- More expensive than Option 1.

The 2016-17 additional cost is $117,717. The annual operating budget increase for FY 2017-18 is $248,000.

City staff recommends City Council adopt a budget amendment from General Fund fund balance in the amount of $45,285 to fund additional full-time employees , permanent part-time and temporary/seasonal staff to replace contract staffing in the Public Works (PW) Department and endorse the Finance Committee recommendation of Option 2, directing the City Manager to include funds in the FY 2017-18 budget to cover the additional costs.

ORDINANCE BOOK NO. 31 - PAGE 173

M. RESOLUTION NO. 17-68 - RESOLUTION APPROVING EARLY REPAYMENT OF THE SECTION 108 LOAN ON THE WOODFIN APARTMENTS BY THE HOUSING AUTHORITY OF THE CITY OF ASHEVILLE AND REPURPOSING THOSE FUNDS FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAMMING

Summary: The consideration of a resolution for early repayment of the Section 108 loan on the Woodfin building by the Housing Authority of the City of Asheville and repurposing those funds for CDBG programming.

A Section 108 loan was made to the Housing Authority in 2004 for the rehabilitation of the Woodfin Apartments. This building contains 19 units of affordable housing, and is currently occupied by formerly homeless households who have had the highest barriers to housing in partnership with Homeward Bound – sometimes referred to as "hard to house". The original loan was made in the amount of $620,000, at 5% interest, with monthly payments. These regular payments (and payments from other old section 108 loans) have been used exclusively to make interest and principal payments on the Section 108 loan that was obtained for the Eagle Market Street development (now Eagle Market Place). HUD CDBG "Program Income" (which this is) must be used for CDBG eligible purposes, and the repayment of Section 108 loans is one of those purposes. Current principal owed is $554,895.

The Housing Authority has requested an early repayment of this loan, with a discount applied for early repayment. Staff recommends 50% of principal payoff with commitment by the Housing Authority to retain the Woodfin Apartments as affordable housing for the hard-to-house for a minimum period of 20 years, affordable to households at 60% or less AMI.

Staff also recommends reinvesting the approximately $270,000 as CDBG program income to be considered as part of the 2017-2018 Annual Action Plan for HUD.

Pros:

- Approval of the Section 108 Loan Payoff proposal secures affordable housing for the hard-to-house population for a minimum of 20 years
- Provides approximately $270,000 for additional CDBG-eligible proposals in the 2017-18 HUD Annual Action Plan.

Con:

- The 50% discount applied to the early repayment reduces the amount of income from this loan repaid on original payment schedule.

Additional approximate $270,000 for 2017-18 CDBG funds, reduced loan repayment from original payment schedule.

HCD recommends to City Council adopt a resolution for the early repayment of the Section 108 loan on the Woodfin Apartments under the terms above, and the reinvestment of those funds as CDBG program income.

Councilman Smith said that the $270,000 will be returned to the CDBG fund and re-distributed in our community in a quicker fashion.

RESOLUTION BOOK NO. 38 - PAGE 384

N. RESOLUTION NO. 17-69 - RESOLUTION AUTHORIZING THE SALE OF ONE 2005 WESTERN STAR DUMP TRUCK DEEMED SURPLUS CITY PERSONAL PROPERTY

Summary: The consideration of a resolution authorizing the sale of one 2005 Western Star Dump Truck deemed surplus City personal property.

The City's Water Resources Department, Division of Maintenance, identified a 2005 Western Star Dump Truck, as surplus personal property, with no anticipation of utilization by the City. Pursuant to N.C.G.S. §160A-266, the Sale and Disposal of Personal Property valued at $30,000 or more must be approved by City Council. The City's Purchasing Manager has authority to dispose of personal property valued at less than $30,000 by private negotiation and sale. The estimated value of the Western Star Dump Truck is listed at $5,000. Bids were solicited online and received from twelve potential purchasers. The final bid amount at the close of the Auction on Sunday, April 2, 2017, was $51,000.00. City Council is being asked to approve the disposal and sale of the Dump Truck for $51,000.00.

Pros:

- Promotes City of Asheville fiscal responsibility of disposing of surplus property which generates revenue.
- Space utilization eliminates the need to store large, unused equipment.
- Competitive process yielded market price, statute contemplates.

Con:

- None

The Dump Truck is fully depreciated and the Water Resources Fund will recognize the entire $51,000 as revenue from the sale of assets. This adds to programming available for Water Resources Department Plan of capital improvements.

City staff recommends City Council adopt a resolution approving the disposal and sale of the 2005 Western Star Dump Truck to the perspective purchaser for the amount of $51,000.

In response to Councilman Bothwell, Purchasing Manager Amy Patterson said that we were lucky to have 12 bidders and were lucky to get that value out of the dump truck.

RESOLUTION BOOK NO. 38 - PAGE 385

O. RESOLUTION NO. 17-70 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A BUNCOMBE COUNTY TOURISM DEVELOPMENT

AUTHORITY FROM THE 2016 TOURISM PRODUCT DEVELOPMENT FUND CYCLE

ORDINANCE NO. 4575 - BUDGET AMENDMENT TO SUPPORT RENOVATIONS AND IMPROVEMENTS AT THE U.S. CELLULAR CENTER

Summary: The consideration of (1) a resolution authorizing the City Manager to accept a grant awarded by the Buncombe County Tourism Development Authority's (TDA) Tourist Product Development Fund; and (2) a budget amendment in the amount of $3,290,600 to support renovations and improvements at the U.S. Cellular Center, along with the City's matching funds.

At the May 17, 2016, City Council meeting, council approved a resolution (#16-118) authorizing 'The City Manager to submit a preliminary and final grant application to the Buncombe County Tourism Development Authority for the 2016 Tourism Product Development Fund cycle, and accept if awarded.'

In October of 2016, after preliminary and final grant application, staff was advised that the City had indeed been awarded a grant in the amount of $1,500,000. Per the grant application, the total amount of the City's match for this grant is $1,790,600 as TPDF grants will match 50/50 on construction cost with the award recipient required to cover all design fees. The City's match will be funded from the following accounts:

- USCC Capital Fund: $375,000
- COA CIP 16/17: $315,600
- COA Green CIP: $100,000
- COA Economic Development Savings: $1,000,000

These funds were identified prior to submission of the application in 2016 and placed in a reserve for the grant match.

The grant contract, based heavily on the City's grant application has the following highlight conditions set as deal points:

1. Providing the Grantor with continuation of exclusive naming rights to the ExploreAsheville.com Arena, for eight years after receipt of the last grant payment received from the Grantor associated with this project.
   Staff Note The Facility's arena is currently named as the ExploreAsheville.com Arena.
2. Requirement to submit annual reports to the TDA through four years after the completion of the project.
   Staff Note USCC Staff is already completing annual reports as part of past grants received from the TDA.
3. Requirement to 'source' all in-bound groups requiring ten or more hotel rooms per night through the CVB Group Sales Department.
   Staff Note USCC staff is already sourcing these groups through the CVB Group Sales Department.
4. Requirement for USCC to provide free use of space for Grantor to host an event once annually for eight years after receipt of the last grant payment received from the Grantor associated with this project.
   Staff Note USCC is currently providing the CVB with free use of space once annually per requirement from past grant contracts. Cost to USCC for this has averaged at under $2,000 annually.
5. Requirement for a 'Rental Fee Waiver' for five 'Group Events' occurring between 2018 and 2025, with no more than one 'Group Event' occurring in any given calendar year during that time. A 'Group Event' is defined as a

group sourced through the CVB Group Sales Department meeting the following criteria;

i. A minimum of two contracted hotels would be used to provide delegate housing;
ii. A minimum of 700 cumulative room nights contracted;
iii. The group has a verifiable meetings history; and,
iv. The group agrees to a minimum cumulative food, beverage and concession spend of $10,000 with the U.S. Cellular Center during the contracted event.

The 'Rental Fee Waiver' program covers base rental costs (excluding AV, F&B, staffing costs, etc.) for the contracted length of the event.

Staff Note Although providing the facility with a rental cost of $0, the USCC sill earn a substantial amount of revenue by bringing groups of this size to Asheville. A group of this size hosting an event for 3 days or more will generate a minimum of $60,000 in revenue to the facility over and above revenues generated from rent.

The project is to construct a comprehensive set of improvements and enhancements to the facility which will increase the venue's ability to host larger conferences and additional concert/performance events. The project wil create another venue within the facility by building a theater inside the ExploreAsheville.com Arena with a flexible capacity between 2,500 and 4,500 as needed. The overall project will include the following elements:

1. Meeting room renovation: Conversion of a current storage area to a permanent meeting room equal in capacity to the facility's second largest room, complete with all necessary audio/visual and internet needs.

2. Arena Theater System and Sound & Light Package: Purchase & installation of equipment and materials to create a flexible capacity theater within the ExploreAsheville.com Arena. This theater system will come equipped with the necessary curtaining, trussing, sound and light equipment necessary for a basic concert or performance event. Sound and light components are mobile equipment which will have the ability for use in both the Thomas Wolfe Auditorium and the ExploreAsheville.com Arena, allowing for more frequent use and ability to generate additional event dates.

3. Related Infrastructure: Converting storage space into meeting space & creating temporary 'walls' via theater curtain will require additional infrastructure updates to the facility in order for all components to function. This includes expanding current storage areas in the facility's exhibit level, Internet infrastructure enhancements and significant improvements to the facility's HVAC system.

Pros:

- City Council has identified the need to use our debt capacity and revenue wisely in order to maintain and improve the City's infrastructure.
- The TDPF is a significant funding opportunity and is the keystone to allowing these improvements to take place.
- The improvements will allow the facility to operate one step closer to revenue neutral.

Con:

- Requires a City match of $1,790,600.

Per the grant application, the total amount of the City's match for this grant is $1,790,600. The City's match will be funded from the following accounts:

- USCC Capital Fund: $375,000
- COA CIP 16/17: $315,600

- COA Green CIP: $100,000
- COA Economic Development Savings: $1,000,000

Staff recommends City Council approve 1) a budget amendment in the amount of $3,290,600 to budget an awarded grant by the Buncombe County Tourism Development Authority's (TDA) Tourism Product Development Fund (TDPF) to support renovations and improvements at the U.S. Cellular Center, along with the City's matching funds; and 2) a resolution authorizing the City Manager to accept the TPDF Grant with conditions.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. RESULTS OF RE-DISTRICTING POLL

Mr. Tige Watts, representing Campaign Research & Strategy, Inc., used a PowerPoint to explain his results. He provided Council with the background the methodology. The goal of this research is to determine perceptions and attitudes of residents who live in the City of Asheville on a number of issues which include: (1) how well the city is represented by its current composition of City Council, (2) their support of or opposition to potential ballot items that might alter how citizens select their council members, and (3) their agreement levels to several statements people could make in relation to measures that may be on the ballot and how citizens should elect members of City Council in the future. CRS and the City of Asheville worked together to define the survey instrument and the final version of the questionnaire was approved by City staff before it was put "into the field."

403 telephone surveys were conducted with registered voters of the City of Asheville by CRS' in-house interviewers between the evenings of March 20th and March 22nd, 2017. Interviews were conducted with respondents over land line and on mobile phones.

The representative sample of the City of Asheville, NC was randomly selected with respect to voter registration records of the city and are reflective of turnout during a typical November election cycle. All survey respondents were 18 years of age and older.

The margin of error for this study is 4.9% at a confidence interval of 95%. This means if the study were repeated 100 times, then the results would be within that 4.9% margin of error 95 times out of 100. The margin of error within specific demographic subsections would be higher.

There may be instances when figures do not always equal 100.0 percent, due to rounding of decimals.

He gave the results of residents' perceptions on several questions. Questions were (1) what would you say is the number one challenge here in the City of Asheville; (2) how would you rate the performance of the Asheville City Council this past year; (3) do you believe your voice and your personal opinions are represented fairly on Asheville City Council; and (4) do you believe the voices of people who have different opinions than you are represented fairly on Asheville City Council.

He provided the results for the following (1) The Mayor and 6 other members of City council are all currently elected at-large, which means every voter in the city gets to cast a vote for each seat on City Council. There has been consideration in the past to replace that system with one that elects the 6 members of City Council from single-member districts they represent. Do you believe Asheville should KEEP its current system of electing at-large representatives or should it CHANGE to electing its members from single-member districts? (2) Do you believe City Council should put a measure on the ballot that asks voters how members of City Council should be elected; (3) If there were a question on the ballot that read... "Shall the City of Asheville amend the Asheville City Charter to require each City Council Member shall reside in, and be elected from, a single-member district by a majority of the qualified voters of each respective district," Would you vote YES in favor of the change or NO against the change to single-member districts?; (4) Of the 16 cities with the largest populations in North Carolina, 3 elect council members from single-member districts only and another 3 elect them from at-large seats only. However, 10 elect council members from both single-member AND at-large seats. Would you SUPPORT or OPPOSE the City of Asheville electing its members to city council from both at-large and single-member districts?; (5) What do you believe is the proper amount of at-large seats to have on a 7-member City Council; and (6) If single-member districts do end up ultimately being created for City Council, it will require drawing boundary lines for an undetermined number of districts. City Council is ultimately responsible for approving boundary lines. Who do you prefer have the power to DRAW those boundary lines? Should it be (a) an independent third party; (b) a task force working with a third party; (c) City Council working with a third party; or (d) not sure.

He then provided the results for the questions related to the 5 different ways a city council can be constructed, according to state law. He asked that after he read the description of each one, to please tell him if you think the type of council would work best for Asheville. 5 means it's the best fit, 1 means it's the worst fit... (1) All City Council representatives are elected to at-large seats that are chosen by all voters in the City of Asheville; (2) All City Council representatives are elected form single-member districts by voters in each district of City Council; (3) Some City Council members are elected to at-large seat chosen by all voters while other members are elected to serve single-member districts by voters in each district; (4) Each district is represented by two members. One member is elected by voters in the district and the other member is elected by all voters in the City; and (5) Most Council members are elected from single-member districts while some may be elected to at-large seats. This happens after voters in each contest choose two candidates in each race to advance past a primary election.

When individuals were asked about who should have the power to draw the boundary lines, 34% wanted an independent third party, 23% wanted a task force with an independent third party, 19% wanted City Council working with an independent third party, and 16% were not sure.

In summary, the following is the analysis and recommendations for the single-member district only: Overall support to change to All Single-Member seats trails the support to keep ALL At-Large seats by 20%. Support to KEEP all at-large seats is higher among voters age 51-64 (65%), other races (60%), registered Democrats (67%), in Zip Codes 28801 (62%) and 28806 (61%), and among those who vote in municipal elections (63%). Support to CHANGE to all Single-Member seats is higher among voters under age 35 (38%), African-Americans (54%), males (41%), Registered Republicans (45%) and Independents (39%), in Zip Codes 28803 and 28805 42%), and among those who don't vote in municipal elections (42%).

In summary, the following is the analysis and recommendations for single-member and at-large seats: Overall support to keep ALL at-large seats is greater than the support to CHANGE to single-member AND at-large seats for City Council. Support to KEEP all at-large seats is higher among voters age 51-64 (53%), other races (65%), registered Republicans (55%), and in Zip Codes 28801 (60%), and 28804 (56%). Support to CHANGE to a system of single-member and at-large seats is higher among voters under age 35 (31%), African-Americans (35%), Registered Independents (32%), and in Zip code 28803 (34%).

Ultimately, he felt there is a lot of fluidity on this issue. Some want change, but when they get into the details, they are more resistant to change.

After considerable discussion, noting that time is a factor to get an issue on the ballot, it was the consensus of Council to instruct the City Attorney and City Manager to come back to council and lay out a time line with options for how to move forward for an independent commission that will ultimately result on a ballot question regarding districts.

Mayor Manheimer updated Council on two water-related bills Representative Chuck McGrady recently filed.

IV. PUBLIC HEARINGS:

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

The following individuals spoke to Council about the $1 Million request for additional officers would be better spent on people and other life changing resources:

Ms. Nicole Townsend
Rev. Amy Cantrell
Ms. Matilda Bliss
Ms. Dewana Little

Ms. Dawn Chavez, representing GreenWorks, provided Council with information on the numerous projects and costs associated with those projects, noting that 85% of the projects take place within the City. She thanked Council for their financial investment in GreenWorks.

Mr. Timothy Sadler suggested the Buncombe County Tourism Development Authority create a committee to look at issues the community faces and develop a strategy to help address those issues.

Mr. Elliott Miller, Mr. Tariq Zeidan and a gentlemen commented and raised questions on the districting poll.

Closed Session

At 7:01 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To discuss matters relating to the location or expansion of industries. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(4). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:06 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Young and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 7:06 p.m.

Magdalen Bouldson
CITY CLERK

Ethan G. Harker
MAYOR

Tuesday – April 25, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING APRIL, 2017, AS "PARKINSON'S DISEASE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming April, 2017, as "Parkinson's Disease Awareness Month" in the City of Asheville. He presented the proclamation to Ms. Nancy Hall, and others, who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING APRIL, 25, 2017, AS "METASTATIC BREAST CANCER AWARENESS DAY"

Councilwoman Mayfield read the proclamation proclaiming April 25, 2017, as "Metastatic Breast Cancer Awareness Day" in the City of Asheville. She presented the proclamation to Ms. Jean Sellers of the North Carolina Oncology Navigators Association, Dr. Rachel Raab, and others, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING APRIL, 25, 2017, AS "NATIONAL DAY OF PRAYER"

Councilman Young read the proclamation proclaiming April 25, 2017, as "National Day of Prayer Day" in the City of Asheville. He presented the proclamation to Ms. Karen Brooks, who briefed City Council on some activities taking place during the day.

D. PROCLAMATION PROCLAIMING APRIL, 2017, AS "STAND AGAINST RACISM MONTH"

Vice-Mayor Wisler read the proclamation proclaiming April, 2017, as "Stand Against Racism Month" in the City of Asheville. She presented the proclamation to YWCA CEO Beth Maczka and YWCA Racial Justice Coordinator Gerry Leonard, who briefed City Council on some activities taking place during the month.

E. PROCLAMATION PROCLAIMING MAY, 2017, AS "BUILDING SAFETY MONTH"

Councilman Smith read the proclamation proclaiming May, 2017, as "Building Safety Month" in the City of Asheville. He presented the proclamation to Chief Code Official Mark Matheny and others, who briefed City Council on some activities taking place during the month.

F. PROCLAMATION PROCLAIMING MAY 7-13, 2017, AS "NATIONAL DRINKING WATER WEEK"

DRINKING WATER WEEK"

Councilwoman Mayfield read the proclamation proclaiming May 7-13, 2017, as "National Drinking Water Week" in the City of Asheville. She presented the proclamation to Water Resources Director Jade Dundas and Interim Resources Director David Melton who briefed City Council on some activities taking place during the week.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 11, 2017

B. RESOLUTION NO. 17-71 - RESOLUTION AMENDING POLICY GOVERNING CITY COUNCIL APPOINTMENTS TO CLARIFY THE ROLE OF CITY COUNCIL LIAISONS

Summary: The consideration of a resolution amending the Rules on Boards and Commissions policy to clarify the Council Liaison's role on boards and commissions.

There has been some confusion regarding the role of the Council Liaison to the various Boards and Commissions. On April 11, 2017, the Boards and Commissions Committee discussed this issue and is recommending the policy be amended as follows:

Remove the following Section 4 of the "Board at Work":

"The City Council may appoint a City Council person as liaison to the board or commission and that member is entitled to receive all agendas, minutes, and other correspondence and be eligible to attend all meetings of the board including closed sessions. The role of the liaison shall be to serve as a direct communication link between the City Council and the board or commission, and not to play an active role in the deliberation of the board or commission. The liaison shall notify the board or commission of long-range issues and projects under consideration by the Council which would be of interest to that board or commission and shall likewise advise the Council of such matters under consideration by the board or commission."

Replace with the following amended Section 4 of the "Board at Work":

"The City Council may appoint a City Council person as liaison to the board or commission. The role of the liaison shall be to provide information regarding long-range issues and projects under consideration by the Council which would be of interest to that board or commission and assist the board with procedural questions and scope of work. The liaison can address questions regarding Council's strategic goals and feasibility, but shall not play an active role in deliberation of the board or commission. Council liaisons are encouraged to attend meetings, but it is not required."

Pro:

- Clarification of the Council Liaison's role on Boards and Commissions

Con:

- None noted

City staff recommends City Council adopt the amendment to the policy governing Boards and Commissions.

Councilman Smith said this is simply a clarification that Council members, serving as liaisons are there to be a conduit between Council and citizen boards and commissions. That liaison is to be a two-way communicator to carry forward the efforts of the boards and commissions and to carry to the boards and commissions the strategic goals and priorities of Council.

RESOLUTION BOOK NO. 38 - PAGE 387

C. RESOLUTION NO. 17-72 - RESOLUTION AUTHORIZING THE MAYOR TO APPLY FOR, AND IF AWARDED, ENTER INTO A GRANT AGREEMENT WITH THE N.C. DEPT. OF ENVIRONMENT AND NATURAL RESOURCES FOR A NORTH CAROLINA PARKS AND RECREATION TRUST FUND GRANT FOR FIRST PHASE OF RENOVATION OF THE MONTFORD CENTER COMPLEX

Summary: The consideration of a resolution authorizing the Mayor to apply for and, if awarded, enter into a grant agreement with the North Carolina Department of Environment and Natural Resources for a North Carolina Parks and Recreation Trust Fund (PARTF) grant for first phase of renovation of the Montford Center Complex.

Funds are available through the North Carolina Department of Environment and Natural Resources, Division of Parks and Recreation in PARTF to assist with the development of parks, recreational facilities, and greenways. The City of Asheville wishes to submit a grant application not to exceed $402,150. If awarded, grant funds will be used to reimburse the city for future expenses related to the first phase of renovation of the Montford Center Complex.

The primary features of the first phase of renovation of the Montford Center Complex include a new playground, outdoor multipurpose recreation area, expanded parking, plaza area, sidewalks, and a trail.

The grant application requires a dollar for dollar cash match not to exceed $402,150. The cash match is available in the existing capital improvement program for the Montford Center Complex Renovation.

The Montford Center Complex project is budgeted in the capital improvement program and funded by the bond program. If awarded, the PARTF grant will leverage the existing project budget and enhance project scope of work.

The Montford Center Park Master Plan was developed in February 2015. Three community engagement meetings for the plan were held on April 10, June 3, and June 17, 2014.

The Montford Center Park Master Plan was endorsed by the Recreation Advisory Board on March 9, 2015.

The Finance Committee will review this recommendation at their April 25, 2017, meeting.

Pro:

- If awarded, the grant will reimburse the city up to $402,150 for future construction expenditures at the Montford Center Complex.

Con:

- None

If awarded, the grant is for one-time facility construction cost at the Montford Center Complex that will increase the budget not to exceed $402,150. This increase is funded by a grant

from the State of North Carolina in the Department of Department of Environment and Natural Resources. The grant application requires a dollar for dollar cash match not to exceed $402,150, which is available in the existing capital improvement program for the Montford Center Complex Renovation. There is no impact to the City's General Fund budget.

Staff recommends City Council adopt a resolution authorizing the Mayor to apply for and enter into an agreement for a grant through the North Carolina Department of Environment and Natural Resources Parks and Recreation Trust Fund not to exceed $402,150 for reimbursement of future construction costs for the Montford Center Complex.

RESOLUTION BOOK NO. 38 - PAGE 393

D. RESOLUTION NO. 17-73 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR A JOB ACCESS AND RESERVE COMMUTE FEDERAL GRANT TO PARTIALLY FUND TRANSIT SUNDAY SERVICE AND ROUTE 170 TO BLACK MOUNTAIN

Summary: The consideration of a resolution authorizing the City Manager to apply for a FY 2016 and FY 2017 Job Access and Reverse Commute (JARC) Federal Grant to partially fund transit Sunday Service and Route 170 to Black Mountain.

Job Access and Reverse Commute (JARC) is a Federal Transit Administration (FTA) grant program that is targeted at providing job access in urbanized and suburbanized areas. The job access refers to projects relating to the development and maintenance of transportation services designed to transport low-income individuals to and from jobs and activities related to their employment. The reverse commute refers to a public transportation project designed to transport residents of urbanized areas to suburban employment opportunities.

JARC is funded through a 10% allocation of FTA 5307 funds that are administered by the French Broad River Metropolitan Planning Organization (FBRMPO). The FBRMPO posted the call for projects on March 27, 2017 for $260,238 of FY 2016 funds and $150,824 of FY 2017 funds. A total of $411,062 is available for projects in the FBRMPO region.

The City of Asheville has used this funding source in past years to fund Sunday Service and Route 170 to Black Mountain. Staff is requesting permission to submit two applications to continue funding these services:

1. One year of Sunday Service - $187,200 in grant funding;
2. Two years of Route 170 Service - $104,963 in grant funding;

Funding at this level will maintain Sunday Service at its current level. This will also allow for a slight expansion of service on Route 170 by providing an additional daily trip, which will help make up for some of the service that was lost in the summer of 2016 when part of the route was cut due to a loss of funding from local partners.

The Finance Committee will review this action at their regularly scheduled meeting on April 25, 2017.

Pros:

- This funding will help maintain existing transit services that are essential to many residents.
- This funding will help offset operating costs.

Cons:

- The City is responsible to provide the 50% local match.

The local match for JARC is 50% for operations funding. If the application is approved by the MPO, the City of Asheville will be responsible for providing $187,200 annually for Sunday Service and $104,963 annually for Route 170. These services are already in the transit operating budget so this will not be an additional expense for the City of Asheville.

Staff recommends City Council adopt a resolution authorizing the City Manager to apply for a FY 2016 and FY 2017 Job Access and Reverse Commute (JARC) Federal Grant to partially fund transit Sunday Service and Route 170 to Black Mountain.

RESOLUTION BOOK NO. 38 - PAGE 394

E. ORDINANCE NO. 4576 - ORDINANCE AMENDING CHAPTER 19 OF THE CODE OF ORDINANCES IN ORDER TO PROHIBIT PARKING IN A DESIGNATED BICYCLE LANE

Summary: The consideration of an ordinance amending Chapter 19 of the Code of Ordinances in order to prohibit parking in a designated bicycle lane.

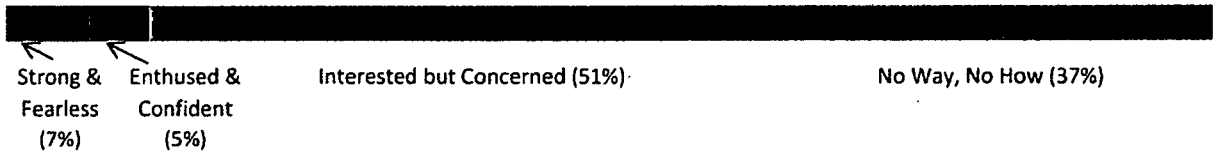
Staff continues to work with the Bicycle & Pedestrian Task Force to seek ways to improve the bicycle experience and an updated written report was included as an agenda item at the Public Safety Committee on February 27, 2017. A short discussion of the issues occurred between the committee members and the Transportation Department Director.

Unfortunately, there are no simple solutions that will satisfy all of the needs including, but not limited to, the ongoing conflict between on-street parking and bicycle lanes and loading and/or unloading activities. As a first step, staff and task force members agree that an actual parking prohibition should be included in the Code of Ordinances in order to eliminate any confusion when enforcement activities occur.

At this time, the City's bicycle network totals about 10 miles including seven miles of designated bicycle lanes and three miles of designated climbing lanes. By definition, the term bicycle lane typically means one designated lane for each direction of travel along a two-way street and the term climbing lane typically means one designated lane along the uphill approach of a street. As a designated bicycle lane, a climbing lane would also be covered by the proposed revision.

While bicyclists are not required to use designated bicycle lanes, most do when available. In 2005, as the City of Portland, Oregon, began to consider what it would take to dramatically increase bicycle use they developed four general categories of bicyclists from the "strong and fearless" to the "no way no how." Since 2005 with additional research not only in Portland, Oregon but throughout major cities in the United States, the proportions have shifted somewhat among the groups (see figure below) but the largest category remains those who are "interested but concerned". This group of bicyclists would probably use bicycles as a means of transportation if the appropriate infrastructure was in place. It is important not only to have the infrastructure but to keep it clear of obstructions because obstructions, such as parked vehicles, could cause a bicyclist to suddenly move or shift from a bicycle lane into a vehicular travel lane resulting in a crash.

Four Types of Potential Transportation Cyclists
by proportion of the population
(Survey of 50 largest metros, 2016)



The Public Safety Committee reviewed this item on March 27, 2017, and recommended that it move forward to City Council for review and approval.

Pros:

- Improves bicycle experience.
- Eliminates confusion when enforcement activities occur.

Con:

- There are no known cons.

There is no known fiscal impact to the subject action.

Staff recommends that City Council approve an ordinance amending Chapter 19 of the Code of Ordinances in order to prohibit parking in a designated bicycle lane.

ORDINANCE BOOK NO. 31 - PAGE 177

F. RESOLUTION NO. 17-74 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR THE CONCRETE REPAIR -UTILITY CUTS PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $243,537.50 plus a contingency of $43,837 (18%) for a total of $290,000.00 with Appalachian Paving and Concrete, Inc. for annual concrete repair work in the Street Cut Utility Fund.

As part of the Street Cut Utility Program utilities that damage public concrete infrastructure during the installation or maintenance of their underground infrastructure do not perform repairs to the concrete. The proposed contract provides for two one year extensions bringing the potential contract length to 3 years. Both the City and contractor shall agree before an extension is activated and Council shall approve each extension. This is the fourth year that a private contractor has performed this service. The project was advertised on March 9, 2017 and bids were opened on March 30, 2017 with the following results:

Appalachian Paving and Concrete, Inc., Swannanoa, NC	$243,537.50
Patton Construction Group, Arden, NC	$389,110.00

Pro:

- Provides for the timely repair on concrete infrastructure that has been damaged by the installation of utilities.

Con:

- Project management and contract administration will consume staff time.

The Street Cut Utility Program is an enterprise fund that is funded by fees paid by the four partners participating in the program. The partners will be billed 100% of the repair cost meaning that the City realizes full cost recovery.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $247,537.50 plus a contingency of $43,837 (18%) with Appalachian Paving and Concrete, Inc. for annual concrete repair work in the Street Cut Utility Fund.

RESOLUTION BOOK NO. 38 - PAGE 395

G. ORDINANCE NO. 4577 - BUDGET AMENDMENT FROM INSURANCE RECOVERY PROCEEDS AND GENERAL FUND UNASSIGNED FUND BALANCE TO REPLACE THE FIRE ENGINE THAT WAS INVOLVED IN AN ACCIDENT ON JANUARY 7, 2017

Summary: The consideration of a budget amendment in the General Capital Projects Fund in the amount of $600,000 from insurance recovery proceeds and General Fund unassigned fund balance to replace a fire engine.

On January 7, 2017, Fire Engine 6 was totaled when it slid off the highway due to ice on the road during a winter storm occurring that evening. The cost of a new fire engine to replace Fire Engine 6 is $600,000. The insurance funds available for the purchase of a new fire engine are $91,933. The Asheville Fire Department requests budget authorization of $600,000 in the General Capital Projects Fund to purchase a replacement engine. The purchase will be funded by insurance recovery funds held in the City Property & Liability Fund along with $508,067 from General Fund unassigned fund balance.

Pros:

- Increases operational ability of the fire department to perform its mission. Currently reserve apparatus are being rotated into service as a temporary solution.
- Improves the average age of our fleet which reduces maintenance and repair cost long term.
- Injects modern sustainability features into our fleet.

Con:

- Requires an appropriation from fund balance.

This will be heard at the April 25th Finance Committee meeting. If there is not a unanimous vote this will be brought to the attention of Council at the April 25th Council meeting.

Upon City Council approval, the insurance recovery funds held in the City Property & Liability Fund will be transferred to the General Capital Projects Fund. The difference between the insurance recovery funds and the cost to purchase the fire engine will be transferred from the General Fund unassigned fund balance.

Staff recommends City Council approve the budget amendment for the General Capital Projects Fund in the amount of $600,000 from insurance recovery proceeds and General Fund unassigned fund balance to allow the Asheville Fire Department to utilize those funds for the procurement of a new fire engine.

ORDINANCE BOOK NO. 31 - PAGE 179

H. RESOLUTION NO. 17-75 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH SPORTS

CONSTRUCTION MANAGEMENT INC. FOR INSTALLATION OF SYNTHETIC TURF AT THE JOHN B. LEWIS SOCCER COMPLEX

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction contract for installation of synthetic turf with Sports Construction Management, Inc. at the John B. Lewis Soccer Complex in the amount of $755,565 plus a contingency of $187,000 for a total of $942,565.

The John B. Lewis Soccer Complex opened in 2005. It is a significant regional sports tourism destination featuring four synthetic turf soccer fields with over 500,000 park visitors and serves over 7,000 youth and adult soccer players annually. The fields were installed with synthetic turf with an expected lifespan of 10 years. The fields have exceeded their useful life and the worn turf needs to be replaced. The resulting turf conditions constitute safety concerns for park users to serve the vibrant regional soccer community.

The scope of the project includes the following:

- Remove the existing synthetic turf and replace it with new synthetic turf with an infill of rubber and sand mixture
- Recommend recycling the existing synthetic turf rather than reuse since the existing turf is in poor condition, will further deteriorate upon removal, and would not meet an installation warranty
- Recycle existing artificial turf following the a recycling plan as identified and verified by contractor
- Fine-grade the surface of the fields to restore gentle and even slopes
- Improve the stormwater drainage system within the fields

The turf consultant, CHA Consulting, Inc., recommends using a synthetic turf with a rubber infill product since the majority of the soccer fields are located within a floodplain. This type of turf product performs best in a floodplain environment compared to other synthetic turf products with organic infill material.

The City of Asheville will purchase the synthetic turf materials through The Cooperative Purchasing Network (TCPN) pursuant to the North Carolina General Statute 143-129 (e) (3) which permits purchases made through this competitive bidding group purchasing program. Through this statutory exemption and a delegation of authority to the City's purchasing agent, the purchase of the synthetic turf can be made without City Council approval. The TCPN proposal for the synthetic turf materials is $1,114,395. Therefore, the total budget for the John B. Lewis Soccer Complex Synthetic Turf Replacement will total $2,056,960. This includes the purchase of the synthetic turf materials, turf installation construction contract and a 10% contingency of turf material purchase and construction contract costs.

In support of this capital improvement project to restore the soccer fields to its original and optimum performance, the City issued an Advertisement for Bids for construction of the turf installation. As of the bid opening date on April 3, 2017, the City did not receive a minimum of three bids as required by the City's purchasing policy. The City re-advertised the project and received one bid with alternates by the bid opening date on April 11, 2017, which met the City's purchasing policy.

After thorough review and evaluation, staff selected Sports Construction Management, Inc. located in Lexington, North Carolina as the lowest, responsive, responsible bidder. The base bid of $755,565.00 was accepted which included two alternates to 1) recycle the existing turf as identified and verified in the turf recycling plan and 2) assign the turf product contract warranties and guarantees to the contractor.

The Recreation Board heard the John B. Lewis Soccer Complex Synthetic Turf Replacement project at its meeting on March 14, 2016.

The Public Safety Committee considered the John B. Lewis Soccer Complex Synthetic Turf Replacement at its meeting on March 28, 2016. The Committee recommended staff to 1) move ahead using the synthetic turf product as proposed by the consultant, and 2) consider alternative synthetic turf products using organic infill when replacing the synthetic turf at Memorial Stadium.

Pros:

- Improves the safety of the John B. Lewis Soccer Complex for park users by replacing the worn synthetic turf due to years of use, solar exposure and flooding events.
- Improvements will occur during the summer which is an optimum time of the year to install the synthetic turf product as opposed to cooler seasons.

Con:

- The John B. Lewis Soccer Complex will be partially closed during renovations since the majority of work is scheduled to take place during the summer. Any closure will be coordinated with and through the Asheville Buncombe Youth Soccer Association (ABYSA).

The total project cost for turf product purchase, turf construction contract, and 10% contingency cost is $2,056,960. The funds to support project cost is budgeted in the City's Capital Improvement Program. The ABYSA will contribute $1,456,960 (includes $1,100,000 million Tourism Product Development Fund grant) to the City to support construction cost. The City will appropriate $600,000 to support construction which is earmarked in the Capital Improvement Program for the Parks and Recreation Department over a five-year period FY 2016 through FY 2020.

Staff recommends the consideration of a resolution authorizing the City Manager to enter into a construction contract for the installation of synthetic turf with Sports Construction Management, Inc. at the John B. Lewis Soccer Complex in the amount of $755,565 plus a contingency of $187,000 for a total of $942,565, and to execute any change orders to contract or documents which may arise during construction of project within the approved budget.

RESOLUTION BOOK NO. 38 - PAGE 396

I. RESOLUTION NO. 17-76 - RESOLUTION SUPPORTING RAISING THE AGE OF JUVENILE JURISDICTION FROM 16 TO 18 IN NORTH CAROLINA FOR MISDEMEANANTS AND NON-VIOLENT FELONS

Summary: The Asheville City Council calls on the N.C. General Assembly and Governor Roy Cooper to support legislation during the 2017-2018 legislative session automatically raising the age of juvenile jurisdiction from 16 to 18 for all crimes other than Class A through E felonies and traffic offenses.

RESOLUTION BOOK NO. 38 - PAGE 397

J. RESOLUTION NO. 17-77 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE CITY SOCCER CLUB GAME ON MAY 6, 2017

Summary: The consideration of a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Soccer Club Game.

- Asheville Brewers Alliance has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville City Soccer Club Game and allow for consumption at the event.

  The Asheville City Soccer Club Game will be held on Saturday, May 6, 2017 from 6:00 p.m. – 10:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Brewers Alliance

Con:

- Potential for public safety issues

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Asheville City Soccer Club Game.

RESOLUTION BOOK NO. 38- PAGE 399

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. RACIAL DEMOGRAPHICS OF TRAFFIC STOPS AND SEARCHES IN ASHEVILLE

Mr. Ian Mance, staff attorney for the Southern Coalition for Social Justice (SCSJ), provided City Council with information on racial demographics of traffic stops and searches data in Asheville.

Using a PowerPoint, he explained that the SCSJ's Open Data Policing initiative works throughout North Carolina with community groups and police agencies that are interested in using data to improve the quality of policing in their communities. They make use of North Carolina's first-of-its-kind data collection statute to promote racial equity in policing.

He showed Council N.C. Gen. Stat. sec. 143B-903 - Collection of traffic law enforcement statistics. Unpublished data is available at www.OpenDataPolicing.com.

For Asheville, the data shows: (1) SCSJ and PRC Applications recently conducted an audit of 50 known traffic stops in Asheville for compliance with the statute; (2) 50 random traffic citations, identified through the public court calendar, were pulled from the County Clerk's office and compared to the SBI database published on OpenDataPolicing; and (3) 58% of confirmed APD traffic stops did not appear in the SBI database as required by law.

Using a graph for traffic stops, black drivers in Asheville, over the last decade and a half, have been stopped at rate 50% higher than their representation in the city population. So far in

2017, black drivers have accounted for 27% of all reported traffic stops, a rate more than 100% greater than their representation in the local population.

Using a graph for search data by race/ethnicity, since data began being collected in 2002, black drivers in Asheville have been more than 100% more likely to be searched than white drivers, despite being less likely to be found carrying contraband (28% v. 29%). 2017 marks the first year that APD has reported searching more black motorists than white motorists, with blacks accounting for 55% of all searches.

Using a graph for average departmental search rate for vehicle stops, the reported data suggests a significant reduction in the city-wide stop and search rate in Asheville in recent years, albeit with an uptick in 2017. However, racial disparities in stops and searches have persisted.

Using a chart for the likelihood of search by "stop cause," black drivers in Asheville remain significantly more likely to be searched than white drivers when stopped for the same offenses.

Using a chart for contraband "hit-rate," over the last decade and a half, Asheville PD found contraband on white drivers at a higher rate than black drivers.

His other observations included (1) Asheville PD relies heavily on drivers' consent for purposes of conducting searches; (2) Vehicle searches disproportionately impact black drivers, who account for up to 40% of drivers searched annually; (3) 56% of APD's reported searches over the last five years have been conducted pursuant to motorists' purported grant of consent to search; (4) This number is significantly higher than many departments around the state, including those that search at much higher volumes than APD; (5) Last year, just 3% of Fayetteville PD's traffic-based searches were based on a motorist's grant of consent. In Durham, the number was 13%, and in Concord, the city closest to Asheville in size, the percentage was 21%; (6) Regulatory and equipment-based traffic stops disproportionately impact black motorists in Asheville; and (7) The difference is significant. Since the beginning of 2011, 40% of all black motorists stopped by APD were stopped for equipment or regulatory violations, compared with 32% of all white motorists stopped.

Policy suggestions include (1) Scrutinize and address APD's data reporting practices to ensure compliance with 143B-903; (2) Prohibit or de-emphasize regulatory and equipment-based stops; (3) Institute a mandatory written consent-to-search policy; and (4) Order periodic audits of individual officer stop-and-search data.

Prohibit or formally de-prioritize regulatory and equipment-based traffic stops known to disproportionately impact black motorists. Police agencies, in North Carolina and nationwide, are increasingly re-evaluating the wisdom of initiating traffic stops for regulatory and equipment based violations. These types of stops generally do not impact public safety and they are known to disproportionately impact poor and minority drivers. They are a significant driver of racial stop disparities. Both Fayetteville PD and Greensboro PD formally deprioritized these types of stops in recent years, a decision that has helped shrink racial stop disparities. Chapel Hill's town council recently directed its police chief to follow suit and begin phasing out regulatory stops. Durham's police chief recently voiced skepticism about such stops and is currently considering a similar directive.

He showed a The New York Times article that said "most black Greensboro drivers were stopped for regulatory or equipment violations, infractions that officers have the discretion to ignore." The Greensboro PD has seen a 10% reduction in its black-to-white stop disparities since The New York Times article prompted a change in policy.

Mandate written consent to search for all consent-based searches. Multiple police agencies across North Carolina, including those in Chapel Hill, Durham, and Fayetteville,

currently require officers to obtain written authorization from the party to be searched for all consent-based searches. Written consent-to-search policies make it more difficult for officers to engage in abusive search practices and can help reduce racial search disparities. Social science research indicates that black motorists experience greater social pressure to accede to requests to search than white motorists. Written consent policies help normalize the experience among black and white drivers.

The New York Times article title is "Activists Wield Search Data to Challenge and Change Police Policy." In Durham, written consent has produced positive results (1) 74% reduction in consent searches citywide over the last two years: Prior to the policy shift, 60% of all searches were consent-based; afterwards, 17%; (2) The reduction in consent searches has contributed to a modest, but significant, 11% reduction in searches citywide; and (3) Although written consent generally does not make a significant dent in racial search disparities, it is a more racially equitable policy.

Conduct routine audits of individual officer stop-and-search data. - http://www.OpenDataPolicing.com includes a feature built specifically for use by police executives. Police chiefs can enter a code into the "Officer ID" field available at https://opendatapolicing.com/nc/search/ and immediately populate a page listing an individual officer's traffic stops as well as her career stop and search patterns, broken down by race and ethnicity. This feature can be used to ensure (1) officers are reporting their stops and searches, as required by N.C.G.S. 143B-903, and (2) to monitor the racial impact of an individual officer's stop practices. Numerous departments in North Carolina currently utilize this website for these purposes. When used properly, the site can serve as an early warning system for identifying officers engaged in discriminatory enforcement practices.

In North Carolina, numerous agencies are already using the site as a management and supervisory tool.

Throughout Mr. Mance's presentation, City Council asked various questions/comments and requests for clarifications.

Councilman Smith was interested in learning about how we can implement the four policy suggestions provided by Mr. Mance. He suggested the Public Safety Committee get into the weeds and bring their recommendations forward to the full Council.

City Manager Jackson said that the Police Chief should have the opportunity to respond to the recommendations and bring that response to the Public Safety Committee and/or the full Council for their consideration. A thoughtful consideration of the data and recommendations presented would be in order.

Councilman Bothwell, Chair of the Public Safety Committee, said they heard this presentation and felt it should be heard by the full Council before they dig deeper into the policy recommendations.

In response to Councilwoman Mayfield, Mr. Mance speculated that departments have a great deal of flexibility on how they report their data. Most departments he works with designate one person to make sure that all reports are submitted. Most reports are done electronically to the state server. He didn't know how it is that so many are not reported. There are clearly officers in the APD that are reporting all their stops. His guess is that there is probably a group of officers who are really good at reporting and some that are not reporting at all.

Councilwoman Mayfield thanked Mr. Mance for providing this information. Her guess is that if people dug into this data at many, many cities across the country, particularly in the south, we would find similar things. We are fortunate to have a Police Chief who has indicated a willingness to tackle these kinds of issues. We have someone in place who is willing to engage in

a conversation about these issues and move us forward. Policing is changing in our world everyday and a city like Asheville can be on the forefront of moving forward. She looked forward to having that conversation.

Councilman Young also thanked Mr. Mance for this information. One issue that he sees is the presumed lack of reporting and the City Manager will be providing Council with information on that issue. The other issue is driving while black in Asheville is real based on the information presented. One slide shown showed that black motorists have a greater likelihood of being searched over 200% of the time opposed to white motorists. But, contraband that is found is about equal. He would like to know how we will address the issue.

Mayor Manheimer summarized that Council is very interested in these suggestions and is grateful for Mr. Mance making the presentation. The next stop will be in the Public Safety Committee to allow the Police Chief time to review the information (with Mr. Mance confirming that he would be available to talk with her for any follow-up needed) and to take a hard look at these policy recommendations.

Councilman Young understood that we have a committee system; however, he felt that Mr. Mance and his data have been through the committee system. He believed that the information from the APD response should come directly to City Council and not to the Public Safety Committee.

Mayor Manheimer said that the purpose of sending it to the Public Safety Committee would be so that they could have a more thorough conversation, along with additional public comment. She wanted to make sure we have a thorough process that gives the staff the opportunity to absorb this and figure out what we need to do as a city to make a difference. Normally we honor the committee structure, but would have no problem with it coming directly to City Council. She did not want to set us up for failure and wanted to make this a successful process.

Councilwoman Mayfield said that if the Police Chief won't be ready to report back to Council for another month, then she didn't know why this couldn't make an interim stop at the Public Safety Committee. Back and forth dialogue is generally easier to have in the smaller Committee meetings. Ultimately the purpose of the committee meetings is that three members of Council will make a recommendation to the full Council. She didn't feel strongly about it one way or another.

When City Attorney Currin asked Mr. Mance to share the background data on which he based his data conclusions on, Mr. Mance said that all the data is available on line at www.OpenDataPolicing.com.

Councilman Smith didn't see any harm in having the Public Safety Committee review this before Council since it will increase the opportunity for people to come and hear the information and have public comment.

Councilman Bothwell said that the next Public Safety Committee meeting would be May 22 and if we give the Police Chief a month to prepare her report, the next formal Council meeting would be May 23. He felt that the Public Safety Committee may have other recommendations and didn't see any harm in having the report be given to that Committee.

City Manager Jackson pointed out that the budget public hearing will be held on May 23. Also, if the Public Safety Committee hears the report on May 22, staff will need time to prepare the APD report and recommendations from the Public Safety Committee to present to Council, which will move the City Council report to the June 13 meeting.

It was the consensus to have the staff analyze data presented, evaluate the recommendations provided and provide any clear or additional policy proposals the APD may suggest, with an interim or full report to Council on May 9, 2017.

Councilman Haynes agreed with Councilman Young that he would like to see the APD report come back to Council as soon as possible. He, too, didn't see the need for it to be reviewed by the Public Safety Committee prior to coming to the full Council. He said that though the data was not surprising, it is still extremely disturbing and should be addressed quickly.

B. ANNUAL UPDATE OF THE SUBDIVISION REVIEW PROCESS

The following is the one year update following the adoption of changes to the review process for subdivisions.

On April 12, 2016, the Asheville City Council approved a zoning text amendment to the Unified Development Ordinance (UDO) regarding subdivision review. This amendment had two components: 1) changes to the subdivision standards; and, 2) changes to the review and permitting process for major subdivisions. The changes related to the standards were primarily clarifications and reorganization and did not result in substantive changes. Updating the process for the review of major subdivisions included three things:

- Moving the final review from the Planning & Zoning Commission back to the Technical Review Committee (as had been the practice years prior)
- A new requirement for a mandatory neighborhood meeting prior to the submittal of an application for a major subdivision
- A new requirement that final notice be sent to all property owners within 200 feet of the subject property once the subdivision is approved

Recognizing the change in practices, Council requested a one year update to check-in on the relative success of the amendment and/or to better understand any on-going concerns.

Since the adoption of the current subdivision standards there have been eight major subdivisions submitted to the city for review that have tested the effectiveness of the updated ordinance. These eight subdivision projects include:

- 29 W. Oakview
- Bear Creek Homes
- Blalock Ave.
- Hounds Ear
- Mears Ave.
- Osprey Ln.
- Zitin Subdivision
- Onteora Subdivision

In speaking with the staff who handled these reviews, neighbors have expressed clear appreciation for the early contact and mandatory neighborhood meeting, and staff have received numerous calls from residents prior to the Technical Review Committee seeking additional clarification or understanding. No appeals of a subdivision's approval have been received, nor has staff received any calls after the final letters for these projects were mailed.

The only concern expressed in the last 12 months has been disappointment that some of the neighbors input or feedback went unaddressed in the developers' final plans. This concern is not a new one and is commonly associated with any review that is ministerial and for which a review meeting is mandatory but compliance optional. While not an uncommon concern generally, this has not been a frequent or defining result from the changes.

This report is informational only.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE PREVIOUSLY APPROVED CONDITIONAL ZONING FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR THE PURPOSE OF INCREASING DENSITY AND ADDING NEW ROAD AND SIDEWALK INFRASTRUCTURE TO THE PROJECT LOCATED AT 50 WILBAR AVENUE AND ADDING TWO PARCELS LOCATED AT 99999 & 319 BILTMORE AVENUE

ORDINANCE NO. 4578 - ORDINANCE TO AMEND A PREVIOUSLY APPROVED CONDITIONAL ZONING FROM RM-16 RESIDENTIAL MULTI-FAMILY HIGH DENSITY DISTRICT TO URBAN PLACE DISTRICT/CONDITIONAL ZONING FOR THE PURPOSE OF INCREASING DENSITY AND ADDING NEW ROAD AND SIDEWALK INFRASTRUCTURE TO THE PROJECT LOCATED AT 50 WILBAR AVENUE AND ADDING TWO PARCELS LOCATED AT 99999 & 319 BILTMORE AVENUE

Principal Planner Shannon Tuch said that this is the consideration of an ordinance to amend a previously approved conditional zoning from RM-16 Residential Multi-Family High Density District to Urban Place District/Conditional Zoning for the purpose of increasing density from 199 to 212 units total and adding new road and sidewalk infrastructure to the project located at 50 Wilbar Avenue and adding two parcels located at 99999 & 319 Biltmore Avenue. This public hearing was advertised on April 14 and 21, 2017.

As part of the amendment, two properties to the east have been added to the application through an easement that has been secured by the applicant for the purpose of providing a new road connection and entrance to the development. Demolition of the existing building will be required. The PINs for the two properties are 9648-46-1623 & 9648-46-0425 and the property owner is Duke Progress Energy Inc.

The applicant, through this amendment, is seeking to create a new road connection between the community and the main road corridor. This new road connection is proposed to include a 50-foot right-of-way, two travel lanes, on-street parking (both sides), curb and gutter, and a 10-foot wide sidewalk on the north side of the road. The new road and sidewalk is proposed to be built to the city's standard and is expected to be publicly maintained. Also included in this amendment is a request to raise the total unit count from 199 to 212 units with no changes to the buildings or site. This is accomplished through the addition of the second entrance which now satisfies a fire code requirement that will allow the unit count to exceed 199 units. Lastly, there is a small addition to the sidewalk along Wilbar Ave. where a new segment of sidewalk is proposed to be added to the western side of the road connecting the community to Short Coxe Ave.

Access to the property is being enhanced to include a new road connection to Biltmore Ave. which will serve as the primary entrance to the community. A secondary entrance off of Short Coxe Ave. via Wilbar Ave. will be retained and improved. All roads in the project, including the new connection, provide 50-foot rights-of-way and will be built to the city's standard for new roads including wide sidewalks as required per the Urban Place zoning.

233 parking spaces were originally proposed, scattered throughout the development, and are found in a combination of traditional parking lot spaces with on-street parking spaces. The new road connection will include an additional 24 on-street parking spaces raising the total count to 257 spaces.

In addition to the landscaping required with the main site, the new road connection will necessitate the addition of large maturing street trees.

A number of conditions were included with the original approval and are noted in the list of B1 conditions. A new condition is proposed to add a transit shelter to the future bus shelter location identified on the site plan.

This conditional zoning amendment was approved with conditions by the Technical Review Committee (TRC) on February 20, 2017. The proposal requires review by the City Council and Final TRC prior to zoning approval.

The Planning & Zoning Commission reviewed this request at their meeting on April 5, 2017, and voted 7:0 in support of the amendment with the recommendation that a bike lane or sharrows be added. No communication has been received from the public as of the writing of this report.

The applicant successfully rezoned the residential RM-16 property to Urban Place Conditional Zone (UP-CZ) in order to allow for a denser, mixed-use urban development. While the project area has expanded, no additional zoning changes are required with this amendment.

The conditional zoning for the Lee Walker Heights community was first approved on April 26, 2016. Other actions have been noted in the previous staff report and can be summarized to include an 18-unit townhome development directly north of the subject property that is currently under construction, and various rezonings on Asheland Ave. that resulted in the expansion of the Central Business District (CBD) over several years.

The new road connection traverses adjacent parcels zoned Regional Business (RB) that front Biltmore Ave. The new road will not only help serve the community but will also provide new opportunity for future infill development.

Considerations:

- New on-street parking is 150-500' from the nearest building.
- Due to right-of-way constraints, additional sidewalk segment on Wilbar Ave. does not fully meet the technical standards for sidewalk widths.
- Provides improved transportation connections and internal pedestrian connections.

The new road will be constructed as part of the project costs. Once all work is completed, it is anticipated that the developer will petition the city for maintenance of the new road and sidewalk. These maintenance costs will be part of the Department of Public Works operations budget, funded by the city's general fund. As with all new infrastructure, maintenance costs initially are very low and increase over time as the infrastructure ages.

Based on policies stated in the Comprehensive Plan and other plans staff finds this request to be reasonable, and within the best public interest, and recommends support of the proposed conditional zoning amendment as proposed.

Mr. David Nash, Chief Executive Officer of the Housing Authority, said thanked the City for securing the negotiated easement across the property to allow a new entrance for the new Lee Walker Heights development. It will help provide the reconnection of the community to the rest of the City.

Councilwoman Mayfield also thanked Duke Energy for making this possible.

Mayor Manheimer opened the public hearing at 6:21 p.m. and when no one spoke, she closed the public hearing at 6:21 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Bothwell moved to approve the amendment to the previously approved Urban Place Conditional Zoning (UP-CZ) request to allow for an increase in the number of dwelling units from 199 to 212 units total, and to provide for new transportation infrastructure including sidewalk and new road, along with the submitted conditions, site plan and cross-section and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: 1) expands affordable and workforce housing choices in the city; and, 2) supports smart growth by increasing density and improving transportation and pedestrian infrastructure. This motion was seconded by Councilman Young and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION AND UPGRADE OF A WASTE TRANSFER STATION AT THE PROPERTY LOCATED AT 190 HOMINY CREEK ROAD

Councilman Smith moved to continue this public hearing until May 9, 2017. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

C. PUBLIC HEARING TO CONSIDER AN ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND STANDARDS FOR COTTAGE DEVELOPMENTS

ORDINANCE NO. 4579 - ORDINANCE AMENDING CHAPTER 7 OF THE CODE OF ORDINANCES TO AMEND STANDARDS FOR COTTAGE DEVELOPMENTS

Principal Planner Shannon Tuch said that this is the consideration of an ordinance amending Chapter 7 of the Code of Ordinance to amend standards for Cottage Developments. This public hearing was advertised on April 14 and 21, 2017.

In June 2007, the City of Asheville adopted development standards for a new style of residential development called "Cottage Development". A *Cottage development* is defined as:

> *Cottage development* means a cluster of small detached single-family residences constructed to specific design standards and arranged around common open space generally at higher density than the underlying zoning would allow for traditional detached single-family residential development.

A number of special standards were adopted, along with the definition, which were intended to achieve compatibility/harmony with the surrounding neighborhoods. The value of some of these conditions has now come into question and a private citizen has submitted a request to amend the standards, as allowed per the Unified Development Ordinance Sec's. 7-7-2 & 3, by **removing** two requirements that were identified as potential barriers to cottage development. Those two requirements are:

1) 15% finished grade, and
2) 1,000 foot separation (between cottage developments)

In review of all of the standards regulating cottage developments, staff has also identified a number of requirements that could be amended to be more consistent with

current city goals for infill and community development. These changes are also included in the proposed amendment.

All of the standards for a cottage development have been summarized in the following table, along with the recommended changes:

Existing Standard	Recommended Change
1. Eligible only in higher density residential zoning districts (~~RS-4~~*, RS-8, RM-6, RM-8, RM-16)	~~Expand eligible areas to include RS-4 zoning with the existing 1000' separation requirement~~*
2. A minimum lot size of 30,000 s.f. (.7 acres)	Eliminate minimum lot size, recognizing that buffers, open space and parking will control the minimum size of the property.
3. A minimum of 5 units and a maximum of 12	Increase the maximum to 15 units
4. Prohibits steep slope sites from being developed for cottage developments, or sites with a finished grade of greater than 15%	Maintain prohibition on developing in steep slope areas but eliminate the 15% finished grade requirement
5. A 1,000 foot separation between cottage developments	Reduce the separation to 200', ~~except in RS-4 where the 1000' separation is maintained~~*
6. Setbacks standard for RM-8/RS-8 (15' front/rear; 6' side)	Change to meet the requirements of the underlying zoning district
7. Maximum height of 28' (height measured from grade to midpoint of roof peak)	-No Change-
8. Maximum footprint of 1200 s.f. & a maximum gross floor area of 1400 s.f.	-No Change-
9. Maximum 800 s.f. for all accessory structures	-No Change-
10. Number of accessory structures limited to no more than 60% of the homes	-No Change-
11. Number of Accessory Dwelling Units (ADUs) limited to no more than 50% of the homes (max 6 ADUs)	Remove standards for ADUs in lieu of raising the maximum number of units (see item #3). *Note: ADU style structures may still be constructed.*
12. ADUs limited to no more than 400 s.f. and must be above a garage	Remove standard for ADUs
13. Off-street parking required at a rate of 1-2 spaces per home & 1 per ADU	Remove standard for ADU (not necessary per 11 & 12 above)
14. Parking may not be closer than 25' to a ROW unless screened with a 20' vegetated buffer	Maintain buffer when over six spaces, reduce to screening (fence or evergreen hedge) when six or fewer spaces
15. Parking must be distributed across the site with groupings of no more than 12 spaces	-No Change-
16. Open space must be provided and meet the following:	
- 500 s.f. for each home; 300 s.f. for each ADU	No change to the requirement for the cottages but remove standards for ADUs
- 75% of homes must *front* on a common green	Change to require that 75% of homes be directly *adjacent* to the common green and add a requirement that requires that units placed along an existing road be oriented towards that road.
- 300 s.f. of private open space provided directly adjacent to each home (may be split into two areas no less than 100 s.f.)	-No Change-
17. Design requirements that include:	

- A roofed, unenclosed front porch (minimum of 80 s.f. and min. dimension of 8')	Remove (not permitted per NC General Statutes)
- Gable or hip roof with a pitch of 4:12 or greater	Remove (not permitted per NC General Statutes)
- Orientation of home within 25' of right-of-way to face the road	Re-write standard for orientation to require homes to front on existing roads.
- Specified siding (clapboard, stucco, stone, brick	Remove (not permitted per NC General Statutes)

**Strikethroughs indicate language originally included in draft changes and shared with NAC & AHAC but removed upon further research and analysis.*

In reviewing these items, staff met with both the Neighborhood Advisory Committee (NAC) and the Affordable Housing Advisory Committee (AHAC). The Neighborhood Advisory Committee received a summary report on February 27, 2017 from staff and offered general support for the changes with two exceptions: 1) members of the committee expressed strong concern over adding RS-4 (part of the original proposal) to the districts in which a cottage development could be built, and 2) while there was recognition that the separation requirement could be a problem in finding suitable sites, the Committee was uncomfortable with eliminating the requirement and suggested a reduction of the requirement as an alternative. Upon further review, staff agreed with NAC and dropped RS-4 from eligible zoning areas upon researching the average density for permitted cottage developments to be 9.8 units/acre, and also reduced the separation from 1,000 to 200 feet as opposed to eliminating it entirely.

Staff also provided an update to the Affordable Housing Advisory Committee (AHAC) at their regular meeting on March 2, 2017. Committee members expressed general support and sought to understand how many cottage developments had been constructed and where they were located (see Considerations below for a list of cottage development sites). In both cases, the petitioner for the wording amendment was also in attendance and offered additional context and answered general questions.

This proposal was reviewed and approved unanimously by the Planning and Zoning Commission at their April 5, 2017, meeting. All wording amendments receive final review by City Council.

Other considerations:

- A separate but simultaneous amendment for neighborhood scale residential infill is in process.
- There have been seven cottage developments approved including:
  - 45 Nancy St.
  - 18 Sevan Ct.
  - 444 Beaucatcher Rd.
  - 129 Aurora Dr.
  - 2 Cottage Cove Ln. (unfinished, 2 of 6 units constructed)
  - 64 Shiloh Rd. (permitted but not constructed)
  - 10 Gaia Ln.
- The smallest community contained seven units, the largest community contained 12. No cottage developments included accessory structures.

This proposal supports the goals outlined in the Comprehensive Plan and City Council 2036 Vision, and staff recommends approval of the wording amendment as proposed.

Mayor Manheimer opened the public hearing at 6:29 p.m.

Mr. Barry Bialik, Chairman of the Affordable Housing Advisory Committee and developer of small footprint subdivisions, explained the revisions to this great zoning tool which will make the ordinance more usable and easier to use the density allowed in the zoning.

Mayor Manheimer closed the public hearing at 6:30 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the wording amendment modifying the standards regulating Cottage developments and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: (1) Improves an existing zoning tool to support the supply and diversity of housing; and, (2) Applies development standards that ensure good site design and neighborhood compatibility. This motion was seconded by Councilman Bothwell and carried unanimously.

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V. UNFINISHED BUSINESS:

A. REPORT AND DISCUSSION REGARDING DISTRICT OPTIONS

City Attorney Currin said that at the April 11, 2017, Council meeting there was a discussion regarding the method and timing for putting an ordinance changing the mode of City Council elections on the ballot for a vote by the people at the November, 2017, election. Currently the City elects all Council members "at large."

The Council is authorized under N. C. Gen. Stat. secs. 160A-101, 160A-102, and 160A-105, to amend the City Charter and change the mode of election from the current at-large form to, among other things, one with six districts, or to a combination of at-large and district seats. The Council can make this Charter amendment "effective only if approved by a vote of the people."

A bill has been filed by Senator Chuck Edwards with the General Assembly which would require the City to adopt a Charter amendment to divide the City into six districts. There is an interest in letting the citizens vote on whether they would approve of this change.

In order to meet the deadline to place an ordinance/charter amendment on the ballot for November 7, 2017, election, certain things must occur by certain dates pursuant to the N.C. General Statutes and County election laws. Set forth below are the dates of which Council should be aware, should it desire to use this process in Asheville.

June 13, 2017	Date to adopt resolution of intent describing amendment and calling for a public hearing on the new ordinance.
June 27, 2017	Public hearing on new ordinance
July 25, 2017	Adopt ordinance and adopt resolution calling for special election

After a short discussion with City Attorney Currin stating that she would provide the language to City Council as soon as possible, it was the consensus of Council to have City Attorney Currin to begin the statutory process with the first action to occur on June 13, 2017. Mayor Manheimer asked that this action also be reviewed by the Governance Committee.

B. CONSIDERATION OF INITIATION OF TEXT AMENDMENT FOR EXPANDING THE DEFINITION OF HOMESTAYS IN THE UNIFIED DEVELOPMENT ORDINANCE TO

INCLUDE ACCESSORY DWELLING UNITS UNDER THE SAME ROOF AS THE MAIN RESIDENCE

Mayor Manheimer announced that this item has been withdrawn from the agenda.

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Dee Williams offered the assistance of the NAACP Criminal Justice Committee and other allies as Council moves forward with reviewing the policy recommendations by Mr. Mance. She felt that the City should not allocate any additional funds to the Police Department until there is clear policy direction.

Ms. Jan Kubinik, resident on Reservoir Road, was disappointed with the City's response to planned right-of-ways in front of her home. City Attorney Currin said that they are corresponding with Ms. Kubinik's attorney regarding her concerns.

Mr. Patrick Conant and his employee were frustrated that Council was considering having the Public Safety Committee review the traffic stop data again. This information has been presented several times but they have had no response from the Police Department. The suggestions presented by Mr. Mance will improve our police force and don't cost any money. He urged Council to move forward quickly and consider the recommendations.

Mr. Rich Lee suggested City Council make take an interim step on the traffic stop data until the policy recommendations are thoroughly vetted through the process. He also expressed his thoughts on district options and the referendum.

In response to Mr. Joe Coble, Councilman Bothwell explained in Asheville's form of government that City Council can only interact with their three employees - City Manager, City Attorney and City Clerk. City Council makes the policies and staff implements them.

When Mr. Chuck Pickering was about to discuss the conditional zoning item on the County waste transfer station that was continued to May 9, City Attorney Currin advised him that his comments should be made at the public hearing. Councilman Smith also noted that Mr. Pickering was welcome to e-mail his comments to City Council.

Ms. Kim Roney suggested a special meeting of the Public Safety Committee be held so that their recommendations could be taken into consideration prior to the full report being made at City Council.

At the request of Councilman Smith, City Manager Jackson said that Sustainability Officer Amber Weaver will make a presentation to City Council on May 9 regarding the pieces of the Food Action Plan that were implemented last week.

VIII. ADJOURNMENT:

Vice-Mayor Wisler adjourned the meeting at 7:05 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – May 9, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. RECOGNITION OF CITY OF ASHEVILLE YOUTH LEADERSHIP ACADEMY STUDENTS

Mayor Manheimer ten years ago, former Mayor Terry Bellamy and the Asheville City Council envisioned a new program that would place students with meaningful summer internships with City departments and partnering organizations throughout Asheville. This program would empower its students to get involved in our community, support them in their quest for college, and reward them with a generous scholarship. After a rigorous application process each spring, 25 City of Asheville Youth Leadership Academy (CAYLA) students are placed in prestigious summer internships that allow them to explore careers and learn from caring adult professionals. Members of the CAYLA Class of 2017 interned with valuable community partners, including Habitat for Humanity, CarePartners, and the Omni Grove Park Inn. Each Friday during the summer, the students attended day-long leadership workshops that focused on social entrepreneurship. Students learned about the triple bottom line that considers a company's social, economic and environmental impact. The students also met business professionals whose passions have led to the creation of local social enterprises, and took a variety of field trips to see such careers in action. Of the graduating seniors, all have been accepted to colleges – and many have earned significant merit scholarships, including the UNC Asheville AVID Scholars award, the Golden Doors Scholarship, and the Civitan and Rotary scholarships. This year, the total merit scholarship money earned by CAYLA students since 2008 will surpass $1.3 million. Beginning last June, the CAYLA students began planning in-depth social justice projects. They organized the sixth annual MLK Youth Summit, which brought together more than 60 teenagers from all of Buncombe County's high schools to discuss issues of importance to youth. The CALYA students also taught a class each week for Asheville City Schools Foundation's IRL afterschool program. Over the years, CAYLA students have given more than 3,600 volunteer hours to our community. In recognition of their accomplishments and the critical role they will play in Asheville's future, the City of Asheville awards each CAYLA student a scholarship in the amount of $2,000. We are proud of the leadership that the CAYLA students exhibit each day, and look forward to hearing of their achievements in the years to come.

With that, she provided a certificate to the following 2017 CAYLA students: Candida Alas-Ortega, CeeCret Allen, Isabel Arredondo, Angelique Ayoade, Mercy Beveridge, Devin Boston, Dana Campbell, Jr., Zoe Cecil, Korina Dariy, Tanya Davila, Cederia Davis, D'Angelo Elliott, Itzel Garcia Ruiz, Keenan Hines, Erykah Howard, Rayanna Inniss, Shamone Jones, Arianna Moore, Myra Pearson, Jamie Rhodes, Jasmine Riddle, Sophia Rutherford, Angel Vasquez Ramirez, Zion Walker, and Ashley White.

Mayor Manheimer praised Erika Germer for her hard work on this program.

B. EMPLOYEE RECOGNITIONS

City Manager Jackson recognized the following individuals for their work on the Public Safety Radio System Update: Jonathan Feldman, Jeff Reble, Capt. Jeremy Edmonds, Capt. Gary Gudac, Boyd McCaskIII, Lt. Bill Wilke, Norris Going, Dan Lemley, Cathey Trimnal, Joy Griffin, Tim Reimers, Steve Frey, Stan Smith, Fire Chief Scott Burnette, Police Chief Tammy Hooper, Assistant City Manager Paul Fetherston, and Finance Director Barbara Whitehorn; with partners of ERC - Fiber Provider; Buncombe County – Strategic Partner; Communications Service - Steve Robison; and Trott Communications - Keith Whitt. In addition, City Manager Jackson recognized Director of Communications & Public Engagement Dawa Hitch and her team of Jaime Matthews, Dan Phairas, Christy Edwards, Sarah Sheldon, Christen McNamara, and Melissa Van Sickle for their work in obtaining the following three Excellence in Communications Awards from the North Carolina City & County Communicators recognized the City of Asheville with three Excellence in Communications Awards: (1) First place for the bond campaign in the category of Citizen Participation; (2) Second place for the bond campaign projects tour; and (3) One-time special video programming award for the bond campaign video.

Mayor Manheimer thanked the employees on what they do on behalf of the City of Asheville and City Council. She was proud of City staff and looked forward to highlighting more accomplishments.

C. PROCLAMATION PROCLAIMING MAY, 2017, AS "MOTORCYCLE AWARENESS MONTH"

Mayor Manheimer read the proclamation proclaiming May, 2017, as "Motorcycle Awareness Month" in the City of Asheville. She presented the proclamation to Jody Martin, representing the Concerned Bikers Association of North Carolina, who outlined some activities taking place during the month.

D. PROCLAMATION PROCLAIMING MAY 19, 2017, AS "ENDANGERED SPECIES DAY"

Councilwoman Mayfield read the proclamation proclaiming May 19, 2017, as "Endangered Species Day" in the City of Asheville. She presented the proclamation to Ms. Sue Massi - Volunteer with WNC Nature Center, Appalachian Wildlife Refuge, Wolf Conservation Center and the Endangered Species Coalition, who outlined some activities taking place during the day.

E. PROCLAMATION PROCLAIMING MAY 21-27, 2017, AS "NATIONAL PUBLIC WORKS WEEK"

Councilman Smith read the proclamation proclaiming May 21-27, 2017, as "National Public Works Week" in the City of Asheville. He presented the proclamation to Public Works Director Greg Shuler, Bryant Williams (Sanitation Division), Gary Reynolds (Streets Division), Justin Boll (Stormwater Division), Keisha Lipe (Administration) and Sarah Sheldon (GIS Team).

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON APRIL 25, 2017

B. RESOLUTION NO. 17-78 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A TERMINATION OF EASEMENT AGREEMENT FOR AN ABANDONED WATER LINE LOCATED AT 24 EDGEWOOD ROAD EAST

Summary: The consideration of a resolution authorizing the City Manager to execute a termination of easement agreement for an abandoned water line located at 24 Edgewood Road East.

The City's Water Resource Department has been working to abandon an existing 6-inch waterline that crossed under a house at 24 Edgewood Rd E (PIN No. 9658-86-7099). The owner of the property is in the process of trying to sell the house but the lending company would not close on the loan till the existing waterline was abandoned and the waterline easement terminated. The waterline is 1920's vintage and is no longer necessary for domestic or fire protection needs. The Water Resource Department has confirmed that the line has officially been cut and abandoned in place. The Termination of Easement Agreement relieves the City of Asheville from all liability associated with the easement and abandoned waterline at 24 Edgewood Road East.

In order to release the easement, City Council must authorize the City Manager to execute a termination of easement between the City and the current property owner, Carlton Wheeler.

Pros:

- Removes liability issues associated with waterline under a structure.
- This Termination of Easement aligns with the Main Waterline Study Assessment that identifies and addresses structures located over active water lines.

Con:

- None noted.

City staff recommends City Council approve a resolution authorizing the City Manager to execute a termination of easement agreement for an abandoned water line located at 24 Edgewood Road East.

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C. RESOLUTION NO. 17-79 - RESOLUTION AUTHORIZING THE CITY MANAGER TO CONVEY AN EASEMENT OVER A PORTION OF CITY-OWNED PROPERTY AT THE SHILOH PARK & COMMUNITY CENTER TO CATHERINE KINNARD FOR THE PURPOSE OF INSTALLING A SEWER LINE TO SERVICE A SINGLE FAMILY RESIDENCE

Summary: The consideration of a resolution authorizing the City Manager to convey an easement over a portion of City Owned property at the Shiloh Park & Community Center to Catherine Kinnard for the purpose of installing a sewer line to service a single family residence.

The Shiloh Park and Community Center is owned and maintained by the City of Asheville. An existing MSD sewer line runs northwest from Hampton Street and crosses the park. Several lateral lines already exist from homes on Kent Street and they have been allowed in the past with the stipulation that they do not interfere in the recreational activities. Catherine Kinnard owns an undeveloped lot on Kent Street and has reached out to the City to request a sewer line easement to connect to the existing line. This is the only available connection to the sewer line. Al Kopf of Parks and Recreation has been approached and after consulting with other staff in the Parks division, they have no objection to the easement. Ms. Kinnard plans to build a single family residence on the property and it will be her primary residence.

The easement being requested is approximately 25 linear feet long and 6 feet wide for a total square footage of approximately 150 square feet. Using comparable sales figures, the value per square foot of land in this neighborhood is roughly $ 6.87 per square foot. MSD has a policy of compensating owners according to 50% of land value for an easement and when we apply this

to practice to this situation, the cost of the easement would be $516.00 plus the real estate transaction fee.

Pros:

- There is compensation associated with the granting of this easement.
- The easement would not interfere with the recreational programming at Shiloh Park.

Con:

- None

Funds generated by the granting of this easement will be deposited in the General Fund.

Staff recommends City Council adopt a resolution authorizing the City Manager to convey this 150 square foot easement at Shiloh Park near Kent Street to Ms. Kinnard for purposes of installing a sewer service line.

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D. RESOLUTION NO. 17-80 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH IPS GROUP INC. TO FURNISH PARKING METERS, AND PROVIDE ADMINISTRATIVE SUPPORT, IN THE CITY OF ASHEVILLE

Summary: The consideration of a resolution authorizing the City Manager to enter in a contract with IPS Group Inc. to furnish parking meters, and provide administration support, in the City of Asheville.

The City currently operates parking meters only in the Central Business District. The current inventory of parking meters, while quite old, has served the needs of the City quite well. They are of rugged construction, and with the exception of needing battery replacement several times a year, quite reliable. Heretofore, our policy has been to squeeze all the useful life out of the mechanisms to ensure the public received the best return on investment. But stretching the life of the mechanisms also brings challenges. The age of the meters makes it quite difficult to change rates, get reports, "train" for new coins, etc. Parking Service employees must go to each meter and insert a "prong" in to download or upload information in to the mechanism. This is a laborious process and in past rate increases, we had to purchase new mechanisms because the legacy mechanisms were so old the manufacturer didn't support them any longer.

The age of the meters also led to a declining of our ability to provide excellent customer service. Our use of double space meters (one meter serving two spaces) creates confusion among customers on which side to pay. This is also a challenge with pay-by-cell systems while selecting space numbers. While the existing meters are still quite capable of accepting nickels, dimes, and quarters, our customers' buying habits have changed. Rarely do customers carry pockets full of coins to activate the meters. And, as our meter rates have increased over the years, the need for more coins has grown.

To help ameliorate this need for more and more coins, the City entered in to a contract with Passport Parking to provide pay-by-cell service to pay for parking meters via credit or debit card. While quite successful for our customers, and the City, this pay-by-cell system does have some drawbacks. With the exception of 35 test meters, the time purchased does not display on the meter which can lead to some customer confusion. And, since time purchased via pay-by-cell, does not display on the meter, the Parking Enforcement Officer must query either their handheld ticket writer or smart phone to ascertain if the meter has been paid. Again a laborious process repeated many times a day. Despite these drawbacks, pay-by-cell has been a huge success for the City. And, we felt it was time to make a great leap forward in technology to better serve our customers.

In the spring of 2016, the City received 35 modern meters, from IPS Group, to test to determine if the system would be advantageous to our customers and staff. Key points we wanted to investigate were solar power, credit/debit card acceptance, ability to accept pay-by-cell information, ease of rate changes, reporting capability, data protection, etc. The test met all our parameters and expectations.

In February 2017, the City published a Request for Proposals, under the provisions of NCGS 143-129.8 for purchase of information goods and services, for interested firms to replace our existing inventory of existing parking meters with more modern ones. Parking Services wants to replace existing meters, and expand current meter coverage, over several years. Key requirements of the request for proposal were:

- Provide new solar powered "smart" meters connected, via cellular network, to the internet,
- Accept all United States issued nickels, dimes, and quarters,
- Accept credit and debit cards as payment options,
- Allow pay-by-cell information to be "pushed" to the meters and displayed thereon,
- All credit/debit card transactions must be PCI compliant to safeguard customer information,
- Provide "back office" administration collection, and processing of payment information,
- Illumination feature for nighttime operations,
- Payment indicators visible from street,
- Provision for decorative sleeves and bases,
- Per unit pricing for single space units or double space units,
- Ability to purchase over several years as City needs expand,
- Provision of per month costs of "back office" administrative and data processing activities.

On March 24, 2017, the City received three proposals for providing new parking meters. Firms submitting were POM Meters (our existing vendor), IPS Group (test meter provider), and MacKay Meters. An inter-departmental team consisting of members from Information Technology Services, Transportation, and Parking Services evaluated each submittal. The team determined that the best solution for the City would be single space meters provided by IPS Group. While all proposals came in well below our planning figures, the initial outlay, per unit, for the IPS meters themselves is in the middle of the three proposals, will be slightly higher (7%) than the lowest and well below (10%) the highest quoted unit price. The advantages of the IPS system however makes it the clear choice.

Pros:

- Improves customer service by providing additional payment options.
- Improves customer's ease with meters by eliminating confusion as to which space to pay for.
- Allows easier rate changes; to include variable pricing.
- Provides better statistical and financial reporting than current meters.
- More aesthetically pleasing with decorative sleeves and bases.
- PCI compliant to ensure customers' data security.
- Provides capability to extend hours later in the evening
- Pay-by-cell information pushed to, and displayed, on the meter thereby providing better customer service.
- Single space meters make it easier to provide meter closures for businesses, trades workers, moving companies, etc. by allowing one space to be closed. Currently, with dual space meters, we have to close two spaces even if the requestor only wants one space. This results in the requestor paying for two spaces when only needing one, or the City losing revenue on one space because the payment devices are covered.

Cons:

- Some interruption of service as new meters are installed.
- Estimated expenditures of $900K over three years.

Funds for the first year of replacements are available in the current Parking Services' Fund Operating Budget. Funding for the second year of purchases is included in the City Manager's Proposed 2017-18 Budget.

City staff recommends City Council adopt a resolution authorizing the City Manager to execute an initial three year term contract not to exceed $900,000 with IPS Group Inc. to furnish parking meters and provide administration support; and the option to extend the term of the contract for up to an additional three years to an amount in the approved budget. Also, further authorized to execute any change order to said contract which might arise during the time period of the contract up to the budgeted amount.

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E. **RESOLUTION NO. 17-81 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ACSC GAMES**

RESOLUTION NO. 17-82 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE BEER CITY FESTIVAL

RESOLUTION NO. 17-83 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT DOWNTOWN AFTER FIVE EVENTS

RESOLUTION NO. 17-84 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT BREWS & BEARS

RESOLUTION NO. 17-85 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE WINE & FOOD FESTIVAL

RESOLUTION NO. 17-86 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE ASHEVILLE RUNNING EXPERIENCE

Summary: The consideration of resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the ACSC Games, Downtown After 5, the Beer City Festival, Brews & Bears, the Asheville Wine & Food Festival, and the Asheville Running Experience.

- The Asheville Brewers Alliance has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the ACSC Games and at the Beer City Festival, and allow for consumption at the events.

  The ACSC Games will be held on Wednesday, May 17, Friday, May 19, Thursday, June 8, Tuesday, Saturday, June 17, June 20, Saturday, July 1, and Saturday, July 8, 2017 from 6:00 p.m. – 10:00 p.m. within the boundaries of Memorial Stadium as per the area limits referenced on the accompanying site map.

The Beer City Festival will be held on Saturday, May 27, 2017 from 12:00 p.m. – 5:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- The Asheville Downtown Association has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Downtown After 5 and allow for consumption at the event.

  Downtown After 5 will be held on Fridays, May 19, June 16, July 21, August 18, and September 15, 2017 from 5:00 p.m. – 10:00 p.m. within the boundaries of Lexington Avenue as per the area limits referenced on the accompanying site map.

- The Friends of the WNC Nature Center has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at Brews & Bears and allow for consumption at the event.

  Brews & Bears will be held on Friday, July 21, 2017 from 4:00 p.m. – 9:00 p.m. within the boundaries of the WNC Nature Center as per the area limits referenced on the accompanying site map.

- Slow Food Asheville has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Wine & Food Festival and allow for consumption at the event.

  The Asheville Wine & Food Festival will be held on Friday, August 18 and Saturday, August 19, 2017 from 1:00 p.m. – 6:00 p.m. within the boundaries of Pack Square Park as per the area limits referenced on the accompanying site map.

- The Blue Ridge Roller Derby has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Asheville Running Experience and allow for consumption at the event.

  The Asheville Running Experience will be held on Saturday, September 23 from 5:00 a.m. – 9:00 p.m. within the boundaries of Coxe Avenue as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for Asheville Brewers Alliance, the Asheville Downtown Association, Friends of the WNC Nature Center, Slow Food Asheville, and the Blue Ridge Roller Derby

Con:

- Potential for public safety issues

Staff recommends City Council adopt resolutions authorizing the City Manager to approve resolutions making provisions for the possession and consumption of malt beverages and/or unfortified wine at the ACSC Games, Beer City Festival, Downtown After 5, Brews & Bears, Asheville Wine & Food Festival, and Asheville Running Experience.

RESOLUTION NO. 17-81 - RESOLUTION BOOK NO. 38 - PAGE 405

RESOLUTION NO. 17-82 - RESOLUTION BOOK NO. 38 - PAGE 408
RESOLUTION NO. 17-83 - RESOLUTION BOOK NO. 38 - PAGE 411
RESOLUTION NO. 17-84 - RESOLUTION BOOK NO. 38 - PAGE 414
RESOLUTION NO. 17-85 - RESOLUTION BOOK NO. 38 - PAGE 417
RESOLUTION NO. 17-86 - RESOLUTION BOOK NO. 38 - PAGE 240

F. RESOLUTION NO. 17-87 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ACCEPT A GRANT FROM THE N.C. DEPT. OF ENVIRONMENTAL QUALITY FOR A COMMUNITY WASTE REDUCTION AND RECYCLING GRANT

ORDINANCE NO. 4580 - BUDGET AMENDMENT FOR A COMMUNITY WASTE REDUCTION AND RECYCLING GRANT

Summary: The consideration of a resolution authorizing the City Manager to accept Community Waste Reduction and Recycling (CWRAR) grant funds from the N.C. Dept. of Environmental Quality (NCDEQ); and a budget amendment in the amount of $28,301 in the Special Revenue Fund to budget the grant and the City's match.

In October 2015, the City of Asheville partnered with the Housing Authority of the City of Asheville (HACA) to launch a recycling pilot project for the 280 public housing units of the Erskine, Walton and Livingston Street communities. With CWRAR funding from NCDEQ, "Big Blue" 96-gallon recycling roll carts were distributed to each residence and significant outreach was conducted. In 2016 City was awarded a second grant, Phase II, to expand this recycling project to 388 more units in the communities of Deaverview and Hillcrest in FY17. Participating communities are now collectively recycling over 5,000 pounds of materials every week.

Phase III of the CWRAR grant expands recycling collection to the Pisgah View community, which is an additional 256 households, in the hopes that continued success will lead to curbside recycling collection for all applicable low-rise public housing communities.

In addition to expanding curbside recycling services in public housing, the FY18 CWRAR Grant includes composting at the US Cellular Center (USCC). In order to help achieve greater waste reduction, the City plans to implement a composting program at the USCC, Asheville's largest event space, starting with the Thomas Wolfe Auditorium. The Thomas Wolfe Auditorium hosts an average of 85 events each year, which generates an average of 26 tons of waste. This grant supports projects that demonstrate potential to significantly reduce a community's overall diversion of materials from the solid waste stream. The Office of Sustainability believes that Phase I, composting in Thomas Wolfe, has the potential to divert around 11 tons of waste annually from the USCC.

The total cost for the pilot project is $28,301. The CWRAR grant would require a 30% cash match from the City of Asheville. Thus $8,784 would be contributed by the City, from the sustainability street light savings in the general fund, while the grant would cover the remaining $19,517.

On April 25, 2017, the Finance Committee reviewed this action and unanimously recommended it move forward to the full Council.

Pros:
- Provides more equitable access to recycling services for residents of public housing
- Helps to meet City's waste reduction goal while leveraging state funding

Con:
- None can be identified

As noted above the total cost of the project is $28,301 with the grant covering $19,517 or 70% of the cost. The 30% City match of $8,784 will come from sustainability street light savings that have been designated for green projects.

City staff recommends City Council adopt a resolution authorizing the City Manager to accept $19,517 in grant monies from NCDENR; and a budget amendment in the amount of $28,301 in the Special Revenue Fund to budget the grant and the City's match.

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ORDINANCE BOOK NO. 31 - PAGE 190

G. RESOLUTION NO. 17-88 - RESOLUTION TO ACCEPT/APPROVE A LICENSE AGREEMENT WITH USCOC OF GREATER NORTH CAROLINA LLC (D/B/A US CELLULAR) FOR ANTENNAS AT 166 RESERVOIR ROAD, DIRECTING THE CITY CLERK TO ADVERTISE FOR UPSET BIDS, AND AUTHORIZING THE CITY MANAGER TO EXECUTE THE LICENSE AGREEMENT IS NO ALTERNATE BIDS ARE RECEIVED

Summary: The consideration of a Resolution proposing to accept/approve a license agreement with USCOC of Greater North Carolina, LLC (DBA US Cellular) for antennas at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

The property at 166 Reservoir Road known as White Fawn Reservoir, is on a knoll at the western end of the Beaucatcher Mountain ridge. It has exceptional range for telecommunication with approximately 300° coverage from northeast to west to southeast. Two telecommunication towers are located on the property and the City of Asheville leases antenna space on the towers and ground space for telecom equipment.

This property has also been considered for a future park area. The Beaucatcher Greenway was designed to terminate at this property to offer expansive views of Downtown Asheville. A community group, known as the Friends of Overlook Park, established an agreement with the City to begin the vision and master plan process for recreational use of the property. Existing conditions, including the presence of two telecommunications towers and an abandoned and filled reservoir are acknowledged as part of the site constraints of the design.

US Cellular has been a tenant on the upper tower for a number of years and their current license agreement with the City expires in 2019. As part of the prior agreement, US Cell agreed to provide in-kind services to benefit the City's public safety communications infrastructure. Specifically, US Cell provides a conditioned telco room for the City's public safety communications equipment at this location, access to US Cellular's backup generator and electrical service to the site.

US Cellular has approached the City requesting that a new license agreement be negotiated before the existing lease expires because of the importance of this site to their overall operations in the Greater Asheville area. The following terms have been set forth, as follows:

- US Cellular has requested a ten year term with two optional renewals for four years each. The total would be 18 years.
- US Cellular has agreed to a rate of $55,032 per year with 3.5% annual increases.
- The City has verified that this rate is consistent with municipal tower rates across North Carolina and is considered fair market value.
- If approved, the existing license agreement would terminate upon execution of a new license agreement.
- US Cellular will continue to provide in-kind services to the City as part of the agreement.

Since the license agreement proposal is for a total period longer than ten (10) years, the North Carolina General Statutes state that Council may authorize a lease longer than ten (10) years, but to do so the lease must be administered as a sale in that the process must include an upset bid process or other competitive bid process.

If City Council approves the following resolution, the City Clerk will be directed to publish an advertisement for upset bids for a period of 10 days, in which any interested party may upset the current bid of $55,C32 per year at 3.5 % annual increases over an 18 year term. The statutes require that a qualifying bid must increase the current offer by 10% of the first $1,000 and 5% of the remainder. As set forth in the resolution, if no qualifying upset bids are received, then City Council agrees to further authorize the City Manager to execute the license agreement with US Cellular.

Pros:

- Fair market value license agreement.
- Long term commitment from US Cellular will secure a future revenue stream for the City.
- In-kind services benefit the City's public safety communications.

Con:

- None noted.

License fee revenue is budgeted in the City's General Fund Operating budget. The revenue for this license agreement will be programmed in the annual operating budget for FY 2018.

Staff recommends City Council adopt the following resolution proposing to accept/approve a license agreement with USCOC of Greater North Carolina, LLC (dba US Cellular) for antennas, equipment and expanded buildings at 166 Reservoir Road, directing the City Clerk to advertise for upset bids, and authorizing the City Manager to execute the license agreement if no alternate bids are received.

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Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Councilman Bothwell moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. BUDGET PRESENTATION

Finance and Management Services Director Barbara Whitehorn provided Council the revenue neutral calculation with the latest estimate being 39.39-cents. The total proposed property tax rate arrived at (1) revenue neutral - 39.5-cents (39.39-cents); (2) debt service on General Obligation Bonds - 3.5-cents; (3) transit funding - .05-cents; (4) proposed rate - 43.5-cents (4-cents lower than our current rate). She then provided information on the base budget, which she noted the budgeted operating costs reduced year-over-year is $138,000.

She outlined the Fund Balance with Fund Balance above policy minimum is $1,690,662. Out of that Fund Balance with direction from Council is as follows: Energy Innovation Task Force - $205,000; Tree Canopy Study $25,000; Payroll/Benefits Audit Recommendations - $200,000; Accident Replacement Fire Truck - $510,000; Police Staffing Vehicles - $384,000; Election Costs - $275,000; Additional Strategic Partnership Funding - $42,000; and Neighborhood Fund - $50,000. This leaves the Fund Balance above policy minimum being $338.

She said the 2017-18 proposed General Fund Budget is $121,184,489. She then reviewed the existing Capital Improvement Project and 2016 General Obligation Bond Programs. She then briefly reviewed the other fund budgets - Water Resources, Parking Services, Stormwater, U.S. Cellular Center, and Transit Services.

The 2017-18 Proposed Operating Budget is $174,900,890. Uncontrollable budget variables between now and budget adoption include (1) economic downturn (a) uncertainty in global market; and (b) consumer spending decrease; (2) legislative climate (a) Sales Tax Bill - SB 126 - reduces sales tax distribution to Asheville by $1.1 Million; and (3) bottom line reductions (a) lower Fund Balance would call for reduction in allocations; and (b) reduction in on-going revenue would call for service cuts or tax increase.

At the request of Councilman Smith, Ms. Whitehorn explained the current sales tax distribution formula, noting that out of every dollar spent, the City only realizes 3-cents. The sales tax distribution bill will have a big impact on the City of Asheville.

City Manager Jackson said that we have deliberately and intentionally positioned ourselves to absorb budget crunches for those type of actions with the rainy-day funds that we have. Our reserves are in good shape and are right in the financial management criteria that this Council has set. We have quarterly reporting and close watch on all operations of the City. As we present this budget, we try to be aware of what the risks are and move forward on a sound financial basis.

Mayor Manheimer said that people who own property in Asheville are struggling with their new tax valuation figures and are wondering what the impact will be on their tax bill. We have landed in a place where we have built in the 3.5 cents for the General Obligation bonds because the voters approved the bonds. We went to revenue neutral with the additional 3.5 cents for the bonds. But, she continues to have concern over the additional ½ cent for transit; however, she knows that this Council is committed to growing our transit program to reflect enhancements, which roughly come out to approximately $600,000. She personally asked the City Manager to look at a budget that does not raise taxes beyond the bond requirement, but that does incorporate the additional ½ cent transit funding.

Councilman Bothwell wondered if delaying the roll-out of the APD Downtown District could account for the ½ cent for transit. He also said Council might consider a slight reduction in the City contribution to the Affordable Housing Trust Fund because we do have the bond issue for affordable housing. He also supported revenue neutral plus the 3.5 cents for the bonds.

Councilwoman Mayfield still supported the ½ cent transit funding with a tax increase. Regarding the Affordable Housing Trust Fund, she discovered that we can't use bond funds for the low-income weatherization program recommended by the Energy Innovation Task Force, so it may have to come out of the General Fund allocation for the Affordable Housing Trust Fund.

Mayor Manheimer said that Council can give some broad direction to the City Manager and have him make suggestions on how to allocate the funds.

Councilwoman Mayfield noted that the proposal to change the way that we structure our contract with the transit management company is estimated to be $850,000. She knew the number would be high, but she didn't know it would be that much. She understood there is an

RFP out, but wondered if we can look at the cost analysis and if we have $850,000 to spend on transit, do we want to spend it on a different structure of a management system or expand services. City Manager Jackson said that if Council has specific areas that you want him to look at to find $850,000, he would appreciate the general direction. He will come back on May 23 with alternative scenarios.

Councilman Young agreed with Mayor Manheimer if we can be revenue neutral with the 3.5 cents for bonds. He suggested possibly delaying the public safety allocation.

Mayor Manheimer clarified that we still want to make a commitment to public safety growth, but it may be delayed in order to find additional funds for this year. She again, would not want to see an increase in taxes beyond the bond commitment.

Councilwoman Mayfield said that the overall increase in transit funding is approximately 3-cents. She asked that we explore a 3-cent dedicated source of funding for transit since we are going to need that if we are going to get to the transit system we need. As the value of our property grows, the value of that 3-cents will grow as well giving us a continuous increase in transit funding over time. She asked for some projections of what a 3-cent increase this year might be over time.

Councilman Smith supported continuing to grow our transit system and liked the idea of a dedicated source of funding for transit. He felt affordable housing crisis is real and we should not be raiding the bond money for the Affordable Housing Trust Fund. He, too, would like to keep the taxes at revenue neutral plus 3.5-cents for the bonds. He supported ensuring the community development needs of our community are being recognized and met and supported increasing the Strategic Partnership Funds in the coming year over and above what we are doing currently. He also remained supportive of the Asheville Police Department and further restructuring at a logistical level.

Councilman Haynes did not support funding the increase in Police Department staffing. He supported seeing the transit system fully funded and an increase for the Strategic Partnership Fund. He, too, agreed for a revenue neutral tax with the 3.5-cents for bonds.

City Manager Jackson said that any additional questions from Council tonight and up to the May 23 meeting will go into a comprehensive response included with the May 23 agenda. He said that he will present an option for no tax increase, noting that 85 position requests and $11 Million have not been funded. He said that he anticipated that Council might want to go to revenue neutral and has begun looking at options.

Mayor Manheimer said that the budget public hearing will be held on May 23, 2017, with the final adoption of the budget on June 13, 2017.

B. ASHEVILLE POLICE DEPARTMENT REPORT ON TRAFFIC STOPS AND SEARCH DATA

Deputy Chief Wade Wood said that Police Chief Hooper had a long-standing commitment supporting the National Law Enforcement Week efforts in Washington, D.C., and was unable to attend this meeting. He then summarized the following Chief Hooper's report:

"During its April 25, 2017 Regular Meeting, City Council received a presentation from Attorney Ian Mance of the Southern Coalition for Social Justice regarding his analysis of traffic stop data reported by the Asheville Police Department (APD) over a 15 year period from the website opendatapolicing.com. From this analysis, Mr. Mance made the following recommendations:

- Scrutinize and address APD's data reporting practices to ensure compliance with North Carolina General Statute (NCGS) §143B-903 entitled Collection of law enforcement statistics.
- Prohibit or de-emphasize regulatory and equipment-based stops.
- Institute a mandatory written consent-to-search policy.
- Order periodic audits of individual officer stop-and-search data.

Following a question and answer period between the City Council and Mr. Mance, the City Council requested that the APD analyze the data presented and evaluate Mr. Mance's recommendations. The City Council requested that an interim or full report be provided at the May 9, 2017 Regular Meeting of City Council.

The purpose of this report is to provide a response to the findings and recommendations by Mr. Mance, and to outline the ongoing progressive initiatives underway within the APD to continue moving it towards a model twenty-first century Police Department.

BACKGROUND AND ANALYSIS

The information in the opendatapolicing.com report was first brought to the attention of the APD during a November 30, 2016 meeting with Ms. Dee Williams and Mr. Patrick Conant. During the meeting, Ms. Williams and Mr. Conant indicated that Mr. Mance would be coming to a Lunch and Learn event organized by Ms. Williams to discuss the information. During that meeting, a copy of the report was not provided to APD. Assistant City Manager Paul Fetherston requested that Ms. Williams and Mr. Conant meet with staff prior to the event to discuss their findings and they agreed.

On January 11, 2017, a follow up meeting occurred at the Eddington Center in which Mr. Mance was present and discussed his findings and recommendations. Over the following several months, the report was presented at the Lunch and Learn event, at the February meeting of CPAC, and to the Public Safety Committee in March, which directed that the presentation be given to Council.

Since becoming aware of the report, APD staff has been looking into the data as well as surveying other agencies referenced in the report to verify the validity of the conclusions as well as determine the department's direction regarding the policy recommendations.

Compliance

One of the primary assertions by Mr. Mance is that APD has not had an acceptable level of compliance to the reporting requirements in NCGS §143B-903. To demonstrate this, he asserted that he pulled 50 random traffic citations to determine if the stops had been reported as required and stated that 58% were not in the SBI database.

Since July 2016, APD has conducted monthly compliance audits of traffic stop reports and at no time have such audits found any data whatsoever that is consistent with Mr. Mance's assertion. Since starting monthly compliance audits , the APD's average compliance rate when comparing traffic stop reports to documented traffic stops in APD's Records Management System (RMS) is 102% (if more than one vehicle is pulled over during a traffic post, it generates a separate traffic stop report). Even when the APD examines its Computer Aided Dispatch data (CAD) and adds additional calls that *could but do not necessarily* require a traffic stop report such as "crime prevention" where a suspicious vehicle is encountered etc., the average compliance is 85%.

To address this inconsistency, the APD asked Mr. Mance for the list of citations on which he based his assertion. Mr. Mance, who declined to provide them, responded via email stating, in part, the following:

> Just to be clear, I have not asserted that we pulled a random representative sample, nor did I say that the under-reporting rate I found in the cases I looked at reflected the under-reporting rate for the whole department.

Another frequent example where compliance is questioned for a time period prior to APD's monthly audits is the data submitted for 2015. Mr. Mance asserts that it is improbable that Asheville had only 7409 traffic stop reports in 2015, when other similarly sized cities in North Carolina had far more such as Concord, which reported 21,000.

When examining this information, APD contacted Concord and determined that traffic enforcement is a high priority for their agency, since the city lies on the northern border of Charlotte and experiences a high volume of commuter traffic on I-85 and other alternate routes into the city. The following compares call volume and crime in 2015:

2015	Calls Dispatched	Part I Violent Crime	Part I Non-Violent Crime	Total Part I Crime	Total Part II Crime
Asheville	114,954	444	4,257	4,701	5,019
Concord	87,475	120	2,599	2,719	2,056

Based on crime and call load, officers in Concord have far more time to conduct traffic enforcement and other discretionary duties. Further, Concord did not experience the more than 10 million estimated visitors that Asheville had in 2015. Although similarly sized, Concord may not be a valid comparator.

Nonetheless, it is important to ask - is 7409 reported stops in 2015 a drastic reduction compared to previous years and if so, why? To answer this, it is appropriate to look at the number of stops APD reported to the SBI database in 2015 compared to the number of stops listed in their database. This revealed an anomaly in the listed stops in the SBI database for the months of February and August 2015.

2015 Traffic Stop Data	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Total
Stops Reported by APD to SBI	710	691	827	763	765	635	824	622	723	781	744	635	**8719**
Stops Listed in SBI Database	710	9	827	763	761	633	823	2	723	781	743	634	**7409**

The uploading of traffic stop data to the SBI database is an entirely automated process. A disclaimer on its site explains that a small variance is not unusual, however, APD reported more than 1300 traffic stops in those two months that do not appear in their database. It is unclear why this occurred and there have been no subsequent similar anomalies.

Further, it is well documented that APD did not have use of speed measuring devices (Radar or Lidar) for a period of time due to issues with calibrations. All speed measuring devices were pulled out of service in October 2014. APD did not receive clearance from North Carolina Training and Standards to return them to service until September 2015, and even after that, most of the officers who use them required re-certification. This resulted in little to no use of these instruments during the entirety of 2015 causing a substantial reduction in speeding violations.

Finally, when looking at the overall number of traffic stops reported over the past several years, there has been a general year to year reduction. The last year in which more than 10,000 stops were reported was 2012 with declining totals for 2013-2016 of 7918, 7460, 8719, and 6512 respectively.

Based on this research, there is no evidence that APD has been largely non-compliant in reporting traffic stops during 2015 or 2016. APD will continue to monitor this through monthly compliance audits through our Professional Standards Section.

Policy Recommendations by Jurisdiction

	Prohibits Regulatory Stops	**Requires Written Consent**	**Has BWC Program**	**Audits**
Asheville	No	No – BWC required	Yes – Full implementation by June 30	Monthly Compliance Audits
Greensboro	No	No – BWC Required	Yes	Quarterly Audits
Fayetteville	No	Yes-but low priority w/BWC	Yes	Quarterly Audits
Durham	No	Yes	Yes – currently 20% implemented	Quarterly Audits
Chapel Hill	No	Yes	No-Testing phase	Quarterly Audits

Regulatory Stops

In his presentation, Mr. Mance stated that regulatory and equipment based traffic stops disproportionately impact black motorists in Asheville and reported that an analysis of stops beginning in 2011 revealed that 40% of black motorists were stopped for these violations compared to 32% of white motorists. APD does not dispute these calculations. The reasons why drivers, regardless of race, chose to operate vehicles that are not properly registered, have defective equipment issues, or other regulatory concerns is debatable, but it stands to reason that a substantial portion of these violations are the result of the inability of people in lower income circumstances to afford to keep their vehicle in compliance with these laws. As such, these stops necessarily have a disparate impact on African American drivers.

APD officers will not be prohibited from conducting lawfully permitted traffic stops for regulatory or equipment violations. At the same time, these violations are not, and have not been a priority for APD and will not be emphasized as such. This is consistent with the practices of other agencies mentioned by Mr. Mance in his report as shown above. Further, in February 2017, APD officers were directed in instances where a traffic stop for regulatory or equipment violations does occur, to issue warnings rather than tickets for minor regulatory and equipment violations whenever feasible, particularly if it's the first time a vehicle is stopped for this reason. The purpose of this is to minimize the financial impact on people who already struggle financially, an issue that was brought up as a primary concern to members of the Racial Justice Coalition during a February 23, 2017, meeting with Chief Hooper in which Mr. Mance's report was discussed. This direction was subsequently relayed to members of the Racial Justice Coalition at a follow up meeting on April 28, 2017.

Consent Searches

Mr. Mance reported that there has been a significant reduction in the city-wide stop and search rate "in recent years." He further stated that 56% of all searches over the last five years are consent searches, pointing out that this is a higher percentage than many other departments in the state.

Mr. Mance is correct that the search rate has reduced. The data suggests that the reduction in the number of searches for all reasons has continued a downward trend beginning in 2013 and continuing through 2016 as compared to the period of 2010 through 2012. In addition, the total number of stops has also decreased as discussed above.

	Total Stops	**% Searched for any reason**	**% Consent Searches**
2010-2012	35,171	8%	5%
2013-2016	28,885	4%	1.5%
ONLY 2015-2016	13,726	3%	1%

In the period of 2010-2012, the number of consent searches actually exceeded the number of other searches, equating to approximately 59% of all searches. This represents an unusually high percentage of consent searches, for which Mr. Mance's concerns are well taken. However, in the four years following, 2013-2016, the number of consent searches equate to about 39% of all searches. Looking only at the last two years, 2015-2016, consent searches equate to 34% of all searches. Still a high percentage, but continuing to trend downward.

There is no specific provable explanation for the reduction. Over the past several years, all APD officers have received training specific to implicit bias as well as other racial sensitivity training which may be a factor in the reduction. Further, since July 2015 APD has been steadily gaining momentum in incorporating 21st Century Policing practices with a focus on procedural justice and community engagement.

The issuance of body worn cameras is a substantial step forward in ensuring that drivers are being treated in a fair and constitutional manner during all stops. The legal test for consent is that it is given freely and voluntarily. In most cases, written consent is preferred over verbal consent as an extra means to ensure this. However, the recording of an entire interaction via body worn camera video is even more certain documented evidence as to whether or not the consent is obtained in a lawful and constitutional manner. APD's policy on Body Worn Camera

use ensures that this information is captured and provides a means to not only test the constitutionality of consent, but to ensure that the request for consent is based on reasonable suspicion and not being disparately applied.

Audits

There is no dispute that audits of the traffic stop data are an important component of proper oversight. Recognizing this, APD began conducting internal compliance audits in July 2016, well before this report was presented by Mr. Mance. In addition to checking the level of compliance, APD will implement quarterly audits comparing the opendatapolicing.com information to APD's internal data to ensure consistency as well as to determine if there are trends regarding disparate treatment and impacts on African Americans citizens in our city.

Conclusion

The APD welcomes the opportunity to examine its practices and procedures to ensure that they are consistent with our goal of addressing crime, violence, and quality of life issues through modern, evidence based strategies integrated with the principles of community policing. The history of disparate and racist treatment of African Americans, including in our own community, must be acknowledged. Reports such as the one presented by Mr. Mance bring examples of this to light that can be specifically addressed and corrected. APD will accomplish this by minimizing the financial impact of regulatory and equipment violations through the issuance of warnings in lieu of citations, requiring body worn camera recordings of all vehicle searches, continuing monthly compliance audits and conducting quarterly audits of opendatapolicing.com data.

APD continues to work toward incorporating 21st Century policing principles and has already made substantial progress through the following initiatives:

- implementation of a body worn camera program,
- incorporating community input in its Use of Force Policy revision,
- ensuring all officers are trained in de-escalation, implicit bias, cultural sensitivity, crisis intervention and more, and
- continuing to develop and nurture partnerships, build trust, and instill confidence in its ability to maximize the community's quality of life by providing a high performing law enforcement services.

Through incorporation of the practices listed above, APD will gain further momentum toward becoming a model department."

Councilman Bothwell noted a correction in the report from Police Chief Hooper it asserts that Mr. Mance did not provide the list of citations to the Police Department. However, Mr. Mance did, but the Police Department missed the e-mail and discovered it later.

When Vice-Mayor Wisler asked if warnings for regulatory stops will be documented, Deputy Chief Wood said yes.

Vice-Mayor Wisler asked if there was research that documents whether a written consent may or may not be more effective than verbal. She wondered if we move to 100% written consent, would the officer have to explain it. Or, if someone was illiterate or intimidated by legal language or by the officer, a written consent may have the opposite effect than intended. Deputy Chief Wood said there are multiple studies and he would provide that information to Council.

Vice-Mayor Wisler suggested the Asheville Police Department (APD) look into publishing the results of the audits regarding body cam footages.

Councilwoman Mayfield wanted to see the APD and the community succeed in addressing these issues. One key way to do that is when we all work from the same set of data. Making that data available on a more frequent basis in an aggregated format is the only way we will work from a common piece of information. She hoped the community will get around the table to solve these issues and regular frequent reporting will help us see where we are and where we need to go.

Mayor Manheimer noted that our Information Technology Department is currently working on an open data piece around this issue.

Councilman Bothwell has heard that a written consent form is more likely to inform the driver that they can refuse to consent. When there is a verbal request, he wondered if the officer advises the driver that they don't have to consent. Deputy Chief Wood said that is officer dependent. He said ideally you are soliciting the consent to search and again the legal test for consent is that it is given freely and voluntarily.

Councilman Young said there is a tremendous degree of expectations that are placed on our police officers; however, there is a public perception that historically it seems as though police in and around the country are the only institutions that are above reproach. The public does not always see things the way the law enforcement community does and as public servants we need to be cognizant of what the public's perception is. Regarding the uploading of the traffic stop data to the SBI database, we are told it is completely an automated process. As seen in the 2015 data in February and August, he was concerned by the Asheville Police Department (APD) did not find out why their reports were not recorded by the SBI data. When we start the monthly check, we need to make sure that our stops are being recorded. Regarding regulatory and equipment based traffic stops disproportionately impact black motorists in Asheville, the APD feels that it's because of the inability of people in lower income circumstances can't afford to keep their vehicles in compliance, and as such these stops necessarily have a disparate impact on African American drivers. To accept this premise, since African Americans only make up a small percentage of individuals in the City, he questioned where are the poor white drivers in Asheville. Regarding consent, he recommended that the APD make written consents mandatory. He strongly felt that written consent searches benefit the individual that is being pulled over to know for a fact that the officer cannot search their car without their consent.

Mayor Manheimer asked for clarification on the percentages for regulatory stop data.

At the request of Mayor Manheimer, it was the consensus of Council to receive written quarterly audits.

Councilwoman Mayfield said that as cities progress to body worn cameras that written consent seems to be decreasing. It makes sense that the body worn cameras would provide the best evidence of consent and lack of bullying and provide the best check on the officer's behavior.

Deputy Chief Wood said that a body worn camera provides a picture of full interaction of all parties involved; however, only the Police Chief and parties involved (with their attorneys) can view the body cam footage, according to state law.

When Councilman Smith asked City Attorney Currin if the confidential memorandum regarding traffic stops and consent searches that she provided to Council is open to be released, City Attorney Currin said that Legal staff will remove any attorney-client privilege information and make the data contained therein available to the public.

Mayor Manheimer felt the written consent search has a lot of benefit but if you don't have the video to back it up, there might be some discrepancy on how that consent was obtained. She would assume a video would trump a written consent on determining whether or not there was consent provided for the search. Not having expertise in policing, she has to defer to the APD if they feel the camera consent is better than written consent she will have to go with that recommendation. She did feel it would be helpful for Council to have a 6-month follow-up to look at the number of consent searches vs. the number of probable cause searches and how those consent searches were documented.

Mayor Manheimer said that she has never seen the written consent form so she didn't know if it advises the driver that they have the option to say no or not. She said that would be an interesting thing to look at.

Councilman Haynes supported mandatory written consents.

City Manager Jackson summarized the following additional information Council has requested: (1) are there independent studies of written consent effectiveness and advice on recommended practices; (2) response to SBI data questions raised; (3) is it possible to compile aggregate data of performance audits and make available as open records and quarterly reports to Council; and (4) what is the APD plan for creating other key disparity metrics.

C. UPDATE ON FOOD ACTION POLICY PLAN

Assistant City Manager Cathy Ball provided Council with the following report by Sustainability Officer Amber Weaver:

"The purpose of this status report from the Office of Sustainability (OoS) is to provide City Council an update on the Asheville Edibles Program and the revision of the City's Food Policy Action Plan.

On January 22, 2013, Asheville City Council passed a resolution establishing the City of Asheville's Food Action Plan in support of the Asheville Buncombe Food Policy agenda. The Food Policy Action Plan included 14 specific areas to review or take action on to support the shared goals of the City of Asheville and the Asheville Buncombe Food Policy Council.

The Food Policy Action Plan Website and Programming project charter (March 2016) described an aim to provide "programming that supports the City's Food Policy Action Plan and the measures within the plan that address; specifically, urban agriculture through farmer's markets, local food purchasing policies, public private partnerships for composting, edible native landscaping, native pollinator plants that support Bee City USA resolution, food production, and education to the community at large."

The Asheville Edibles program has been developed to meet this need and includes processes for community gardens, Adopt-A-Spot, and large agriculture leases. The program debuted at the 2017 Earth Day celebration.

Update:

Asheville Edibles Program:

The purpose of this program is to provide an opportunity for community members to grow food and pollinator plants on publicly-owned land; goals identified in both Resolution 13-17 Food Policy Action Plan and the designation of Asheville as the inaugural Bee City USA, Resolution 12-

153. New this year, the City of Asheville is partnering with Asheville GreenWorks to expand Bee City and pollinator projects through Adopt-A-Spot.

The Asheville Edibles Program consists of three different opportunities: Adopt-A-Spot, Community Gardens, and Urban Agriculture Leases.

Adopt-A-Spot - The City has teamed up with Asheville GreenWorks to provide oversight of the new Adopt-A-Spot program. Businesses, organizations, or individuals can apply to adopt a City-owned piece of property. Once an application is approved, the responsibility of the adopter will be to maintain either an edible or pollinator garden in the location. Adopters will be recognized with a sign at the adopted spot.

Community Gardens - Asheville's Community Gardens Program provides residents with an opportunity to organize community gardens on designated City-owned land. For the 2017 growing season, four (4) sites have been identified by city staff. For successful applicants, there is no cost to lease the land, and each garden location has room for several plots. This is a great way to bring a neighborhood and/or organization together to grow local, fresh, and healthy produce to create a stronger, more resilient community.

Urban Agriculture Leases - The Urban Agriculture Leases Program has parcels of City-owned land prepared to be leased at fair market value. The terms of the leases are 3 years with an option to renew. For the 2017 growing season, two (2) sites have been identified by city staff. This program is designed to support urban agriculture development to increase local food production and community food security. The City encourages applications from qualified individuals, businesses, and/or nonprofit organizations to apply for a lease agreement. This is a great opportunity for those who want to grow food on a larger scale, but do not have the property to do so.

Those interested in any of the opportunities in the Asheville Edibles Program can visit the OoS website to review the rules and find an application form.

Food Policy Action Plan:

Through the City's contract with Bountiful Cities, the Asheville Buncombe Food Policy Coordinator (ABFPC) and the OoS have been working to revise and update the City's Food Policy Action Plan (FPAP).

The FPAP revision public survey closed at the end of February with 145 participants having submitted their input regarding priorities around Asheville's food system. Included in this process was a public input session held at Hillcrest on February 10th in an attempt to support the participation of low income individuals to complete the survey, as well.

The ABFPC coordinator processed the survey results, grouping answers into categories based on priorities expressed along with the present goals within the City's existing plan. Additional experts from the State's Local Food Council, NC and Community Food Strategies have been invited to weigh in on the suggesting action items identified.

Next steps include draft recommendations to be presented to the necessary COA departments and personnel for approval/input; followed by a presentation to Planning & Economic Development Committee this summer."

In response to Councilman Bothwell, Ms. Ball said that we are looking at best practices for a model for community gardens.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO RECEIVE COMMENTS REGARDING THE CONSOLIDATED ACTION PLAN FOR FISCAL YEAR 2017-18 WHICH SETS OUT THE PROPOSED USE OF FEDERAL COMMUNITY DEVELOPMENT BLOCK GRANT AND HOME INVESTMENT PARTNERSHIP ACT FUNDS FOR THE COMING YEAR

RESOLUTION NO. 17-89 - RESOLUTION AUTHORIZING SUBMISSION OF THE CITY'S CONSOLIDATED ANNUAL ACTION PLAN FOR 2017-18 TO THE U.S. DEPT. OF HOUSING AND URBAN DEVELOPMENT

Community Development Manager Heather Dillashaw said that this is a public hearing to receive comments regarding the proposed Consolidated Action Plan for Fiscal Year (FY) 2017-18, which sets out the proposed use of federal Community Development Block Grant (CDBG) and HOME Investment Partnership Act (HOME) funds for the coming fiscal year; followed immediately by Council's consideration of a resolution authorizing submission of this Consolidated Action Plan to the US Department of Housing and Urban Development (HUD). This public hearing was advertised on April 28 and May 5, 2017.

Ms. Dillashaw was happy to report that the federal budget for HUD Community Development Block Grant (CDBG) and HOME Investment Partnership Funds for Fiscal Year 2017-18 was adopted. Basically, this means the recommendations made by the Housing & Community Development Committee and the HOME Consortium Board will be able to be fully funded with the approval of the Asheville City Council.

It is estimated that based on last year's federal allocation the City will have available approximately $1,271,940 in CDBG funds and $981,153 in HOME funds in the fiscal year beginning July 1, 2017.

The City's Housing and Community Development Committee has made recommendations for the use of CDBG funds, which must be used in housing or community development programs in Asheville, and the Asheville Regional Housing Consortium has recommended uses for the HOME funds, which must be used for housing programs within the four-county Consortium area (Buncombe, Henderson, Madison, and Transylvania counties). A total of 31 programs are recommended for funding. Allocations are consistent with the proposed Strategic Housing & Community Plan for 2015-2019.

The Community Development Division will continue to monitor the current federal budget status and propose amendments as needed, once an approved federal budget is in place.

A public hearing will be held at the Council meeting of May 9, 2017. Comments received at the meeting will be incorporated into the Plan, as will comments submitted in writing. The plan is due to be submitted to HUD by May 15. The following is a summary of funding recommendations.

SUMMARY OF ANNUAL ACTION PLAN FOR 2017-2018

CDBG PROGRAM

Projected Revenue:

Estimated 2017-18 Program Income	$ 339,939
Unbudgeted Program Income	-
Funds available for reallocation	-
New CDBG Entitlement Grant	$ 932,001
Total CDBG Funds Available:	**$ 1,271,940**

Proposed Use of Funds:

2017-2018 PROGRAM	Funding Recommend.
Asheville Area Habitat for Humanity - Home Repair	$ 64,000
Asheville Area Habitat for Humanity - Homeowner Services	$ 58,836
Carolina Small Business Development Fund – Western Women's Business Center	$ 85,000
Eagle Market Street Development Corporation – IDA for Small Business	$ 70,000
Green Opportunities – Workforce Development: New Model for Stability & Growth	$ 175,000
Helpmate - Domestic Violence Services	$ 20,000
Homeward Bound - AHOPE Coordinated Assessment	$ 50,000
Homeward Bound – Prevention and Rapid Re-Housing	$ 90,000
Housing Authority of the City of Asheville - Lee Walker Heights	$ 179,703
Mountain BizWorks – Opportunity Asheville	$ 88,750
Mountain Housing Opportunities - Emergency Home Repair	$ 110,000
OnTrack - Financial Capabilities Program	$ 20,000
Pisgah Legal Services - Homelessness Prevention Project	$ 41,000
YWCA - Drop in Childcare	$ 19,263
City of Asheville - Program Administration	$ 200,388
RECOMMENDED FUNDING	**$1,271,940**

HOME INVESTMENT PARTNERSHIP PROGRAM

Projected Revenue:

Estimated 2017-18 Program Income	$ 19,526
Unbudgeted 2016-2017 Program Income	-
Funds available for reallocation	-
New HOME Entitlement Grant	$ 961,627
Total HOME Funds Available:	$ 981,153

Proposed Use of Funds:

2017-2018 PROGRAM	Funding Recommend.
Asheville Area Habitat for Humanity – Tunnel Road Development	$ 68,038
Homeward Bound – Asheville Tenant Based Rental Assistance	$ 55,000
Mountain Housing Opportunities – East Haven Apartments	$ 675,000
Homeward Bound-TBRA Buncombe County wide	$ 85,000
City of Asheville - Program Administration	$ 98,115
RECOMMENDED FUNDING	**$ 981,153**

Pros:

- Approval of the Action Plan paves the way for the receipts of over $2,250,000 of HUD funding to the City, which will be used to create affordable housing, create jobs, and improve public infrastructure.
- Reflects the carefully considered recommendations of the City's Housing & Community Development Committee and the Asheville Regional Housing Consortium.

Con:

- It is not possible to fund all the applications received, and most of those funded will receive less than the amount requested.

The Action Plan is fully funded from federal CDBG & HOME entitlement grants, unused funds from previous completed projects, and estimated program income. Staff costs to administer the program are also fully paid from federal sources. The funded programs will provide new construction and other economic activity in the City and region, creating and sustaining employment. New assisted housing units to be constructed in Asheville will add significantly to the City's tax base.

Staff recommends approval of the resolution authorizing submission of the City's Consolidated Annual Action Plan for 2017-18 to the U. S. Dept. of Housing and Urban Development.

Councilman Smith said that once the bond passed, the Housing Authority questioned if they might be able to qualify for some of the bond funding rather than having it come out of the CDBG funds. As always, there is more people applying for funds than we have. The Housing Authority said they would volunteer to come out of CDBG funding if they can guarantee their funding from another source within the City. What that did was to allow us to fully fund every single application. If Council moves to have the Housing Authority money come out of the bond funds, it will allow us to have an additional $315,000 towards community efforts this year. Council will be required to take action on whether to leave the Lee Walker Heights money in CDBG or to move it out and allow for that reserve allocation to happen later in the year.

Mayor Manheimer opened the public hearing at 7:13 p.m. and when no one commented, she closed the public hearing at 7:13 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the resolution and it would not be read.

Councilwoman Mayfield moved to (1) approve the recommended funding levels as presented, with the deletion of the Housing Authority Lee Walker Heights Project allocation of $179,703, allocate the $179,703 to reserve, and submit the City's Consolidated Annual Action Plan for 2017-18 to the U. S. Dept. of Housing and Urban Development; and (2) proceed with amending the City's 2016-17 Consolidated Action Plan to reallocate the Housing Authority Lee Walker Heights allocation of $179,703. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

Councilwoman Mayfield moved that $179,703 funding previously allocated for the Housing Authority Lee Walker Heights Project not come out of the CDBG funds but instruct staff to find replacement funding either through bond funding or possibly Section 108 money. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

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B. PUBLIC HEARING TO CONSIDER A CONDITIONAL ZONING FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL

ZONING FOR THE EXPANSION AND UPGRADE OF A WASTE TRANSFER STATION AT THE PROPERTY LOCATED AT 190 HOMINY CREEK ROAD

ORDINANCE NO. 4581 - ORDINANCE TO CONDITIONALLY ZONING FROM INSTITUTIONAL DISTRICT TO INSTITUTIONAL DISTRICT/CONDITIONAL ZONING FOR THE EXPANSION AND UPGRADE OF A WASTE TRANSFER STATION AT THE PROPERTY LOCATED AT 190 HOMINY CREEK ROAD

Mayor Manheimer said that this public hearing was continued from the April 25, 2017, meeting to this date.

Urban Planner Sasha Vrtunski said that this is the consideration of an ordinance to conditionally zone from Institutional District to Institutional District/Conditional Zoning for the expansion and upgrade of a waste transfer station at the property located at 190 Hominy Creek Road. This public hearing was advertised on April 14 and 21, 2017.

Since the original submittal, Buncombe County has changed their proposal to include a sidewalk and additional trees along the greenway to increase the screening of the new building. Those items are reviewed below.

The project site is 12.40 acres on Hominy Creek Road along the French Broad River and is the current site of the Buncombe County Transfer Station. The transfer station is located on an old landfill site, surrounded by trees on all sides. This parcel was newly created in early February from a parent tract of 22 acres (not yet mapped by Buncombe County). Adjacent to the property is Hominy Creek Park at the southern end of the road. The French Broad River greenway runs north from the park, along the eastern edge of the subject property next to the river, connecting to Carrier Park and other greenway trails. Notably, this property is located near two existing greenways and a potential future greenway leading to the WNC Farmers Market, and the road is frequently used by cyclists, paddlers and walkers/runners.

The proposal is for the renovation and expansion to the existing Buncombe County transfer station. The project includes a new building, parking and vehicular use area and upgrades. The proposed new building is 19,801 square feet and contains a smaller lower level. The new building will be approximately 7 feet taller than the existing transfer station building.

The site currently has two driveways leading to two different buildings and functions. The driveways are proposed to stay unchanged. Parking spaces are being provided for the service bays and employees, and total 14 spaces with one required handicapped space. Two bicycle parking spaces are shown on the plans. For a redevelopment project of this type, a sidewalk is required per UDO standards. The applicant has proposed providing a 6 foot back of curb sidewalk for the upper portion of the site, with a pedestrian crossing to the other side of the street, and continuing with a 10 foot multi-use path and a 5 foot landscape strip for the remaining parcel frontage. She said an additional sentence on this condition (which Buncombe County has agreed to) would be that the six foot sidewalk will extend between 218 feet and 320 feet before crossing Hominy Creek Road. City staff will work with Buncombe County to determine the best point of crossing based on pedestrian safety and flood regulations, and will be so indicated on the site plan at that time.

Required landscaping for this project includes street trees, building impact, parking lot landscaping and street buffers. There are significant trees and plant material already present on the perimeters of the site, and it is anticipated that there will be more than enough tree credits to fulfill the tree requirement for building impact landscaping.

The applicant is requesting landscaping reductions for the parking lot landscaping. Parking lot landscaping is required to be within 15 feet of the vehicle use area, making it difficult

to meet as this site has severe restrictions on planting on top of the landfill. Shrubs, however, can be planted around the vehicular use areas.

This project includes a several conditions found in the B1-Conditions list. Modifications and special conditions to note include:

1. Reduced parking lot landscaping: reduced by 54 trees.
2. Additional landscaping along the greenway to provide additional screening between the greenway and the new building. Applicant is proposing to plant 54 trees in this area.

This proposal was approved with conditions by the Technical Review Committee (TRC) on February 20, 2017. As with all conditional zoning applications, this proposal was reviewed by the Planning and Zoning Commission on April 5, 2017, and was approved with a 5-2 vote. Several commission members were concerned about the applicant not building a sidewalk on Hominy Creek Road. The discussion focused on the amount of traffic related to Hominy Creek Park (Cycling, paddling) and the connection between the park and the Hominy Creek Greenway that ends at Shelburne Road, very close to Hominy Creek Road.

City Council provides the final review of the conditional zoning request. The proposal will return to the Technical Review Committee for a final TRC review if approved by City Council. Transportation staff has received communication from members of the Greenway Committee and Friends of Hominy Creek Greenway. These citizens were concerned about the original plans which called for no sidewalk along Hominy Creek Road, and there were also concerns about the view of the new building from the greenway.

The change in zoning is required because under the current Institutional zoning a waste transfer station is not allowed; therefore, an expansion of a non-conforming use is not allowed. Industrial zoning is the appropriate zoning for the operation.

There are no recent projects close to this site. In the general area, recent projects include the Ashecroft Subdivision (Major Subdivision, 2017, in final review) and the Hampton Inn and Suites (Level II project, 2016, under construction).

This site is fairly isolated, located between I-40, the Biltmore Estate and the NC Farmer's Market, accessed only by Hominy Creek Road. The majority of surrounding zoning is Buncombe County zoning: Public Service (PS) district for the WNC Farmer's Market, Conference Center/Resort (CR) zoning for the Biltmore Estate. Given the isolated nature and scale of the site and the unique attributes of the on-going operation, staff believes that this will continue to be a compatible use for this location.

This proposal aligns with several aspects of the *City Development Plan 2025* including "Continue to promote and facilitate effective and efficient governmental coordination" and "Continue to direct a substantial amount of solid waste and organic materials away from landfill disposal... through recycling and reuse."

Considerations:

- Project expands a current use in an isolated location with very limited impacts on the nearby West Asheville neighborhoods.
- The transfer station is substantially screened by existing vegetation.
- Applicant has revised plans to include a sidewalk and multi-use path along the parcel frontage.
- Owner/applicant has proposed adding trees along the greenway to further reduce the visual impact of the new building from the greenway.

Based on policies stated in the Comprehensive Plan and other plans, such as the 2036

Council Vision, staff finds this request to be reasonable and within the best public interest and recommends support of the conditional zoning as proposed.

When Councilwoman Mayfield asked if there are any plans to extend a path to the entrance of the park, Ms. Vrtunski said that the Buncombe County Greenway Plan calls for a greenway to happen on either side of that creek that would connect the Hominy Creek Greenway into the park. There is also a proposed greenway that would come over from the Farmer's Market across that creek.

Mr. Jon Creighton, Assistant County Manager, said that they want to replace their existing transfer station. He showed various views around the transfer station and said that they will work with City staff to determine the best point of crossing based on pedestrian safety and flood regulations.

Mayor Manheimer opened the public hearing at 7:29 p.m.

Mr. Rich Lee, Vice-Chair of the Greenway Committee and member of the Multimodal Transportation Commission, was excited to see the compromise on the sidewalk and multi-use path for this vital connector for bicycles and pedestrians.

Mayor Manheimer closed the public hearing at 7:31 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Councilman Smith moved to approve the the conditional zoning request from Institutional District (INST) to Industrial Conditional Zone (IND-CZ) with the requested condition for the reduced landscaping and find that the request is reasonable, is in the public interest, and is consistent with the Comprehensive Plan and other adopted plans in that: (1) the site has historically been an industrial use; (2) additional landscaping and the location serves to largely conceal the facility from adjacent uses and the nearby neighborhood; (3) the facility is integral to the City's solid waste and recycling functions; and, (4) the expansion and upgrading of the facility eliminates the need to relocate this use to another part of the community. This motion was seconded by Councilman Bothwell and carried unanimously.

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Closed Session

At 7:32 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Civil Service Board Grievance - Richard Grant; and City of Asheville v. Robert H. Frost. The statutory authorization is contained in N.C. Gen. Stat. § 143-318.11(a)(3). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 7:55 p.m., Vice-Mayor Wisler moved to come out of closed session. This motion was seconded by Councilman Smith and carried unanimously.

V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

A. RESOLUTION NO. 17-90 - RESOLUTION REAPPOINTING MEMBERS AND CHAIR TO THE CIVIL SERVICE BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that it is the responsibility of City Council to appoint the Chair of the Civil Service Board and the Chair of the Civil Service Board shall be appointed annually by City Council. In addition, the terms of Carol Goins and Alan Escovitz as members of the Civil Service Board expire June 11, 2017.

In 2013, a process was established for future appointments to the chair role of the Civil Service Board. Said process offered members of the Civil Service Board to express interest in serving as Chair.

All members were advised to contact Deputy City Clerk Sarah Terwilliger if they were interested in serving as Chair. Mr. Alan Coxie was the only interested member. The term of the current Chair Alan Coxie expires on June 28, 2017.

Vice-Mayor Wisler moved to reappoint Mr. Alan Coxie as Chairman of the Civil Service Board to serve a one-year term until his successor is duly appointed or until his term on the Civil Service Board expires, whichever occurs first. This motion was seconded by Councilman Smith and carried unanimously.

Vice-Mayor Wisler then moved to reappoint Ms. Carol Goins and Mr. Alan Escovitz to each serve an additional two year term, terms to expire June 11, 2019, or until their successors have been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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B. RESOLUTION NO. 17-91 – RESOLUTION APPOINTING A MEMBER TO THE HOMELESS INITIATIVE ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that Allison Bond, representative for the veterans' administration on the Homeless Initiative Advisory Committee (HIAC), resigned, thus leaving an unexpired vacancy until November 1, 2018.

The following individual, who fit the designated seat vacancy, applied for the vacancy: Whitney Lott.

At the recommendation of the Homeless Initiative Advisory Committee (HIAC) to appoint Ms. Lott even though she is not a City resident. They felt that 40% of our homeless population are veterans, making it critical for the lead person in the VA Homeless Programs office to be a seated member of HIAC. There is not a city resident who holds this position at the VA and would be able to bring the knowledge and expertise critical to HIAC's work on reducing and ending veteran homeless in our community. It was the consensus of the Boards & Commissions Committee to appoint Whitney Lott.

Vice-Mayor Wisler moved to appoint Whitney Lott to serve as the veterans' administration representative on the Homeless Initiative Advisory Committee, term to expire November 1, 2018, or until her successors has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

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VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Vice-Mayor Wisler said that at the Boards & Commissions Committee meeting held earlier in the day, they talked about the Citizens-Police Advisory Committee (CPAC) and the possible establishment of a Human Relations Commission. Due to time constraints, it was the consensus of the Committee to hold a special meeting on Monday, May 22, 2017, at 10:00 a.m. in Room 209 of City Hall to continue the discussion of (1) the mission/make-up of CPAC; (2) potential formation of a Human Relations Commission; and (3) Neighborhood Opportunity Fund.

Due to the number of individuals requesting to speak on items presented under the Presentations portion of the meeting, Councilwoman Mayfield moved to waive the rules and allow speakers to comment on those items. This motion was seconded by Councilman Bothwell and carried unanimously.

Mr. Vijay Kapoor commented on the 2017-18 budget and felt there was a lack of information on specific projects related to the bonds. He also felt that an additional 15 police officers requested is one year is rare and asked for the demonstrated need for those additional officers.

Mr. Sidney Bach expressed concern on the City's accounting system and the upcoming approval of a property tax increase to pay the interest and principal on the yet-issued General Obligation bonds.

The following individuals commented on the Asheville Police Department and Mr. Ian Mance's reports on traffic stops and search data:

Ms. Dee Williams, Chair of the NAACP Criminal Justice Committee
Mr. Patrick Conant
Mr. Ian Mance, attorney with the Southern Coalition for Social Justice
Ms. Catherine Kerr
Ms. Darlene Azarmi
Ms. Ashley Cooper
Mr. Rondell Lance

Councilman Smith urged the public to advocate to our legislators in Raleigh to raise the age of juvenile jurisdiction from 16 to 18 in North Carolina for misdemeanants and non-violent felons. On April 25, 2017, City Council supported this action.

Councilman Bothwell urged the community to support a new organization called Appalachian Wild who take care of injured wildlife.

Councilman Young stated that he attended a class at the School of Government that focused on evaluating and assessing boards and commissions. He will provide Council with the best practices formulated across the state.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:46 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Tuesday – May 23, 2017 - 4:00 p.m.

Budget Worksession

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

Follow-Up on Council Questions

Director of Finance and Management Services Barbara Whitehorn provided Council with information regarding all Council questions raised at their May 9, 2017, worksession, along with other questions raised throughout the week.

She, along with Police Chief Tammy Hooper, provided Council with alternatives for phasing in the hiring of additional Asheville Police Department (APD) officers. With the phasing in of new officers, along with reallocation from within the APD of $430,000 and $137,800 reallocated from other City departments, the proposed increase to the APD 2017-18 operating budget would be zero.

She then provided Council with alternatives to a tax increase to fund the service improvements and capital investment for transit. Option 1 would be revenue neutral, including transit, which would require cuts, deferrals and other options for shifting funding to transit from all City departments. Option 2 is revenue neutral plus .05 cents ($711,500) dedicated for transit. Option 3 would be to raise revenues, other than property taxes, e.g., cutting specific programs, cutting strategic fund partnership grants, etc.

Ms. Whitehorn then showed Council a model that dedicates to transit the property tax rate equivalent of the General Fund annual subsidy.

Throughout Ms. Whitehorn's and Police Chief Hooper's presentation, Council asked several questions and discussed the police staffing and transit models.

Councilwoman Mayfield said that cutting from other departments with Option 2 is not a sustainable way to fund transit. She supported a .05 cent increase dedicated to transit and then have a conversation about having a dedicated revenue stream that grows over time for transit going forward. It was the consensus of Council to refer the funding mechanism of a dedicated revenue stream for transit to the Finance Committee.

Councilman Haynes could not support the hiring of additional police officers.

Vice-Mayor Wisler said that at the Finance Committee earlier in the day they discussed the retirement funding for Asheville firefighters. In 2007 during the budget process, Council adopted Resolution No. 07-164 creating a 401A retirement plan for firefighters since they elected not to be covered by Social Security and the City did not contribute towards social security for them. The City approved a 2% match during the first year of implementation, which plan was to incrementally increase that City match by 2% each year over the next two budget years until there was a 6% total matching City contribution. Due to the national and local economic situation, that continued contribution did not happen. It was the consensus of the Finance Committee to work toward that City contribution of 6%, starting with a 2% increase on January 1, 2018. That would require a General Fund increase of $150,000. In future years the 2% match would be $300,000. It was the consensus of Council to direct staff to include a 2% increase to the

firefighters' 401A beginning January 1, 2018, with the Finance Committee reviewing in detail to see if there is anyway to do this administratively for a better outcome for all employees.

Mayor Manheimer explained that the budget before Council assumes a 39.39-cents (revenue neutral) plus .5-cents (transit) plus 3.5-cents (General Obligation Bonds) for a total of 43.39-cents. She clarified that the budget before Council does include the increase in personnel for the APD but it is from a reallocation of funds from the APD and $137,000 reallocation of funds from all other City departments.

At 4:59 p.m., Mayor Manheimer adjourned the worksession.

Tuesday – May 23, 2017 - 5:15 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

Interpreters were present at the Council meeting and they thanked Council for allowing them to provide this service.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING MAY, 2017, AS "LYME DISEASE AWARENESS MONTH"

Councilman Bothwell read the proclamation proclaiming May, 2017, as "Lyme Disease Awareness Month" in the City of Asheville. He presented the proclamation to Jan Dooley, Tess Burton and another, who briefed City Council on some activities taking place during the month.

B. PROCLAMATION PROCLAIMING JUNE 2, 2017, AS "GUN VIOLENCE AWARENESS DAY"

Mayor Manheimer read the proclamation proclaiming June 2, 2017, as "Gun Violence Awareness Day" in the City of Asheville. She presented the proclamation to Ms. Jean Smith, local Asheville lead for Moms Demand Action for Gun Sense in America, and others, who briefed City Council on some activities taking place during the day.

C. PROCLAMATION PROCLAIMING JUNE 5-11, 2017, AS "HEMP HISTORY WEEK"

Councilman Haynes read the proclamation proclaiming June 5-11, 2017, as "Hemp History Week" in the City of Asheville. He presented the proclamation to Timothy Sadler, and others, who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 9, 2017

B. RESOLUTION NO. 17-92 - RESOLUTION AUTHORIZING THE CITY MANAGER TO SIGN THE UNITED STATES GEOLOGICAL SURVEY APPLICATION TO NAME A CREEK THAT FLOWS THROUGH THE RIVER ARTS DISTRICT AND WEST END/CLINGMAN AVENUE NEIGHBORHOOD AS BACOATE BRANCH

RESOLUTION NO. 17-93 - RESOLUTION RENAMING CLINGMAN FOREST GREENWAY TO BACOATE BRANCH GREENWAY

Summary: The consideration of (1) a resolution authorizing the City Manager to sign the United States Geological Survey (USGS) application to name a creek that flows through the River Arts District (RAD) and West End/Clingman Avenue Neighborhood (WECAN) as Bacoate Branch; and (2) a resolution renaming Clingman Forest Greenway to Bacoate Branch Greenway.

(1) Naming the creek: As a part of its "Name that Creek" program, RiverLink recently worked with city staff to perform a community engagement process to gather nominations and identify a preferred name for the creek that begins in Aston Park near the intersection of Hilliard and Clingman Avenues. It parallels Clingman before ducking under several buildings, Clingman Avenue and Riverside Drive, flowing into the French Broad near 14 Riverside Drive, which is the site of the River Arts District visitor center set to open spring 2017. RiverLink asked the three representative community groups in the area (River Arts District Artists (RADA), River Arts District Business Association (RADBA) and West End Clingman Avenue Neighborhood (WECAN)) to submit names to be included in a RiverLink poll. It was agreed by all groups that naming the creek will call attention to the creek and increase the community's sense of ownership of the creek.

RADA, RADBA, and WECAN proposed eight names and the community-based engagement process initiated by RiverLink and supported by the City of Asheville (City) resulted in the selection of the name "Bacoate Branch." This name is in honor of Osie Bacoate, the matriarch of the Bacoate Family. She was a teacher, cosmetologist, business owner and community leader in the African American community. Her son, Matthew Bacoate, Jr., a community leader in Asheville, was the General Manager of AFRAM, a pioneer African American manufacturer that became the largest black-owned business in the history of Asheville. AFRAM was located in what is now the Wedge Building in the River Arts District. He is still alive today and lives in the WECAN neighborhood. His son also lives in Asheville. The Bacoate family is not opposed to this action. It is important to note that Thomas Clingman did not have heirs and there are no known citizens with the name Clingman in Asheville.

In order to complete the application to the United States Geological Naming Convention form to name this water body "Bacoate Branch", a local government official must sign the form to demonstrate support and to certify that the naming process followed USGS guidelines.

Because of the location of the creek and its proximity to the French Broad River, the request was referred to the Asheville Area River Redevelopment Commission (AARRC). On March 9, 2017, the AARRC reviewed and unanimously approved the following motion: *The Asheville Area Riverfront Redevelopment Commission accepts Bacoate Branch as suggested by the results from the RiverLink poll to rename the tributary, and recommends to Council that they support the adoption of this name.*

(2) Renaming the Clingman Forest Greenway: The Clingman Forest Greenway, slated for construction in 2019, is a 0.45 mile greenway that starts near the Clingman Avenue and Hilliard Ave intersection and ends at the northern side of Clingman Avenue Extension. It follows

the path of the creek discussed in part one, above. The WECAN Association approached the City requesting the name of the greenway be changed.

The neighborhood provided the following reasoning: Thomas Lanier Clingman, for whom Clingman Avenue, Clingman's Dome & this future greenway are currently named, was an attorney, NC State and federal representative and senator, and a pro slavery, confederate army general. As WECAN represents a diverse, active & caring community, the WECAN Board feels strongly that the naming of this future greenway after one who supported the institution of slavery sends the wrong message to and about our community.

If Council moves to name the adjacent waterbody "Bacoate Branch," WECAN, along with RADA and RADBA, would like the name of Clingman Forest Greenway to be changed to "Bacoate Branch Greenway." Two City Commissions and one City Committee reviewed the matter; all three voted unanimously to support the name change: The Greenway Committee on March 2, 2017; The Multimodal Transportation Commission on March 22, 2017; and the AARRC on March 9, 2017. The African American Heritage Commission reviewed the request and had no comments.

Staff has worked closely with the key stakeholders on both of these items and finds both community requests align with Council adopted policies and plans.

The request to the name the creek follows the Stream Naming Policy, and the request to rename Clingman Forest Greenway follows the City's Naming Policy. Staff further notes that the names of all greenways in the Greenway Master Plan are named after natural features in the proximity of the greenway --usually, water bodies (e.g. French Broad River Greenway, Reed Creek Greenway). The suggestion of "Bacoate Branch Greenway," therefore, also aligns with the City's informal naming conventions for greenways. Staff has not heard of anyone opposed to either of these naming requests.

Pros:

- Naming of a creek or stream can bring attention to its existence, help identify it as a part of the River District ecosystem, and encourage environmental stewardship that enhances quality of life.
- Supporting this community-driven effort further develops partnerships between groups like RiverLink, RADA, RADBA and WECAN and the City.

Con:

- None identified.

There is no fiscal impact related to this item.

Staff recommends City Council authorize the City Manager to sign the USGS form to name the creek in the River Arts District "Bacoate Branch" and to rename the Clingman Forest Greenway to "Bacoate Branch Greenway."

RESOLUTION NO. 17-92 - RESOLUTION BOOK NO. 38 - PAGE 428
RESOLUTION NO. 17-93 - RESOLUTION BOOK NO. 38 - PAGE 429

C. APPROVAL TO MOUNT A CEREMONIAL PLAQUE ON THE EXTERIOR OF THE MUNICIPAL BUILDING RECOGNIZING THE BRICK WORK OF JAMES VESTER MILLER

Summary: Motion to approve a request to mount a ceremonial plaque honoring James Vester Miller, a prominent African-American brick mason who performed the bricklaying on the Municipal Building in 1925 and 1926, on the Municipal Building.

The City of Asheville has received a request from Ms. Andrea Clarke, grand daughter of James Vester Miller, to mount a ceremonial plaque on the Asheville Municipal Building honoring Mr. Miller's bricklaying on the Municipal Building.

Ms. Clarke has followed the City's policy on public naming, and pursuant to the policy, on April 11, 2017, City Council made an announcement of the request and solicited input from surrounding property owners, residents, affected parties, and other City officials or anyone else who can contribute meaningful input.

The African American Heritage Commission received this information and had no concerns.

Ms. Clarke has submitted three possible locations that she wishes the plaque to be placed. After the General Services Director reviewed all three possible locations, it was his recommendation that the plaque be placed in the brick work centered between the windows beneath the "Asheville Police Department' sign on the exterior face of the Municipal Building.

There will be no fiscal impact to the City as the plaque and mounting will be paid for by Ms. Clarke.

Staff recommends City Council approve mounting a ceremonial plaque be placed in the brick work centered between the windows beneath the "Asheville Police Department" sign on the exterior face of the Municipal Building honoring the brick work of James Vester Miller and his construction firm Miller Construction Company.

D. ORDINANCE NO. 4582 - BUDGET AMENDMENT FOR SWANNANOA RIVER GREENWAY CORRIDOR STUDY

Summary: The consideration of a budget amendment, in the amount of $86,803 in the City's Special Revenue Fund, from the N.C. Dept. of Transportation and private donations, to set up the project budget for the Swannanoa River Greenway Corridor Study.

City Council authorized staff to apply for a planning grant, and accept the funds if awarded, from the N.C. Dept. of Transportation (NCDOT) Bicycle/Pedestrian Division Grant Program via Resolution # 16-236 on October 25, 2016. The project area for this study will be along the Swannanoa River from Biltmore Avenue to South Tunnel Road. It is contiguous to a greenway project that will be designed and constructed from bond funds that begins at South Tunnel Road and ends at Azalea Park. Matching funds will be paid for by funds raised by the Asheville Park and Greenway Foundation and the Friends of Connect Buncombe.

Once finished, the corridor study will provide the City with a preferred greenway alignment for this section of the Swannanoa River Greenway corridor and we will be ready to begin engineered designs.

The corridor study is supported by the Asheville Greenway Committee and Multi-modal Transportation Commission.

Pros:

- This project will be 100% funded by grant funds and donations from private entities.
- We will have an alignment plan for a greenway in a rapidly growing area of the City.

Con:

- There are no known cons.

The total cost of the corridor study is expected to be $60,000 with the grant providing $36,000 and private entities providing $24,000 (local match). The remaining $26,803 in local match funds will be used for communication and promotional material for public outreach. No City funds are needed or required for this project.

City staff recommends that City Council approve an ordinance to set up the project budget for the Swannanoa River Greenway Corridor Study.

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E. RESOLUTION NO. 17-94 - RESOLUTION AMENDING THE 2017 CITY COUNCIL MEETING SCHEDULE TO ADD A WORKSESSION ON LIVING ASHEVILLE COMPREHENSIVE PLAN ON JUNE 27, 2017, AT 3:00 P.M. IN THE FIRST FLOOR NORTH CONFERENCE ROOM IN CITY HALL

RESOLUTION BOOK NO. 38 - PAGE 430

F. RESOLUTION NO. 17-95 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CHANGE ORDER WITH MOUNTAIN ENVIRONMENTAL SERVICES INC. FOR 14 RIVERSIDE DRIVE

ORDINANCE NO. 4583 - BUDGET AMENDMENT FOR 14 RIVERSIDE DRIVE

Summary: The consideration of (1) a resolution authorizing the City Manager to execute a change order increasing the contract with Mountain Environmental Services, Inc by $33,136.64; and (2) and a budget amendment in the amount of $33,137 from debt proceeds to increase the overall 14 Riverside Drive project budget to $966,757.

On September 26, 2016, following a competitive bid process, the City entered into a contract with Mountain Environmental Services, Inc to provide contaminated soil disposal services in the River Arts District. This original contract included soil disposal associated with new Duke transmission poles on Parcel 27. The original contract was written for $33,220 and had a contingency of $16,780 for a total contract value of $50,000.

Additional services were required to remove contaminated soil from the adjacent Parcel 28 at the 14 Riverside Drive project construction site. A change order was awarded in the amount of $33,220 to cover the additional costs. The total revised contract amount totaled $83,220.

Due to higher than expected volumes of contaminated soil at the site, the cost of services exceeded the contract amount for work associated with the 14 Riverside Drive project. Staff is seeking a change order to the existing contract in the amount of $33,136.64, increasing the total contract amount to $116,356.64. Since this total contract amount now exceeds $90,000, City Council approval is required to authorize this change order.

A budget amendment in the amount of $33,137 is required for this project to ensure that it is adequately funded to cover all outstanding costs.

Pro:

- The suggested changes will allow for the completion of the 14 Riverside Drive project.

Con:

- Not authorizing these changes could lead to a dispute with the contractor who has provided the City with the services and is currently awaiting payment.

The use of $33,137 in debt proceeds to increase the overall project budget to $966,757. This change will be incorporated into the multi-year debt model for the Capital Improvement Program (CIP). This project and proposed amendment are funded using Special Obligation

Bonds.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to execute,a change order increasing the contract with Mountain Environmental Services, Inc by $33,136.64; and (2) a budget amendment of $33,137 from debt proceeds to increase the overall project budget to $966,757.

RESOLUTION BOOK NO. 38 - PAGE 431
ORDINANCE BOOK NO. 31 - PAGE 200

G. RESOLUTION NO. 17-96 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE DOCUMENTS TO MODIFY AN EXISTING EASEMENT AGREEMENT FOR AN AREA BEHIND AN EXISTING WATER METER LOCATED AT 30 MANDERLEY WAY

Summary: The consideration of a resolution authorizing the City Manager to execute documents to modify an existing of easement agreement for an area behind an existing water meter located at 30 Manderley Way, PIN 9644-15-1434.

The current owner of 30 Manderley Way has requested that the waterline easement be modified to be removed out from under the footprint of the existing house. The owner of said property is attempting to sell the house and the closing attorney for the client will not close till the existing waterline easement document has been modified so that the easement does not extend into the footprint of the house.

When this development was originally constructed, the City required waterline easements to extend 10 feet beyond the water meter. In this particular instance, the existing waterline easement extends thru part of the property owner's porch. With more of these types of subdivisions being built and homes being constructed closer to the road, the City changed the requirements to no longer require easements to extend 10 feet beyond the meter. By removing the requirement we no longer have situations where waterline easements extend inside of homes. The existing meter will still be located within the main waterline easement.

In order to modify the easement, City Council must authorize the City Manager to execute documents to modify the existing easement between the City and the current property owners, Michael and Lynette Marks. No physical work to relocate the water lines is necessary, only a modification of the easement paperwork to clarify the limits of the easement.

Pro:

- Eliminates the issue of having a waterline easement within the walls of a house.

Con:

- None noted.

This action has no fiscal impact.

City staff recommends City Council approve a resolution authorizing the City Manager to execute documents to modify an existing easement agreement at 30 Manderley Way, PIN 9644-15-1434.

RESOLUTION BOOK NO. 38 - PAGE 432

H. RESOLUTION NO. 17-97 - RESOLUTION IN SUPPORT OF NC SB 85 AND HB 102 RATIFYING THE EQUAL RIGHTS AMENDMENT (ERA) AND THE US CONGRESS HOUSE JOINT RESOLUTION 53 TO REMOVE THE DEADLINE FOR ERA RATIFICATION

Summary: The City of Asheville supports (1) the adoption of US Congress House Joint Resolution 53 to remove the time limit for ratification of the Equal Rights Amendment (ERA); and (2) supports the adoption of North Carolina SB 85 and HB 102 to ratify the ERA.

Ms. Ann Von Brock thanked Council for supporting full citizenship for women.

RESOLUTION BOOK NO. 38 - PAGE 433

I. ORDINANCE NO. 4584 - BUDGET AMENDMENT FOR CONSTRUCTION OF STRUCTURAL REPAIRS AT MCCORMICK FIELD

Summary: The consideration of a budget amendment in the amount of $19,413 to transfer funds from the Parks and Recreation Department (Department) deferred maintenance operating budget in the General Fund to the McCormick Field structural repair capital project in the General Capital Projects Fund.

The Department's deferred maintenance cost center in the General Fund is used for repairs and improvements for parks and recreation facilities. There are items budgeted there in the current fiscal year that relate to large projects including $19,413 to complete a structural repair at McCormick Field.

Staff is requesting City Council to approve a budget amendment to increase the McCormick Field project by $19,413 in the General Capital Project Fund from the Department's deferred maintenance budget. There is currently an available balance of $64,247 in the McCormick Field project; this budget amendment will bring the total available budget in that project to $83,660. The project includes repairs to the existing structural supports and walkways.

Pros:

- This action will allow the capital project to reflect all the expenditures related to the construction of the structural repair

Cons:

- None

The funds are budgeted in the Parks and Recreation Department's General Fund budget. The budget amendment, which will move that funding to the General Capital Projects Fund, will not increase the City's total overall budget.

City staff recommends City Council approve the budget amendment authorizing the City Manager to increase the McCormick Field structural repair capital project by $19,413.

ORDINANCE BOOK NO. 31 - PAGE 202

J. RESOLUTION NO. 17-98 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH FRENCH BROAD PAVING INC. FOR THE FISCAL YEAR 2017 ASPHALT PAVING IMPROVEMENTS - RESURFACING PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $1,493,980.74 plus a contingency of 15% ($224,097) with French Broad Paving, Inc. for the project known as FY 17 Asphalt Paving Improvements – Resurfacing, City of Asheville Project K1701.

A list of warranted streets was assembled to be addressed by this contract. The project was advertised on April 7, 2017. Bids were opened on May 1, 2017, with the following results:

French Broad Paving, Inc. of Marshall, NC	$1,493,980.74
Rogers Group, Inc. of Nashville, TN	$1,773,901.40
Harrison Construction Company of Asheville, NC	$2,678,283.90

French Broad Paving, Inc. proposes to perform all of the work included in the contract other than pavement markings. New Dimensions in Pavement Markings, Inc. from Fletcher, NC will install the pavement markings. Both French Broad Paving, Inc. and New Dimensions in Pavement Markings, Inc. are certified as Disadvantaged Business Enterprises and Woman Business Enterprises.

A 15% contingency ($224,097) has been added to allow payment for any unforeseen costs that typically arise during construction and to do additional street resurfacing. The work produced from this contract would fix a number of roads that are in need of repair.

Pros:

- Will repair approximately 4.6 miles of roadways within the Asheville City limits.
- Will improve mobility and safety on city streets.

Con:

- Construction will be disruptive to adjacent residences and businesses.

The total budget for the FY17 Streets Program is $2.8 million. This funding is our annual pay-as-you-go repaving process and is not bond funded. The total cost of this contract, including contingency, is S1,718,077.74. The remaining funds in this budget will be used for other paving needs. This contract will be presented to Council during a later meeting. Also, contracts for the first seven streets to be resurfaced by bond funding will also be presented to Council in the near future in a separate contract.

City staff recommends City Council adopt a resolution awarding the contract to French Broad Paving, Inc. and authorizing the City Manager to execute on behalf of the City of Asheville a contract in the amount of $1,493,980.74 plus a contingency of $224,097 (15%) for the contract known as FY 17 Asphalt Paving Improvements – Resurfacing, City of Asheville Project K1701.

RESOLUTION BOOK NO. 38 - PAGE 434

K. RESOLUTION NO. 17-99 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH HAZEN AND SAWYER FOR THE WATER SYSTEM MASTER PLAN UPDATE

Summary: The consideration of a resolution authorizing the City Manager to execute a professional services agreement with Hazen and Sawyer for the Water System Master Plan Update for the proposal amount of $475,300 plus a contingency of $95,060 for a total of $570,360.

On July 1, 2016, the Water Resources Department (WRD) issued a Request for Qualifications (RFQ) seeking a professional engineering firm to provide professional services for the preparation of a new Water System Master Plan. The scope of work for this project includes, but is not limited to:

(1) A hydraulic model update,
(2) Field tests,
(3) Model calibration,
(4) Evaluation of the existing system,
(5) Population and demand projections,
(6) Evaluation of the future system,
(7) Master plan report and training, and

(8) Project administration.

The WRD will add the following services at a later time as the project progresses:

(a) Evaluation of water quality sampling and flushing,
(b) Surge analysis at two pump stations,
(c) A vulnerability assessment, and
(d) Public Outreach through stakeholder meetings.

The technical components of the Master Plan outlined above are scheduled to commence in June 2017. Following completion of the majority of this technical phase, the public engagement component is anticipated to commence in July 2018. This engagement component, which will include various stakeholder meetings, will focus on obtaining feedback on priorities, desired outcomes and rate models.

In response to the RFQ, the department received 3 Statements of Qualifications (SOQs) on July 27, 2016. Companies responding were:

1. Brown and Caldwell, Charlotte NC
2. CDM Smith, Charlotte NC
3. Hazen and Sawyer, Charlotte NC

Following an extensive review of the SOQs by City Staff, including reference checks and on-site interviews, Hazen and Sawyer was selected as the firm for this project. WRD staff then worked with Hazen and Sawyer to negotiate a cost for the Project.

Pros:

- This project will update the May 2009 Water System Master Plan by Jordan, Jones & Goulding (JJG). The cost for 2009 Water System Master Plan was $550,000. It is a water industry standard to update master plans every 5-10 years. This project is directly related to the Rate Model Study. Updating the Master Plan is intuitive for building an accurate rate structure and providing a sustainable water system.

Con:

- None.

The funding needed for the professional services agreement is currently allocated within the Water Resources Capital Improvements Project (CIP) Fund in the Water Model & Master Plan Update Project.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a professional services agreement with Hazen and Sawyer for the Water System Master Plan Update for the proposal amount of $475,300 plus a contingency of $95,060 for a total of $570,360.

RESOLUTION BOOK NO. 38 - PAGE 435

L. RESOLUTION NO. 17-100 - RESOLUTION MAKING PROVISIONS FOR THE POSSESSION AND CONSUMPTION OF MALT BEVERAGES AND/OR UNFORTIFIED WINE AT THE MOUNTAIN SPORTS FESTIVAL

Summary: The consideration of a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival.

- Mountain Sports Festival has requested through the City of Asheville Community & Economic Development Department that City Council permit them to serve beer and/or unfortified wine at the Mountain Sports Festival and allow for consumption at this event.

  The Mountain Sports Festival will be held on Friday, May 26, 2017 from 4:00 p.m. to 10:00 p.m., Saturday, May 27, 2017 from 10:00 a.m. to 10:00 p.m., and Sunday, May 28, 2016 from 11:00 a.m. to 6:00 p.m. within the boundaries of Carrier Park as per the area limits referenced on the accompanying site map.

Pro:

- Allows fundraising opportunities for the Mountain Sports Festival

Con:

- Potential for public safety issues

Staff recommends City Council adopt a resolution authorizing the City Manager to approve a resolution making provisions for the possession and consumption of malt beverages and/or unfortified wine at the Mountain Sports Festival.

RESOLUTION BOOK NO. 38- PAGE 436

M. RESOLUTION NO. 17-101 - RESOLUTION SETTING A PUBLIC HEARING ON JUNE 13, 2017, FOR THE LAND USE INCENTIVE GRANT APPLICATION OF 338 HILLIARD

Summary: The consideration of a resolution to set a public hearing on June 13, 2017, for the Land Use Incentive Grant Application of 338 Hilliard by the developer of "Aston Place," Kassinger Development Group.

Kassinger Development Group has applied for a Land Use Incentive Grant per the policy adopted by Council, and amended on September 22, 2015. The developer is developing a mixed income development at 338 Hilliard Avenue, Asheville NC - the former Parks Maintenance site. The project consists of 64 residential rental apartments, with 33 of those units being reserved for affordable housing (households earning 80% AMI or less). The site is within 0.25 miles of transit, 0.25 miles of amenities, and 1 mile to job centers in downtown. The developer estimates a total development cost of $7,955,000 and an estimated tax value of $4,480,000 post completion.

The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development must be located inside the city limits.
- The proposed development must be located to provide residents convenient access to jobs, schools and services

Scoring

Affordable Rental Housing

The proposed project will provide thirty-three (33) units affordable to households at 80% or less of median income, with thirteen (13) of those units being rented to households earning 60% AMI or less. The developer has committed to the affordability period of fifty (50) years. Under this category, the project qualifies for 60 points.

Long term affordability

The proposed project will be committed to serving households at the designated rental rates for a period of fifty (50) years. This qualifies the project for 20 points.

Superior locational efficiency

The proposed project is within 0.25 miles of an existing bus-stop served by multiple bus lines, is within 1 mile of a job center in downtown, and is within .5 miles of public amenity in an ART bus stop served by an existing sidewalk. The project qualifies for 20 points in this category.

Staff has scored the project with 100 points, which qualifies the project for ten years (10) of Land Use Incentive Grant.

The Housing and Community Development Committee reviewed the application at their meeting on May 16, 2017, and unanimously recommended approval of the Land Use Incentive Grant as outlined in this staff report.

Pros:

- The proposed project will provide 60 affordable rental housing units to households earning 80% or less of area median income, with 13 units serving households earning 60% AMI or less;
- The proposed project will have an affordability period of fifty (50) years
- The proposed project addresses the pressing need for affordable one-bedroom apartments;
- The proposed project has a significant economic impact. Construction wages and material purchases will positively affect the local and regional economy.

Con:

- Cost estimates are not yet fully developed, and project costs as presented may change as it moves towards development.

The current estimated assessment value for this property is $450,000 (as estimated by Community Development Division). The developer's estimate of improvement value is $4,030,000 with a completed estimated project taxable value of $4,480,000. The annual estimated city tax post completion, based on the developer's estimate of value, is $19,143. Over a ten year period, if approved at that level, the total estimated Land Use Incentive Grant would be $191,430, the exact amount to be determined by the length in years, of the grant award, and the actual assessed value of the development upon completion. Based on these estimates, the subsidy per affordable unit would be $5,801. The subsidy amount per affordable unit/year would be $116.

The estimated amount of fees payable for Zoning Permit, Building Permit, Driveway Permit, Grading Permit, Stormwater Plan Review Fee, and Water Service Connection Fee is $100,000. The value of each 10% of eligible fee rebates would be $10,000. The exact amount would be determined by the percentage of fee rebate awarded as part of the Land Use Incentive Grant. If approved at the 100 point level, the fee rebate would be $100,000.

The total estimated Land Use Incentive Grant benefit over 10 years is $291,430, which equals to $8,831 subsidy per affordable unit, and $177 subsidy per unit per year.

Staff recommends City Council adopt a resolution setting a public hearing on June 13, 2017, to hear and act upon the request of Kassinger Development Group for a Land Use Incentive Grant.

RESOLUTION BOOK NO. 38 - PAGE 439

N. RESOLUTION NO. 17-102 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE GROUND LESSOR'S ESTOPPEL CERTIFICATE AND AMENDMENT TO GROUND LEASE RELATED TO ASSIGNMENT AND REFINANCING OF PACK PLACE GARAGE COMPLEX

Summary: The consideration of a resolution authorizing the City Manager to execute Ground Lessor's Estoppel Certificate and Amendment to Ground Lease related to assignment and refinancing of Pack Place Garage Complex.

The complex of buildings known as Pack Place is the result of redevelopment efforts undertaken by the City in the early 1980's. Part of the complex is lease to and occupied by various quasi-public uses (i.e. Asheville Art Museum; Diana Wortham Theatre); some of it is occupied by private interests including the parking garage and the retail uses along Eagle Street. The City owns the land underlying the parking garage and related uses and has leased it to a developer, Pack Plaza Associates Limited Partnership (now Pack Square Investors II, LLC) who, pursuant to a Master Agreement and Master Lease entered into in 1987 (herein "Lease"), constructed the improvements (parking garage/retail buildings) on the property. Under the Lease, the permanent improvements become the property of the City at the end of the Lease term, which is 99 years (Lease Term ends in 2086). During this term, the "Lessee" (Pack Square Investors) its, successors or assigns, operates the buildings at no cost to the City and receives the income from it. The City is the "Ground Lessor" or "Lessor" and the developer is the "Tenant" or "Lessee".

It was contemplated from the beginning of this project that the Tenant would require substantial financing for the improvements, and would pledge the improvements (and its interest in the Lease-"Leasehold Estate" or "Leasehold Interest") as security for the financing. Accordingly, the Master Lease contains provisions that require the City, as Lessor, to execute certain documents and provide certain assurances to enable the Tenant to secure financing or refinancing. This is applicable to the garage/retail part of the project. Additionally, according to the terms of the Master Lease, the Lease is freely assignable as long as the Assignee, i.e. "New Tenant" expressly assumes and agrees to all of the terms of the existing Lease.

On April 24, 2017, the City received notice that Pack Square Property, LLC (also known as WPCM Acquisition, LLC) intends to purchase the Leasehold Interest of Pack Square Investors and the Lease would be assigned to them and they would become the new Lessee or Tenant. As part of this Assignment, Pack Square Property will be refinancing the property and their Lender, Deutsche Bank, requires the execution of an Estoppel Certificate and Amendment to the Ground Lease. This Proposed Estoppel and Amendment is not substantially different from documents that the Council agreed to in 1988 and 2006, related to previous Lessee refinancing, and is usual and normal in commercial real estate financing transactions of this nature. The requested documents essentially give the Lender certain rights in the leased premises, such as the right to step in and operate the project, make or complete improvements, market and re-lease the premises, and dispose of insurance proceeds in case of property damage. These documents amount to a third-party agreement, bringing the Lender into the transaction. The estoppels certificate is basically a statement by the Lessor, that the Tenant is not in default under the lease. The Lease incorporates most, if not all, of the terms contained in the Proposed Amendment, and amounts to little more than allowing the new Lender to step into the transaction.

Pros:

- Proposed Amendment does not change the City's position in the Lease from previous Lessee refinancing or amendments.
- Proposed amendment is not unusual in transactions of this nature.
- Lease requires the city to execute documents as reasonably required to facilitate financing and granting authorization to City Manager to sign such documents now and in the future will allow the City to better meet this requirement.

Con:

- None

City staff recommends City Council adopt a resolution authorizing the City Manager to execute on behalf of the City of Asheville the requested Estoppel Certificate and Amendment to the Ground Lease and similar documents which may be requested in the future that do not substantially change the terms and conditions of the existing Master Lease.

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Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Bothwell and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. BOND PROGRAM UPDATE

Interim Capital Projects Director Jade Dundas said that the purpose of this update is to provide an overview of the presentation which will be given to City Council on May 23, 2017, related to the efforts of the Capital Projects Department to develop communication tools to help inform the public of the progress of the various Bond and Capital improvement projects.

Communications Expectations - The City is committed to making capital project information accessible to the public. The citizens of Asheville voted to fund the bond program in November of 2016. Good stewardship of these public funds in part means communicating to the public how, when and where funds are being used. The efforts of the projects team have been to use existing software to develop an interactive set of tools so that citizens can easily access current project information.

Communication improvement has both an internal and external focus. The internal work will help to facilitate project development and implementation. The external effort will focus on sharing information. He showcased the external communications tools prior to their implementation.

Dashboards - Staff has developed a set of dashboards which provide relevant and current project information. The dashboards provide a snapshot of project financing, location, phase of development and an overall financial summary for the particular program area. The individual bond program areas include Parks and Recreation, Transportation, and Affordable Housing. Additional work is also being done on developing similar tools for the capital improvement budget. The bond portion of this work is ready for use.

Interactive Map - Staff from multiple departments is also working on developing an interactive "story map" which will allow citizens to find projects based upon location and get a more in depth summary of the projects. Information which will be available on the story maps

include things like project description, project contacts, photos of the projects, as well as financial information related to funding and expenses. An example of this tool was shared with the City Council but noted it is still under development and is planned to be released in July.

Bond Project Updates - Staff will be providing a general update related to the progress of the bond projects with a focus on road resurfacing, playground improvement work, affordable housing. City Council will be asked as part of this update to approve a contract to authorize the City Manager to enter into a contract for design services related for playground improvements.

At the suggestion of Councilman Smith to include the Sports Commission in the programming up front for Memorial Stadium, City Manager Jackson said that for each major community plan, each major stakeholder will be a part of the engagement process.

RESOLUTION NO. 17-103 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH SURFACE 678, P.A., TO PROVIDE DESIGN SERVICES FOR ASHEVILLE PARKS PLAYGROUND UPGRADES/RENOVATION PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract with Surface 678, PA, to provide design services for Asheville Parks Playground Upgrades/ Renovations for an amount not to exceed $190,000.

The primary goal of the project is to address maintenance backlog for playgrounds while building for the future by replacing site components as required because they have reached the end of their service life.

Playground projects have been prioritized focusing on underserved areas of the city addressing the needs of diverse park users through replacement of existing assets in parks to better reflect changing neighborhoods and their long-term recreation requirement.

The following preliminary playground sites within the current scope of work are: Herb Watts Park, Lakewood Park, Magnolia Park, and West Asheville Center. The playgrounds will be designed to reflect their individual neighborhood setting, utilize ideas and trends from some of the best playgrounds in the country, and create unique play experience for all users. Playground upgrades may include playground equipment, rubber fall zone surface, site furniture, plant materials, park shelters, shade structures, associated facilities, open or nature play areas, vehicular and accessible pedestrian circulation systems, among other Park and Recreation park standard elements.

The City of Asheville (City) issued a Request for Qualifications (RFQ) for design services for the Asheville Parks Playground Upgrades/Renovations. In response to the RFQ, the City received seventeen (17) Statements of Qualifications to be considered for this project. After thorough review and evaluation, staff recommended Surface 678, PA, 215 Morris Street; Suite 150, Durham, North Carolina as the most qualified to perform the design services for the Asheville Parks Playground Upgrades/Renovations.

Scope of Work: Surface 678 has presented a scope of work and fee proposal for professional services associated with the Asheville Parks Playground Upgrades/Renovations project and will provide full design services, bidding administration, and contract administration/reporting during construction.

Project Budget: $1,015,000 million n General Obligation (GO) Bond Funding.

Tentative Project Timeline:

Engineering/Design Services	Summer/Fall 2017
Permitting	Winter 2017

Request for Construction Bid	Winter/Spring 2018
Construction Begin	Spring/Summer 2018
Construction Complete	Summer 2019

The action complies with the following adopted City plans: (1) Parks, Recreation, Cultural Arts, and Greenways Master Plan.

Pros:

- Address immediate maintenance needs and critical failures that are otherwise unattached to capital investments
- Focus on underserved areas of the city
- Address the needs of diverse park users through replacement of existing assets in parks to better reflect changing neighborhoods
- Meet the Parks and Recreation goal of increasing accessibility and equity

Con:

- None

Funding for these services are already included in the adopted Capital Improvement Budget through the City's General Obligation (GO) Bond Funding.

Staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract with Surface 678, PA to provide design services for Asheville Parks Playground Upgrades/Renovations for an amount not to exceed $190,000, and further authorizing the execution of any change orders to said contract which may arise during execution of said project.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and it would not be read.

Vice-Mayor Wisler moved for the adoption of Resolution No. 17-103. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 4441

B. HAYWOOD STREET TEMPORARY ACTIVATION UPDATE

Downtown Development Specialist Dana Frankel provided Council with the following update on timeline and next steps of implementing short term uses at the subject sites, including pop-up programming at the Haywood Street property.

Background - At City Council's December 12, 2015, meeting, staff was directed to recommend a process to consider the future use and design of city-owned parcels located on Haywood Street and Page Avenue downtown following a long history of potential development opportunities. In March 2016, City Council approved a public visioning process for the properties, contracting with Asheville Design Center to serve as a facilitator for a Council-appointed community advisory team to develop a long-term vision for the properties, while also identifying opportunities for temporary installations to enliven the space in the short term.

The Community Advisory team began meeting in June of 2016, soliciting feedback from the public and taking steps towards developing both a long-term vision as well as recommendations for interim uses. At the October 25, 2016 Council Meeting, the Community Advisory Team presented a list of possible temporary uses and installations for the site. With

direction from City Council to narrow down the list, the Advisory Team returned to City Council's December 13, 2016, meeting and presented the following recommended temporary uses and installations:

1. Raised garden beds
2. Interactive public art
3. Mobile food vending
4. Open vendor markets
5. Movable seating
6. Designated performance space

Following their presentation, City Council directed staff to consider feasibility and recommendations for implementation of the proposed temporary uses.

On March 27, 2017, a memorandum was shared with City Council detailing a proposed implementation and management plan for accommodating the proposed uses. This report is an update on progress.

Overview of Objectives - The primary objective of the pop-up and temporary uses is to activate the subject sites on an interim basis while permanent solutions are being planned and implemented. A secondary goal is to test particular uses and installations in order to learn more about their function, successes and impacts in that location and in the community at large.

The goal is to support flexible use of the sites, including those proposed, with a fair and open approach to site access and programming.

Use of Parcels - The temporary uses proposed by the Community Advisory Team were not site specific. The group and City staff acknowledged together that the lots currently used for parking should remain available for parking considering the needs for both short term and monthly parking.

Without disrupting those areas, sites available for temporary uses are the parcels on Page Avenue (Site A) and on Haywood Street (Site B).

Site A: This property has been included as one of four sites in the City's recently launched community garden program, part of the Asheville Edibles initiative being managed by the Office of Sustainability. A request for applications (including design, management and public art) was released on April 24, 2017. This site may also serve as a demonstration site to help inform other community members on how to build and maintain a successful community garden, including how to build structures to capture rainwater and runoff inexpensively.

Site B: This site can accommodate a range of passive and active temporary uses, including those proposed by the advisory team. Staff proposes a period of one year for pop-up uses that would require minimum site and operational investment, and a two year period following, for continued temporary use, where additional physical and programmatic considerations could be implemented to support success.

In order to prepare the site for pop-up uses, improvements to the space are underway. To expedite the process and minimize costs, the work is being managed in-house. The following is taking place:

- Removal of gravel on portions of the site (to have a flat, wheelchair accessible, maintainable surface)
- Installation of electricity (to provide for operational needs and lighting)
- Installation of trees in planters (recommended for Level I projects)

- Purchasing and installation of seating/tables, trash cans and other key amenities (using recycled and repurposed materials when possible)
- Production of informational signage (to include project information, hours and rules)

The total cost of these site improvements is estimated to be $30,000. Funds have been secured from the City's general fund.

The City's Parks and Recreation Department will oversee maintenance and access to the site during the pop-up use period through the expansion of existing maintenance and security contracts. The estimated cost for those operations is $17,500 for one year. Funding from the City's general fund has been secured. Additional improvements and amenities may be considered and installed on the site throughout the pop-up phase while operational needs will also be evaluated.

Site Activation - Pop-up programming on the site can be accommodated in the following two ways:

1 – Request for Expressions of Interest (Pop-up Programming)

A Request for Expressions of Interest (RFEI) can be released in order to solicit proposals from community groups and/or organizations that are interested in activating the site (in part during set days/times, or in full) for one year.

The following criteria will be considered in evaluating proposals, informed by the selection process for existing outdoor special event partnerships:

- Alignment with City Council's 2036 Vision
- Community benefit
- Compatible with the surrounding neighborhood
- Organizational capacity
- Audience diversity
- Prior history
- City services cost/impact

Programming on the site must comply with the City's minimum requirements for emergency medical services, liability insurance, building safety and fire compliance, law enforcement, environmental health/food sales requirements, restrooms and sanitation, Alcohol Beverage Commission approvals as per the City's outdoor special event guide.

Multiple proposals may be selected and accommodated based on scheduling and compatibility.

Organizations and their proposed programs may be self-funded (through existing capacity, fundraising or sponsorship) or may request financial support from the City, including waived permit and property fees. If financial support, including fee waivers is requested, staff will return to Council for approval.

Staff would release the RFEI by the end of May, with a question and answer session held the second week in June. The proposal period would be open for approximately 3 weeks. Selections will be made by a panel of interdepartmental staff and representatives from the Haywood Street Advisory Team's Temporary Uses Sub-Committee. Once selections are made, staff will work with the identified partners to schedule and permit the programs. The goal is to have the site activated with pop-up uses August 1, 2017. Depending on interest, rolling calls for proposals may continue.

2 – Special Event Programming

In addition to soliciting proposals through the RFEI process, Haywood Street / Site B can be made available for programming by organizations through the City's existing outdoor special event permitting process. This will provide a consistent mechanism for community members and organizations to activate the site when it is not in conflict with already-scheduled uses.

Staff will release an informational sheet specific to the site in July, and will begin accepting applications after initial partners/scheduling has already been secured through the RFEI process. Special event permits may be issued as early as September 2017.

The initial one-year period for pop-up programming will be treated as a test period for information gathering. Additional funds may be requested in fiscal year 2018 to support the success of temporary uses including financial support for programming and/or for physical upgrades to the site.

Concurrent to the projected 3 year period of pop-up and temporary uses, long term design and planning will be underway for the properties.

Timeline – Key Dates

May 2017
- Site improvements initiated
- City Council Update
- RFEI for pop-up programming released
- Level I site plan reviewed

June 2017
- Site improvements continue
- RFEI question and answer session
- Review pop-up programming proposals

July 2017
- Site improvements complete
- Site opens for informal/passive use
- Selections for pop-up programming and development of schedule
- Issuance of necessary permits for pop-up programming
- Applications accepted for independent special events (through existing permitting process)

August 2017
- Pop-up programming begins
- Site remains available for informal/passive use when programs are not scheduled

August 2017 – August 2018
- Pop-up programming continues
- Site remains available for informal/passive use when programs are not scheduled
- Evaluation and adjustment as needed; preparation for next phase of temporary use
- Feedback garnered from community on pop-up programming and independent special event programming
- Next phase of temporary uses determined and planned

September 2017
- Independent special event programming begins (in addition to RFEI pop-up use)

August 2018 – August 2020

- Temporary uses continue while long term planning is underway

Councilman Bothwell questioned the Haywood Street Advisory Team's involvement in the RFEI. He understood Council commissioned them to do the visioning of the area, not the administration, especially since there was not a lot of Council oversight in the appointments. Ms. Frankel explained that they are representatives from around the area and felt they would be a good representative group which will provide Council with a good product. Since seeking input from people in the area is a good idea and ultimately the decision will have to come before Council, it was the consensus of Council to continue with that process.

When Councilman Smith was made aware that groups that chose to do gardens are responsible for their own water tap fees ($4,000), it was the consensus of Council to have the Finance Committee review this.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING RELATIVE TO ADOPTION OF THE FISCAL YEAR 2017-18 ANNUAL OPERATING BUDGET

Director of Finance and Management Services Barbara Whitehorn said that City Council conducts a public hearing each year to receive public input on the Proposed Annual Operating Budget prior to adoption of the Annual Budget Ordinance. This public hearing was advertised on May 13, 2017.

The 2017-18 Proposed Annual Operating Budget was presented to City Council on May 9, 2017. The Proposed Budget presented on that date was balanced with an Ad Valorem tax rate of $0.435 per $100 of assessed value. Based on updated FY 2017-18 revaluation estimates, the Proposed Budget can be balanced with an Ad Valorem tax rate of $0.4339. All essential City services are continued in the Proposed Budget. A copy of the Proposed Budget is available for public inspection in the City Clerk's office. The Proposed Budget is also available for viewing on the City's website (www.ashevillenc.gov).

In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 13, 2017. Adoption of the Fiscal Year 2017-18 Budget Ordinance is scheduled for June 13, 2017, at the regularly scheduled City Council meeting. The Proposed Budget may be changed by City Council in any way before adoption. It may also be changed by budget amendment after adoption, with the only exception being the Ad Valorem Tax rate, which cannot be changed once the Budget is adopted.

Staff recommends City Council conduct the public hearing on the City of Asheville Fiscal Year 2017-18 Proposed Annual Operating Budget and include public input in its consideration of the Budget.

Mayor Manheimer explained that the budget before Council assumes a 39.39-cents (revenue neutral) plus .5-cents (transit) plus 3.5-cents (General Obligation Bonds) for a total of 43.39-cents. She clarified that the budget before Council does include the increase in personnel for the APD but it is from a reallocation of funds from the APD and $137,000 reallocation of funds from all other City departments.

Mayor Manheimer opened the public hearing at 6:21 p.m.

The following individuals were opposed to any increase in police staffing for various reasons, but mainly because they felt the money should be dedicated to long term solutions that make the community stronger:

Nichole Townsend
Patrick Conant
Alan Luis
Chris Peterson
Jay Slaughter
Martha Mosseller
Michael Collins
Elizabeth Schell (presented petition from Downtown business owners)
Alan Olson
Vicki Meath
Hilliary Brown
Maxwell Reed
Amy Cantrell (presented petition entitled "A Million Dollars for the People" and banner from children expressing what they would like the dollars spent on)
Emma Nash
Brit Castaneda
Jake Swett
Casey Campfield
Angel Archer
Dewana Little
Alan Ditmore
Dee Williams
Jay Springer
James Grambrell
Evan Moustafor
Grayson Morris
Matilda Bliss
Jaclyn Mace
Kim Roney
Interpreter

The following individuals spoke in support of providing the resources requested by Police Chief Hooper for various reasons, but basically to be proactive with Asheville's growth and community engagement:

Susan Watts
Brandon McGaha, President of the Police Benevolent Association in this region
Richard Tullis
Rondell Lance, President of the Fraternal Order of Police

Mr. ViJay Kapoor was unable to tell what impact the bonds would have on the City's budget, and felt there be a projected 5-year spreadsheet. He also questioned the City's use of $320,000 to a Colorado consulting firm tasked with studying equity issues in the City. Mayor Manheimer explained that there was a projected spreadsheet discussed during the bond process. In addition, she said that the City must have a study in order to award contracts and there was not a local bid received.

Mr. Sidney Bach questioned where the additional 3.5-cents for the General Obligation Bonds will be going while the City waits to issue the bonds, noting that no bonds can be issued as long as litigation is pending. He stated that he, along with Chris Peterson, is currently involved in litigation with the City over the bonds.

Mayor Manheimer closed the public hearing at 9:06 p.m.

Councilman Bothwell felt that this budget has been transparent and what has made this more difficult is the revaluation. He explained that most of the budget is for the people, including

transit, affordable housing, sidewalks, etc. He felt that Council is working for the people of Asheville.

Councilman Young felt that what he has heard is people wanting to be closer to the decision-making process. He suggested Council think about participatory budgeting.

Councilman Smith said that much is this is deep structural issues that have to be addressed across the county and our community. He outlined the millions of dollars dedicated to the many, many people-oriented services included in the budget, including the increase in the transit system; new buses and bus stops; youth leadership program; money dedicated to affordable housing; sidewalks; etc. However, it is clear that Council is not doing enough, but they are dedicated to work to improve our entire community.

Councilman Haynes does not support the increase in staffing for the Police Department this year. As seen from the petition, there are several downtown businesses that do not support it as well. We are told that some communities are being over-policed. He felt we need to look at better uses of the officers we currently have, including filling the current vacancies.

Mayor Manheimer said that adoption of the Fiscal Year 2017-18 Annual Operating Budget will occur on June 13, 2017.

B. PUBLIC HEARING TO CONSIDER REZONING A PORTION OF A LOT LOCATED ON THE NORTHWEST CORNER OF BROADWAY STREET AND MAGNOLIA AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD CORRIDOR DISTRICT

ORDINANCE NO. 4585 - ORDINANCE TO REZONE A PORTION OF A LOT LOCATED ON THE NORTHWEST CORNER OF BROADWAY STREET AND MAGNOLIA AVENUE FROM RS-8 RESIDENTIAL SINGLE-FAMILY MEDIUM DENSITY DISTRICT TO NEIGHBORHOOD CORRIDOR DISTRICT

Principal Planner said that this is the consideration of an ordinance to rezone a portion of a lot located on the northwest corner of Broadway Street and Magnolia Avenue from RS-8 Residential Single-Family Medium Density to Neighborhood Corridor District. This public hearing was advertised on May 13 and 19, 2017.

Ms. Tuch said that the subject property is approximately .18 acres (7,840 square feet), currently undeveloped but supporting some informal parking. The property has frontage on both Magnolia Ave. and Broadway St. but is most easily accessed from Magnolia Ave.

The property was originally purchased by the current owner, Marketplace Developments LLC, in 2005 as a .12 acre parcel. In 2008, the owner acquired additional unused right-of-way from the state of North Carolina increasing the size of the parcel to the current .18 acres – this purchase included the 675 square feet of RS8 zoned property. In 2002, prior to the current owner's purchase, the City of Asheville rezoned much of the property along the Broadway St. corridor to the newly established NCD zoning district. At that time, the right-of-way was also rezoned to match the existing property lines. The recombining of the right-of-way with the main parcel resulted in the split-zoned condition that exists today.

The applicant has requested the RS8 zoned portion of the property to be rezoned to NCD to be consistent with the remainder of the property.

The purpose of the RS8 zoning district is to allow for higher density single family home development where public infrastructure is sufficient to support such development, and to stabilize and protect the district's residential character. The purpose of the NCD zoning district is to support the development of medium density, mixed-use development that is economically

viable, pedestrian oriented and contributing to the place making character of the built environment. The rezoning is desired, in part, to improve the viability of the NCD property for future development. Future improvements would include a 20' wide Type B landscape buffer adjacent to the residentially zoned portion of the property.

The subject properties are surrounded on three sides by other RS8 zoned property, most of which is undeveloped city owned land reserved for open space and greenways along with NCDOT right-of-way. Across Magnolia Ave. and Broadway St. is more NCD zoned property. This rezoning, if approved, has a negligible impact on surrounding RS8 zoned property.

At their regular meeting on May 3, 2017, the Planning & Zoning Commission voted unanimously in support of the rezoning request. The subject property does not lie within any special review areas or overlay zoning districts and does not require review by any other advisory body. Standard rezoning requests are first reviewed by the Planning & Zoning Commission with final review performed by City Council.

The Asheville City Development Plan 2025 encourages compatible "adaptive reuse, redevelopment and infill development" and states, "areas within the existing urban fabric that are vacant should be targeted for compatible infill development that takes advantage of existing infrastructure". This strategically located parcel would be made slightly more developable with consistent zoning across the parcel and staff feels this rezoning would help brings these properties into alliance with the goals of the Comprehensive Plan.

This action aligns with the 2036 Council Vision in the following area: (1) *A Well-Planned and Livable Community* – the proposed rezoning supports future compatible, pedestrian-oriented development for a strategically located property on a major transportation corridor.

Considerations:

- This rezoning would correct the existing split-zoned condition.
- This rezoning would provide more room for future development, including required landscape buffers.
- The adjacent RS8 zoned property is primarily city owned land and NCDOT right-of-way that will not be negatively impacted by future mixed-use development.

Based on the above findings and the analysis provided in the report, staff finds this request to rezone (the approximate) 675 square foot portion of the property located at 99999 Broadway St. to be appropriate and consistent with the existing neighborhood and broader city goals.

Mayor Manheimer opened the public hearing at 6:15 p.m. and when no one spoke, she closed the public hearing at 6:15 p.m.

Mayor Manheimer said that members of Council have previously received a copy of the ordinance and it would not be read.

Vice-Mayor Wisler moved to approve the rezoning request from RS-8 Residential Single-Family High Density District to Neighborhood Corridor District to assign a zoning designation that is more compatible with the majority of the existing property and find that the request is reasonable, is in the public interest and is consistent with the Comprehensive Plan and other adopted plans in the following ways: the rezoning will, 1) supports smart growth through compatible infill development that takes advantage of existing infrastructure; and, 2) resolves an existing split-zoned condition. This motion was seconded by Councilman Bothwell and carried unanimously.

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V. UNFINISHED BUSINESS:

VI. NEW BUSINESS:

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Vice-Mayor Wisler said that the Boards & Commissions Committee has met and has determined that there are policing issues in the community that the Citizens-Police Advisory Committee (CPAC) is not charged with addressing. Therefore, they recommend that a Human Relations Commission (HRC) be established to deal with police relationships and some of the broader issues regarding equity and how we address and move forward towards fixing it. Prior to that establishment of the HRC, the Committee also recommends that a Blue Ribbon Committee (BRC) made up of community members that will help formulate the HRC and explore productive approaches, best practices for a HRC in Asheville. Suggested representatives from the following areas will be included on the BRC: Asheville African American history, policy expertise, city hall operations, land use, economic development, housing, arts, law, and a CPAC representative. Also at-large members of the community will be appointed to the BRC. She asked that Council contact individuals that they feel will best meet the qualifications to see if they would be interested in serving for a three-month period. Council members should submit the names of the nominees, if the nominees agree, to the City Clerk's office by June 12, 2017 with a brief reason for the nomination. If interested, nominees would need to contact the City Clerk's Office to fill out an application. Boards and Commissions Committee will review nominations on June 13, 2017 and bring the nominations to City Council for review on June 13, 2017. The application deadline for City Council nominations and at-large appointments will be on Wednesday, July 19, 2017. We hope to have the BRC begin their work on August 1, 2017, and wrap up with a report to Council on November 1, 2017. The size of the BRC is yet to be determined but will be approximately 12-15 members. Staff from the City Manager's Office and the City Attorney's Office will be a resource to the BRC. City Manager Jackson said that they are in the final stages of recruiting for an Equity Inclusion Manager and that person would be a resource for the BRC. All meetings of the BRC will be open and held around the community. It was the consensus of Council to proceed with the establishment of the BRC.

Mr. Todd Stimson asked for Council to adopt a resolution supporting the use of medical cannabis.

Mr. Alan Ditmore felt that due to building permit requirements, the City is perpetuating the housing crisis.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 9:40 p.m.

Magdalen Bowleson
CITY CLERK

Esther Manheimer
MAYOR

Tuesday – June 13, 2017 - 5:00 p.m.

Regular Meeting

Present: Mayor Esther E. Manheimer, Presiding; Vice-Mayor Gwen C. Wisler; Councilman Cecil Bothwell; Councilman Brian D. Haynes; Councilwoman Julie V. Mayfield; Councilman Gordon D. Smith; Councilman W. Keith Young; City Manager Gary W. Jackson; City Attorney Robin T. Currin; and City Clerk Magdalen Burleson

Absent: None

PLEDGE OF ALLEGIANCE

Mayor Manheimer led City Council in the Pledge of Allegiance.

I. PROCLAMATIONS:

A. PROCLAMATION PROCLAIMING JUNE, 2017, AS "BEE CITY USA POLLINATION CELEBRATION MONTH"

Mayor Manheimer read the proclamation proclaiming June, 2017, as "Bee City USA Pollination Celebration Month" in the City of Asheville. She presented the proclamation to Ms. Phyllis Stiles who briefed City Council on some activities taking place during the month.

II. CONSENT AGENDA:

At the request of City staff, Councilman Bothwell moved to continue Consent Agenda Item "O" (Resolution authorizing the City Manager to enter into a lease agreement with Beverly-Grant/ Barnhill to use 314 Riverside Drive as construction job offices during the construction of the TIGER VI projects) until June 27, 2017. This motion was seconded by Councilman Young and carried unanimously.

A. APPROVAL OF THE MINUTES OF THE REGULAR MEETING HELD ON MAY 23, 2017

B. RESOLUTION NO. 17-104 - RESOLUTION SUPPORTING A STATE GOAL OF 100% CLEAN ENERGY BY 2050 AND THE CREATION OF GREEN JOBS

Summary: The City of Asheville endorses the State of North Carolina and the United States to establish a transition from a fossil fuel-based economy and infrastructure to a 100% renewable energy for an all energy sectors-based economy, while increasing protections that keep forests standing, by January 1, 2050 or sooner to avoid climate catastrophe, to promote job creation and economic growth, and to protect the Earth for current and future generations from climate catastrophe.

Councilwoman Mayfield said this resolution was adopted by the Sustainability Advisory Committee on Energy & the Environment (SACEE) prior to the Trump administration pulling out of the Paris Accords. This resolution indicates an on-going commitment from the City to get to clean energy as soon as we can. She said that SACEE will start looking at the City's carbon reduction goal, which is currently 80% carbon reduction by 2030, and Council might hear a proposal from them for the City to set a new goal.

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C. ORDINANCE NO. 4586 - ORDINANCE AMENDING THE FIRST PAGE OF ORDINANCE NO. 4379, AN ORDINANCE ESTABLISHING CONDITIONAL

ZONING FOR PROPERTY LOCATED AT 99999 FAIRVIEW ROAD, TO REFLECT A CONDITION THAT WAS AGREED UPON BY THE APPLICANT AND CITY COUNCIL TO DEDICATE 7% OF THE UNITS AT AN AFFORDABLE RENT FOR A PERIOD OF TEN YEARS

ORDINANCE NO. 38 - PAGE 208

D. RESOLUTION NO. 17-1-5 - RESOLUTION AUTHORIZING THE MAYOR TO EXECUTE A FEDERAL AVIATION ADMINISTRATION GRANT AGREEMENT FOR PROJECT NO. 3-37-0005-049-2017

Summary: The consideration of a resolution authorizing the execution by the Mayor of a Federal Aviation Administration (FAA) Grant Agreement for Project No. 3-37-0005-049-2017 in the amount of $18,200,000.

The FAA has offered a grant agreement to the Asheville Regional Airport. This grant, in an amount of $18,200,000 is for the Airport Project to Rehabilitate Runway (Phase 7 Paving, Lighting and NAVAIDs Installation, Permanent Runway 17/35).

Pro:

- Supports service enhancements at Airport

Con:

- None noted

Staff recommends adoption of the resolution authorizing the Mayor to execute the grant agreement for Project No. 3-37-0005-049-2017.

RESOLUTION BOOK NO. 38 - PAGE 445

E. RESOLUTION NO. 17-106 - RESOLUTION NAMING FIRE STATION 9 IN MEMORY OF CITY OF ASHEVILLE FIREFIGHTER GRADY WILSON SR.

Summary: The consideration of naming Fire Station 9 in memory of City of Asheville Firefighter Grady Wilson, Sr.

City of Asheville Firefighter Grady Dock Wilson Sr. tragically lost his life on June 28th, 1948, while on duty at the original Fire Station 3. The Asheville Fire Department requests that Firefighter Wilson be honored by naming City of Asheville Fire Station 9 after Grady Dock Wilson Sr. Firefighter Wilson's family has requested that Fire Station 9 be named in his memory.

This was reviewed by the Public Safety Committee on May 22nd, 2017, and was unanimously recommended to move forward to the City Council.

Pro:

- Having a City of Asheville owned facility that has been named to honor a public servant who has died in the line of duty is an ultimate recognition of their public service and sacrifice.

Con:

- None have been identified or known at this time.

The purchase of a plaque commemorating the naming would be the associated expense to this consideration.

Staff recommends that the Asheville City Council name Fire Station 9 located after 749 Fairview Road in memory of Grady Wilson, Sr.

RESOLUTION BOOK NO. 38 - PAGE 446

F. RESOLUTION NO. 17-107 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A PROFESSIONAL ENGINEERING SERVICES SUPPLEMENTAL AGREEMENT WITH BROWN AND CALDWELL FOR THE SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA)/SOFTWARE UPGRADES FOR THE WATER TREATMENT PLANTS

Summary: The consideration of a resolution authorizing the City Manager to execute a professional engineering services supplemental agreement with Brown and Caldwell for the Supervisory Control And Data Acquisition (SCADA)/Software Updates for the Water Treatment Plants for the not-to-exceed amount of $140,946.

All Water Resources Department Water Treatment Plants have a SCADA computer system that monitors and controls infrastructure and facility-based processes at the water treatment plants and pump stations. This upgrade would consist of hardware and software upgrades. The last system upgrade was performed in 2008.

All hardware and software upgrades will include all components required to complete the project scope of work. Hardware upgrades include: new servers, UPS, server racks, power distribution, network switches, and cabling. Software upgrades include upgrades to the iFix software keys, Historian, and reporting software. The Water Resources Department has worked with the City's Information Technology Services Department to identify all required hardware and software needed for the upgrade.

Through a Request for Qualifications (RFQ) process for engineering services, the City of Asheville selected three engineering firms to provide on-call professional services for Water Treatment Plant Projects. Brown and Caldwell was one of the selected firms and the City of Asheville executed a Master Agreement with them on June 10, 2015, for On-Call Professional Services for Water Treatment Plant Projects. If approved, the proposed engineering services described herein will be developed into a Supplemental Agreement under the terms and conditions of the executed Master Agreement.

Pros:

- All machines that currently run the SCADA software are operating on Windows XP, which is no longer supported by Microsoft. This upgrade will provide a critically needed upgrade to the SCADA system.
- These improvements will enhance performance and reliability of the water system. The WRD relies heavily on the SCADA system to be able to respond quickly to various issues throughout the water system. The upgrade will help address issues quickly that otherwise could be catastrophic to the general public.

Con:

- Not replacing these machines could cause a potential threat to the system security and is mandated by our ITS policy to be replaced.

The funding needed for this agreement will be funded from the Water Resources Department Software Updates/HMI Capital Improvement Project.

Software Updates/HMI Project Budget	$200,000
Amount Needed for Brown and Caldwell Supplemental Agreement	$140,946
Amount Remaining in Project Budget	$ 59,054

The remaining budget in the Software Updates/HMI Capital Improvements Project will be used to purchase the software needed to complete the upgrades.

Staff recommends City Council adopt a resolution authorizing the City Manager to execute a professional engineering services supplemental agreement with Brown and Caldwell for the SCADA / Software Updates for the Water Treatment Plants for the not-to-exceed amount of $140,946.

RESOLUTION BOOK NO. 38 - PAGE 447

G. RESOLUTION NO. 17-108 - RESOLUTION AUTHORIZING THE HYDROPLUS INC., FUSEGATE SYSTEM AS A PREFERRED BRAND ITEM FOR THE NORTH FORK SPILLWAY AND EMBANKMENT IMPROVEMENTS PROJECT

Summary: The consideration of a resolution to: (1) Approve the written justification for the use of the Hydroplus, Inc., Fusegate System as the preferred brand item for the North Fork Spillway and Embankment Improvements Project; (2) Approve the specifications and performance standards for the Hydroplus, Inc., Fusegate System; and (3) Add the Hydroplus, Inc., Fusegate System as an independent line item in the "Unit Price Work" Bid Form when the construction portion of the Project is bid.

The Water Resources Department's North Fork Spillway and Embankment Improvements Project ("Project") will soon be ready to bid. The Project is estimated at approximately $40 million and will include: (1) raising the dam by four feet; (2) improvements to the principal spillway and the addition of an auxiliary spillway; (3) modifications to the raw water piping through the dam and to the water treatment plant; and (4) earth buttressing to reinforce the main dam and saddle dam for seismic stability. Once completed, the dam will be able to better withstand inflow from severe storm events, as well as add capacity to the reservoir.

NCGS 133-3 allows the City to specify a preferred brand item based on performance standards if the preferred item will provide cost savings, maintain or improve the functioning of any process or system affected by the preferred item, or both and a justification identifying these criteria is made available in writing to the public.

Exhibit "A" is a Memorandum from the project engineers, Schnabel Engineering South, P.C., and Hydroplus, Inc., Fusegate System specifications containing performance standards for approval. These items are being presented and requested for approval in order to meet the requirements of NCGS 133-3

As outlined in Exhibit "A", the Hydroplus, Inc., Fusegate System is the only system of its kind in the world. For example, the Fusegates provide a release of the gate with no human intervention or power requirements to activate. This is especially important during a storm when other systems require mechanical operation during a storm event, i.e., with other systems if the operator is unable to get to the site due to the storm or if power is out, the gates cannot be activated.

Pros:

- The Hydroplus Fusegate System is the only one of its kind in the world that functions in its manner to release without mechanical, electrical, or human involvement. It releases at predetermined water elevations.
- The Hydroplus Fusegates are beneficial to the environment by being independent and non-polluting, requiring no energy other than the natural power of water.
- The Hydroplus Fusegates make it possible to delay the need to build new structures, thereby reducing the social and environmental impact relating to the flooding of new land.

- The system allows for a smaller footprint than conventional passive systems, thereby reducing environmental impact, construction duration, and costs.
- This Project is aligned with the City and the WRD goal of continued investment and improvement of the City's water system through Capital Improvement Projects, in order to provide safe and reliable service.

Con:

- Failure to authorize the WRD to use the Hydroplus Fusegate System will result in additional costs to develop an entirely new and different design for the new spillway to accommodate an inferior gate system. This also would delay construction and implementing this system which would increase the risk of flooding, loss of life, and damage downstream until a new design could be made.

There is no fiscal impact to this action. The Hydroplus Fusegate System will be added as an independent bid item to the total construction cost of the entire Project.

Staff recommends City Council adopt a resolution authorizing: (1) Approval of the written justification for the use of the Hydroplus, Inc., Fusegate System as the preferred brand item for the North Fork Spillway and Embankment Improvements Project; (2) Approval of the specifications and performance standards for the Hydroplus, Inc., Fusegate System; and (3) The addition of the Hydroplus, Inc., Fusegate System as an independent line item in the "Unit Price Work" Bid Form when the construction portion of the Project is bid.

RESOLUTION BOOK NO. 38 - PAGE 448

H. RESOLUTION NO. 17-109 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT AMENDMENT WITH SITE DESIGN STUDIO, PLLC, FOR THE MONTFORD COMPLEX PHASE I PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract amendment with Site Design Studio, PLLC, to increase the existing contract in the amount of $64,000 for a total budget of $124,000 for the project known as Montford Complex Phase 1.

The Parks and Recreation Department awarded the design services contract to Site Design Studio, PLLC of Weaverville, NC for the first phase of renovations to the Montford Complex through a Qualifications Based Selection process. Under the existing contract the consultants are to prepare design/engineering plans and cost estimates for the project. Phase 1 site development was defined in the facility site plan (2015), and includes: the construction of an expanded parking lot, entrance plaza, playground, trellis covered seating area, outdoor classroom, landscape improvements including edible plantings, and an accessible route to serve future sport courts and additional parking.

With the approval of the Parks and Recreation bond full project funding is now available. In order to complete the project, permitting, bidding, and construction administration services are now required. Direct oversight and management by the designer/engineer of record is encouraged to provide continuity and compliance with construction drawings by the contractor through construction. This contract amendment will authorize staff to enter into an agreement with the project designer to provide construction services.

Site Design Studio, PLLC has presented a scope of work and fee proposal for additional professional services associated with the Montford Complex Phase 1 project and will provide full design services, bidding administration, and contract administration/reporting during construction. The project budget is $1,700,000 million in General Obligation (GO) Bond Funding.

Tentative Project Timeline:

Engineering/Design Services	Summer/Fall 2017
Permitting	Winter 2017
Request for Construction Bid	Winter/Spring 2018
Construction Begin	Summer 2018
Construction Complete	Winter 2018

Pros:

- Address immediate maintenance needs and critical failures that are otherwise unattached to capital investments
- Focus on underserved areas of the city
- Address the needs of diverse park users through replacement of existing assets in parks to better reflect changing neighborhoods
- Meet the Parks and Recreation goal of increasing accessibility and equity

Con:

- None

Funding for these additional services is already included in the adopted Capital Improvement Budget through the City's General Obligation (GO) Bond Funding. City Council is being asked to authorize this contract because as an amendment to the original contract the total cost of the contract exceeds the City Manager's approval authority of $90,000.

Staff recommends City Council adopt the resolution authorizing the City Manager to execute a contract amendment with Site Design Studio, PLLC, to increase the existing contract in the amount of $64,000 for a total project budget of $124,000 for the project known as Montford Complex Phase 1 and further authorizing the execution of any change orders to said contract which may arise during execution of said project.

RESOLUTION BOOK NO. 38 - PAGE 506

I. ORDINANCE NO. 4587 - BUDGET AMENDMENT FROM THE FEDERAL EMERGENCY MANAGEMENT ASSOCIATION'S FIRE MANAGEMENT ASSISTANCE GRANT FOR THE PARTY ROCK FIRE REIMBURSEMENT

Summary: The consideration of a budget amendment in the General Fund in the amount of $23,354 awarded from the Federal Emergency Management Association's Fire Management Assistance grant.

In November 2016, the City of Asheville Fire Department committed staff and apparatus to support Buncombe County Fire Service at the Party Rock fire near Chimney Rock. The around-the-clock effort of crews protecting structures and maintaining the fire line around the fire boundary accumulated a total cost of $23,354 in staff and equipment. On April 11, 2017 City Council voted on a resolution authorizing the City Manager to apply for and accept funding from the Federal Emergency Management Association's Fire Management Assistance grant to cover the costs associated with this mutual aid response. The fiscal impact statement of the staff report presented on April 11th indicated a return to Council to appropriate the exact amount of the award. Because the costs associated with the wildfire were realized in Fiscal Year 2016 – 2017, best practice is to allocate the funds received from the grant in the same fiscal year.

Pro:

- Reduction of overtime impact on Asheville Fire Department's overtime budget.

Con:

- None identified.

Upon City Council approval, a budget amendment will be made in the current fiscal year to accept this reimbursement and reduce the overtime impact to the Asheville Fire Department.

Staff recommends City Council approve a budget amendment for the General Fund in the amount of $23,354 from the reimbursement monies awarded by the Federal Emergency Management Association's Fire Management Assistance grant to reimburse the City for covering the costs associated with the mutual aid response for the Party Rock wildfire.

ORDINANCE BOOK NO. 31 - PAGE 226

J. RESOLUTION NO. 17-110 - RESOLUTION SETTING A PUBLIC HEARING ON JUNE 27, 2017, FOR AN ECONOMIC DEVELOPMENT INCENTIVE GRANT FOR RIVERBEND MALT HOUSE

Summary: The consideration of a resolution authorizing a public hearing to be held on June 27, 2017, to consider an economic development incentive grant for Riverbend Malt House.

City of Asheville has been requested by Asheville-Buncombe EDC for consideration of a performance based incentive grant under the City Economic Development policy to an existing manufacturing company, Riverbend Malt House. The purpose of the City's participation would be to induce Riverbend Malt House to make investments in the City for expenditures to acquire and install machinery/equipment, make facility improvements which increase the tax value as determined by the Buncombe County Tax Department in the amount of $9,500,000, and create 22 new quality jobs. The City of Asheville is considering offering a performance based grant in an amount not to exceed $95,000. North Carolina state law requires a public hearing be held before an incentive grant can be officially awarded.

Pros:

- Performance driven grant that is distributed after job and investment is achieved or mutually agreed performance bench marks are established;
- Supports job creation and capital investment in Asheville;
- Supports regional and state cooperation in the project.

Con:

- Grant is formulated based on use of a portion of the new incremental increase from property tax revenue generated by the project for a 5 year period.

The project has an overall positive fiscal impact on tax revenues received by the city. Initially (during the grant period), the City will receive 50% of the new incremental property tax revenues, as well as the existing property tax revenues from the project. After the grant period of 5 years, the City will henceforth receive 100% capture of all city taxes.

City staff recommends Council approve a resolution authorizing a public hearing to be held on June 27, 2017, on an economic development incentive grant agreement to support Riverbend Malt House.

RESOLUTION BOOK NO. 38 - PAGE 507

K. MOTION SETTING A PUBLIC HEARING ON JUNE 27, 2017, TO CONSIDER CHANGING THE NAME OF HILLCREST DRIVE TO LUNA LANE

Summary: The consideration of a motion setting a public hearing on June 27, 2017 for City Council to consider renaming Hillcrest Drive to "Luna Lane."

The duplication of street names has the potential for misdirection or miscommunication, which can hinder the response of emergency services. Changes to existing public street names shall be approved through a resolution of the City Council following a public hearing advertised with state open meeting laws. Notice to be posted prominently on each end of the street. Notice published at least once in a newspaper. Notice mailed to all property owners adjoining the right-of-way.

The Public Safety Committee reviewed the renaming request at their April 24, 2017, meeting and recommended Hillcrest Drive be renamed if the majority of the property owners could agree on a new street name. A super majority of the property owners have agreed and petitioned the City of Asheville to rename the street to "Luna Lane."

Pro:

- Potential emergency response will be enhanced with a unique street name.

Con:

- Cost and labor of replacing two street name signs.

The cost to re-install new street name sign blades to the existing poles are about $100 each and is included in the current operating budget for the Transportation Department.

Staff recommends City Council adopt a motion authorizing the City Manager to set a public hearing on June 27, 2017, to consider renaming Hillcrest Drive to "Luna Lane."

L. RESOLUTION NO. 17-111 - RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE A CONTRACT WITH APPALACHIAN PAVING AND CONCRETE INC. FOR CONCRETE MAINTENANCE AND AMERICANS WITH DISABILITIES ACT IMPROVEMENTS FISCAL YEAR 2018 PROJECT

Summary: The consideration of a resolution authorizing the City Manager to execute a contract in the amount of $222,255 plus a contingency of $33,338.25 (15%) for a total of $255,593.25 with Appalachian Paving and Concrete, Inc. for the project known as Concrete Maintenance and ADA Improvements FY18.

Review: This contract is our annual Concrete Maintenance Contract. The project was advertised on May 1, 2017, and bids were opened on May 24, 2017, with the following results:

Appalachian Paving and Concrete, Swannanoa, NC	$222,255.00
Patton Construction Group, Arden, NC	$226,150.00
Graham County Land Company, Robbinsville, NC	$256,881.00

A list of the proposed project sites to be completed under the maintenance contract were provided. This list is subject to change pending unforeseen ADA or maintenance issues.

Pros:

- Will correct a number of sidewalk issues throughout the City.
- Addresses pedestrian safety by providing the required sidewalk maintenance.

Con:

- Project management and contract administration will consume staff time.

Funding for this contract is included in the Fiscal Year 2017-2018 that City Council is scheduled to adopt at this same meeting. This funding is our annual pay-as-you-go sidewalk maintenance program and is not bond or debt funded.

City staff recommends City Council adopt a resolution awarding the contract to Appalachian Paving and Concrete Inc. and authorizing the City Manager to execute a contract in

the amount of $222,255.00 plus a contingency of $33,338.25 (15%) for Concrete Maintenance and ADA Improvements for FY 18.

RESOLUTION BOOK NO. 38 - PAGE 508

M. MOTION SETTING A PUBLIC HEARING ON JUNE 27, 2017, TO CONSIDER CHANGING THE SPELLING OF KITCHEN PLACE TO KITCHIN PLACE

Summary: The consideration of a motion setting a public hearing on June 27, 2017 for City Council to consider renaming Kitchen Place with the spelling of "Kitchin Place."

Many of the property owners and businesses have spelled the name after the family name "Kitchin." The City's E911 database, the City's currently displayed street name signs. The property owners brought the street name spelling to staff's attention and petitioned the City to rename the street to "Kitchin Place." The street is currently a City maintained street. Changes to existing public street names shall be approved through a resolution of the City Council following a public hearing advertised with state open meeting laws. Notice to be posted prominently on each end of the street. Notice published at least once in a newspaper. Notice mailed to all property owners adjoining the right-of-way.

The Public Safety Committee reviewed the renaming request at their April 24, 2017, meeting and recommended Kitchen Place be renamed with the spelling of "Kitchin Place."

Pro:

- Potential emergency response will be enhanced with a consistent street spelling.

Con:

- Cost and labor of replacing two street name signs.

The cost to re-install new street name sign blades to the existing poles are about $100 each and is included in the current operating budget for the Transportation Department.

Staff recommends City Council adopt a motion authorizing the City Manager to set a public hearing on June 27, 2017, to consider renaming Kitchen Place with the spelling of "Kitchin Place."

N. RESOLUTION NO. 17-112 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION CONTRACT WITH GRAHAM COUNTY LAND COMPANY, LLC, FOR RENOVATION OF THE VELODROME AT CARRIER PARK

Summary: The consideration of a resolution authorizing the City Manager to enter into a construction contract for renovation of the velodrome at Carrier Park, with Graham County Land Company, LLC in the amount of $1,199,000 plus a contingency of $119,900 for a total of $1,318,900.

Carrier Park is home to the velodrome, a track used for racing and recreational cycling, as well as general park use for running, walking, and special events. It has been determined the existing track has met or exceeded its useful life resulting in continual maintenance needs and conditions that constitute safety concerns. The primary goal of the project is to address maintenance backlog for the track while building for the future by replacing site components as required because they have reached the end of their service life.

The project is designed to improve the track surface, site drainage, and earthwork that reflects the park setting. Project improvements include new pavement, storm water drainage, fencing, signage, and general site renovations.

The tentative project timeline is June 2017 - Fall 2017.

In support of this capital improvement project, the City issued an Advertisement for Bids for construction. As of the bid opening date on May 9, 2017, the City did not receive a minimum of three bids as required by the City's purchasing policy. The City re-advertised the project and received two bids on the bid opening date on May 17, 2017. One bid was determined non-responsive, making Graham County Land Company, LLC located in Robbinsville, North Carolina as the lowest, responsive, responsible bidder with a base bid of $1,199,000.00.

Pros:

- Improves the safety of the Carrier Park velodrome for park users by replacing the asphalt track, providing signage, and fencing.
- Improvements will occur during the summer which is an optimum time of the year to install the asphalt pavement as opposed to cooler seasons.

Con:

- The Carrier Park velodrome and portions of the in-field will be partially closed during renovations since the majority of work is scheduled to take place during the summer. Any closure will be advertised and coordinated with general park users, Parks and Recreation programming and Outdoor Special Events Coordinator.

The original adopted CIP budget for this project was $527,000. Additional funding to cover the full cost of the contract is included in the FY 2017-18 Capital Improvement Program utilizing approved cash flow and funding from the FY 2016-17 Parks and Recreation Department annual CIP allocation.

Staff recommends City Council to adopt a resolution authorizing the City Manager to enter into a construction contract for renovation of the Velodrome at Carrier Park, with Graham County Land Company, LLC in the amount of $1,199,000 plus a contingency of $119,900 for a total of $1,318,900, and to execute any change orders to contract or documents which may arise during construction of project within the approved budget.

RESOLUTION BOOK NO. 38 - PAGE 509

O. RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH BEVERLY-GRANT/BARNHILL TO USE FOR 314 RIVERSIDE DRIVE AS CONSTRUCTION JOB OFFICES DURING THE CONSTRUCTION OF TIGER VI PROJECTS

At the request of City staff, Councilman Bothwell moved to continue this resolution until June 27, 2017. This motion was seconded by Councilman Young and carried unanimously.

P. ORDINANCE NO. 4588 - BUDGET AMENDMENT FROM DUKE WATER RESOURCE FUND FOR RIPARIAN RESTORATION PLAN FOR THE RIVER ARTS DISTRICT TRANSPORTATION IMPROVEMENT PROJECT AREA

Summary: The consideration of a budget amendment in the City's Special Revenue fund in the amount of $60,000 from the Duke Water Resources Fund for the City to engage the community and create a riparian area landscaping plan for the RADTIP project area in the River Arts District.

On December 15, 2016, City staff received an invitation from the Duke Energy Water Resources Fund -managed by the North Carolina Community Foundation- to apply for the 2017 funding cycle. Council approved a consideration to apply for the grant on January 10, 2017. The City submitted a request to the fund on January 20, 2017 for up to $90,000 to help fund storm water improvements and to create a riparian landscaping plan for the RADTIP area. Because of

construction plan changes that did not align with the request for storm water funds, City staff amended the request to a reduced amount-$60,000- for the riparian plan only. The funds would be used to hire a firm to develop a Restorative Landscape Plan for the River Arts District Transportation Project (RADTIP) area. The plan's purpose would be to increase riparian sustainability and create a riverfront landscape environment (wildlife habitat, erosion and storm water management, shade for citizens, urban garden opportunities) that builds on what is currently planned under the RADTIP project. This new plan would acknowledge that while the RADTIP and other City plans call for two major storm water management devices, a pollinator garden, and required street trees and landscaping, that there are opportunities to use additional landscaping planning to strategically addressing water quality, tree canopy, and other environmental issues in this area- aka green infrastructure planning. The proposed scope of work would include an inventory of existing trees and vegetation, an analysis of the current plans including tree removal and new landscape designs to be installed via RADTIP street designs, boat ramp designs, and parking lot designs; and an area wide landscaping plan that focuses on how to deliver the plan via community partnerships. RiverLink, Asheville Greenworks and Boy Scouts of America Daniel Boone Council, and the Asheville Tree Commission have agreed to help steer the project.

The Riverfront Commission adopted the following recommendations to Council for 2016, as part of the publication of their 2015 Annual Report: (1) Recommendation 3: Focus on water quality. This will require coordination with local governments, the state of North Carolina, and not for profits like RiverLink and Greenworks; and (2) Recommendation 4: Continue and Improve on Flood mitigation and flood hazard mitigation strategies.

Staff presented this proposal to the Planning and Economic Development Committee of City Council on September 20, 2016. While no official vote was called, members expressed support for staff to submit a Letter of Intent, and were told that any decision to apply for the grant would come to the full Council for consideration.

Council adopted a resolution to authorize the City Manager to apply for, and if awarded, accept grant funds up to $90,000 on January 10, 2017.

The work proposed via this grant is in alignment with the Wilma Dykeman RiverWay Master Plan, the Sustainability Management Plan, the 2025 plan (Comprehensive Plan), and the implementation of the site plan for RADTIP.

Pro:

- Helps further Council and Community goals via partnerships

Con:

- Requires City staff management/use of human resources (opportunity cost).

No additional City funds are required to match this grant. If adopted, the proposed budget amendment would create a positive impact to the City's budget in the amount of $60,000.

Staff recommends City Council adopt a budget amendment in the City's Special Revenue Fund in the amount of $60,000 from the Duke Water Resources Fund for the City to engage the community and create a riparian area landscaping plan for the RADTIP project area in the River Arts District.

ORDINANCE BOOK NO. 31 - PAGE 228

Q. RESOLUTION NO. 17-113 - RESOLUTION SETTING A PUBLIC HEARING ON JUNE 27, 2017, TO CONSIDER THE VOLUNTARY ANNEXATION OF PROPERTY AT 421 AIRPORT ROAD

Summary: The consideration of a resolution fixing the date of a public hearing on June 27, 2017, for the voluntary annexation of property located at 421 Airport Road in south Asheville.

The property owner, MPG Kernersville LLC, has petitioned the City of Asheville for the annexation of 1.26 acres located at 421 Airport Rd. and identified in the Buncombe County tax records as PIN 9643-85-0724. The property is contiguous to the primary corporate limits of the City of Asheville and is subject to the standards for annexation of contiguous areas contained in North Carolina General Statutes (NCGS) 160A-31.

Pursuant to NCGS 160A-31, such petitions must be investigated by the City Clerk for sufficiency in accordance with state law. This investigation has been completed and the Certificate of Sufficiency accompanies this petition request.

The next step in this process is for the Asheville City Council to fix the date for the public hearing on this matter. Should the City Council decide to proceed with this request, the effective date for the annexation would be June 27, 2017.

Considerations:

- Provides for the orderly growth of the City and the tax base through the acceptance of appropriate areas into the corporate limits where owners desire annexation.
- Complies with the 2025 Comprehensive Plan in that it supports the strategy of promoting voluntary annexations of developing areas.

This request includes the voluntary annexation of 1.26 acres of commercial property into the City which will provide new property tax revenue with only a very small increase to services. There is a commercial restaurant project under construction which, at completion, would generate approximately $6,000-7,000 in city property tax based on comparable commercial properties in the city.

City staff recommends that City Council adopt the resolution setting the date of June 27, 2017, for a public hearing on the annexation petition.

RESOLUTION BOOK NO. 38 - PAGE 510

R. RESOLUTION NO. 17-114 - RESOLUTION AUTHORIZING THE CITY MANAGER TO APPLY FOR THE 2017 FEDERAL TRANSIT ADMINISTRATION'S LOW OR NO EMISSION VEHICLE PROGRAM IN ORDER TO PURCHASE BATTERY-POWERED BUSES AND THE RELATED CHARGING EQUIPMENT

Summary: The consideration of a resolution authorizing the City Manager to apply for the 2017 Federal Transit Administration's (FTA) Low or No Emission Vehicle Program in order to purchase battery-powered buses and the related charging equipment.

The FTA has opened a competitive opportunity for $55 million for the purchase or lease of low or no emission vehicles. The FTA will reimburse up to 85 percent of the cost of the vehicles and up to 90 percent of the cost of the equipment or facilities. Transportation Department staff proposes to collaborate with Proterra to apply for this application, which according to the grant is deemed to satisfy the requirement for a competitive procurement under 49 U.S.C. 5325(a). In 2016, transit agencies who partnered with Proterra for the Low or No Emission Vehicle Program received more than two thirds of the awarded grants.

The deadline for the application is June 26, 2017, and it requires City Council approval.

Staff is pursuing the following project:

- The purchase of six battery-powered buses and charging equipment for a total cost of $3,149,000. Federal portion would total $2,491,000.
- The local match will come from two sources: 1) the General Fund Capital Improvement Program (CIP) funding for bus fleet replacement ($558,000) and 2) the Office of Sustainability will be contributing $100,000 from Green Savings. Total local contribution is $658,000, a 21% match. Although the minimum required match is only 15%, we are overmatching in order to have a better chance of being awarded funding for this highly competitive national grant.

If received, these funds would help to bring ART's bus fleet into a state of good repair, which is necessary because by 2019 six buses will have met or surpassed their useful life. In addition, this grant opportunity will function as a catalyst to begin the conversion of Asheville's bus fleet toward a zero emission fleet within 8-10 years, significantly reducing the carbon footprint of the city's transportation system.

The Finance Committee reviewed this item on May 23, 2017, and recommended that it move forward to City Council for review and approval.

Pros:

- If funded ART will receive six electric buses for the approximate cost of six diesel buses, when considering all costs over the useful life of the buses
- Decreases maintenance costs
- Decreases dependence on liquid fossil fuels by about 10,000 gallons per bus per year (60,000 gallons of diesel per year for six buses)
- Contributes to the city's carbon reduction goal by decreasing carbon output approximately 40 metric tons per bus per year (240 metric tons for six buses)
- Reduces energy consumption by 60% because electric motors are so much more efficient than combustion engines
- Reduces harmful local emissions by over 1,000 pounds per bus per year (6,000 pounds per year for six buses)
- By partnering with a pre-approved partner successful applications will be deemed to satisfy the requirement for a competitive procurement

Cons:

- Commits the city to funding to the match, at least for the time the applications are pending
- Commits the city to funding a yearly operating lease for the batteries

If successful, the grant application will be supported with $658,000 in city funds ($558,000 from the General Fund CIP and $100,000 from the Office of Sustainability's Green Savings). The cost of the yearly operating lease for the batteries will be funded within the annual Transit Operating Budget.

Staff recommends that City Council approve a resolution authorizing the City Manager to apply for the 2017 Federal Transit Administration's Low or No Emission Vehicle Program in order to purchase battery-powered buses and the related charging equipment.

RESOLUTION BOOK NO. 38 - PAGE 513

Mayor Manheimer asked for public comments on any item on the Consent Agenda, but received none.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolutions and ordinances on the Consent Agenda and they would not be read.

Vice-Mayor Wisler moved for the adoption of the Consent Agenda. This motion was seconded by Councilman Young and carried unanimously.

III. PRESENTATIONS & REPORTS:

A. HOMESTAY PERMITTING UPDATE

Site Planning & Development Division Manager Chris Collins, said that staff has been charged with providing quarterly updates of Homestay permit activity and Short Term Rental enforcement. The data in this report spans a time frame from November 2015 through May 26, 2017.

Rental of a property within the City of Asheville for a duration of less than 30 days is considered "Short-term". Rental of an entire home/apartment on a short-term basis is not allowed in residential districts and some commercial districts. Rental of private rooms within a dwelling on a short-term basis is allowed with a valid *Homestay permit* from the City.

November 2015, due to strong demand for homestay lodging, City Council passed a text amendment to Section 7-16-1(c)(9) to modify the requirements for a *Homestay.* The Development Services Department (DSD) began receiving applications for *Homestay permits* under the new provisions on November 18, 2015.

July 2016, Council allocated additional resources and staff to DSD to facilitate the permitting of Homestays and enforcement of illegal short-term rentals.

November 2016, the City engaged a third party contractor (Host Compliance) to assist with locating short-term rental violations throughout the City. The Address Identification service provides a monthly report with complete address information and screenshots of all identifiable short-term rentals in our jurisdiction.

Update on Homestay Permit Activity: According to data compiled by Host Compliance, there are approximately 331 listings advertising partial home rentals for properties located within the City of Asheville. Partial home rental activity is that which is most likely to be eligible for the issuance of a Homestay permit. It can be concluded from the permit data that a large percentage of eligible properties identified by Host Compliance are now operating with a legally issued homestay permit.

Time Period	Permits Issued
Nov 2015- Oct 2016; 12 month span	102
Nov 2016- May 2017; 7 month span	247
Total Active Homestay Permits (All Time Spans)	326

Update on Enforcement Activity: As directed, Development Services staff has increased proactive (staff initiated) enforcement of short-term rental violations. From November 2015 to November 2016, staff issued an average of 10 notices of violation for short-term rentals per month. From November 2016 to May 2017, City staff has issued an average of 72 notices of violation for short term rentals. From November 2015 to the date of this report, the City has sent a total of 536 notices of violation. Of the total noticed violations, only 13.7% originate through citizen complaints. 86.3% of the violations noticed by the city have been proactively originated by city staff with the assistance of the third party.

Time Period	Average Violations Noticed, Monthly
Nov 2015- Oct 2016; 12 month span	10

Nov 2016- May 2017; 7 month span	72
Percentage Increase, Proactive Enforcement	**720%**

The majority of the cases opened are resolved through the correction of the violation or issuance of a homestay permit where applicable. The table below highlights the most noteworthy resolutions:

Resolution of Case	**Percentage of Cases**
Homestay Permit Issued	20%
Violation Corrected, Case Closed (change of use in an allowed zoning district, change to 30 day minimum rental, etc)	43%
Invalid Complaint	7%

Staff Concerns: Through the administration of the revised Homestay permitting and proactive enforcement programs, staff has encountered many different scenarios that have informed the following areas of concern:

- Possible false representation of residency, web postings, and leases;
- Property owners seeking to operate homestays from detached structures;
- Accurate identification of livable space and unit separation; and
- Continuing media, recognition of the value of the short-term rental market in Asheville.

Next Steps: Staff will continue to work with the Host Compliance software service while diligently verifying supplied data to identify properties that are possibly in violation and those which may have the opportunity to gain compliance through Homestay permitting or other means. However, the number of new and unique violations identified by the Address Identification Service is decreasing. As such, the number of violations issued is expected to decrease in the future.

Mr. Collins responded to various questions/comments from Council, noting that the permit fees do not cover the enforcement costs.

IV. PUBLIC HEARINGS:

A. PUBLIC HEARING TO CONSIDER AN AMENDMENT TO THE UNIFIED DEVELOPMENT ORDINANCE ESTABLISHING REQUIREMENTS FOR UTILITY SUBSTATIONS

Mayor Manheimer briefly updated the Council on the Duke utility substation locations. She said that Duke has shifted off the three in tial sites and is now focused on a site on McDowell and they have an option contract for the old Volvo dealership on Patton Avenue.

Councilman Bothwell moved to continue this public hearing until August 22, 2017. This motion was seconded by Councilman Young and carried unanimously.

B. REDEVELOPMENT PLAN FOR 338 HILLIARD AVENUE

RESOLUTION NO. 17-115 - RESOLUTION AUTHORIZING THE LEASE OF CITY-OWNED PROPERTY AT 338 HILLIARD AVENUE TO THE KASSINGER GROUP FOR AN AFFORDABLE HOUSING DEVELOPMENT

RESOLUTION NO. 17-116 - RESOLUTION APPROVING A LOAN FROM THE CITY'S HOUSING TRUST FUND TO KASSINGER GROUP

PUBLIC HEARING TO CONSIDER A LAND USE INCENTIVE GRANT FOR ASTON PARK, 338 HILLIARD AVENUE (KASSINGER DEVELOPMENT GROUP)

RESOLUTION NO. 117 - RESOLUTION APPROVING A LAND USE INCENTIVE GRANT FOR ASTON PARK, 338 HILLIARD AVENUE (KASSINGER DEVELOPMENT GROUP)

Councilman Smith noted that this will be Assistant Director of Community & Economic Development Jeff Staudinger's last presentation to Council. On behalf of Council, he thanked Mr. Staudinger for his dedication, devotion and keen mind that has resulted in nearly off of the affordable housing policies that we are using today.

Mr. Staudinger said that this is the consideration of (1) a resolution authorizing lease of City-owned property by Kassinger Development Group for the development of affordable housing at 338 Hilliard Street, (2) a resolution approving a Housing Trust Fund loan to the development, and (3) a resolution approving a Land Use Incentive Grant to the development. The public hearing to consider a a Land Use Incentive Grant Application of 338 Hilliard by the developer of "Aston Place," Kassinger Development Group was advertised on June 2, 2017.

On September 6, 2016, Council accepted staff and Housing & Community Development (HCD) Committee recommendation that negotiations proceed with Tribute Companies for the development of the City-owned Parks Maintenance property located on Hilliard Avenue. In April of this year, Tribute withdrew their proposal. In accord with the provisions of the Request for Proposals, staff contacted Kassinger Development Group (Kassinger), the other developer that submitted a proposal for the development of the site. Kassinger agreed to submit a revised proposal. That proposal is summarized in this report.

Kassinger proposes a 64 unit rental development, with an estimated development cost of $7.9 million. In summary, the major elements of the proposal are:

	Proposed
# of units	64
% 80% AMI or below	52%
# 30% AMI	0
# 60% AMI	13
# 80% AMI	20
# 100% AMI	0
# Market	31
# Reserved for Homeless Households	0
# 1 BR	49
# 2 BR	15
# 3 BR	0
Third-Party Sustainability Certification Period of Affordability	Yes 50 Years

Two other key elements are proposed:

- 50 year land lease from the City; with a lease payment of 10% of net cash flow made annually to the City for the term of the lease;
- 50 year period of affordability

The Kassinger Group's proposal meets or exceeds all original RFP requirements, except that no three-bedroom units are proposed. This enabled the developer to increase the number of units from 60 to 64, and the number of affordable units from 31 to 33.

Cost estimates are still early and could change once plans are drawn, but estimates are on the high side indicating a conservative estimate. Developer is seeking financing with a HUD guarantee for $6,675,000 and is expected to receive a commitment by January 2018 with closing in March 2018 and construction scheduled to start in July 2018.

The HCD Committee reviewed the proposal at their meeting on May 16, 2017, including applications for Housing Trust Funds and a Land Use incentive Grant, and unanimously recommended that City Council accept the proposal.

Kassinger seeks the following incentives:

$1,280,000 Housing Trust Fund loan. The loan request is for a 50 year term at 2% interest. Although principal payments would be made upon achieving stabilization (93% occupancy), interest payments would be deferred until the project achieves a Debt Service Coverage ratio (DCR) of 1.30 for its bank debt (this provision would be a condition of the primary financer).

Proposed Loan Terms and Conditions

60% AMI Units	80% AMI Units	Market Rate Units	Loan Amount	Assistance Per Unit/Affordable Unit	Interest Rate	Term (Years)	Type
13	20	31	$1,280,000	$20,000 / $38,789	2%	50	Amortizing, Deferred Interest until 1.3 DCR

Proposed Total Development Costs and Assistance Allocations

Total Loan Amount	Total Development Cost	Loan % of Total Development Cost	Total cost per unit	Est. Cost Per Square Foot	Additional Assistance Request*	Total Assistance	Total Est. Assistance Per Affordable Unit
$1,280,000	$7,955,000	16%	$124,297	$199	$291,430	$1,571,430	$47,619

** Land Use Incentive Grant – estimated 10 year benefit*

The developer and the City have also discussed voucher holders will be eligible for these units. That is households of 50% median income whose rents would be supported through a Housing Choice Voucher.

10 year Land Use Incentive Grant. The developer has scored 100 points using the City's scoring matrix. The project, as presented to staff, appears to meet the following Eligibility Requirements,

- The proposed development consists of three or more dwelling units for rent;
- At least 10% of the units will meet the affordability standards set by the City of Asheville for households earning 80% or less of the Area Median Income.
- The affordable units will be affordable to and leased to income-eligible households for at least 15 years.
- The proposed development is located inside the city limits.
- The proposed development is located to provide residents convenient access to jobs,

schools and services

Scoring for the LUIG:

Affordable Rental Housing - The proposed project will provide thirty-three (33) units affordable to households at 80% or less of median income, with thirteen (13) of those units being rented to households earning 60% AMI or less. The developer has committed to an affordability period exceeding the minimum 15 year affordability requirement. Under this category, the project qualifies for 60 points.

Long term affordability - The proposed project will be committed to serving households at the designated rental rates for a period of fifty (50) years. This qualifies the project for 20 points.

Superior locational efficiency - The proposed project is within 0.25 miles of an existing bus-stop served by multiple bus lines, is within 1 mile of a job center in downtown, and is within .5 miles of public amenity in an ART bus stop served by an existing sidewalk. The project qualifies for 20 points in this category.

Staff has scored the project with 100 points, which qualifies the project for ten years (10) of Land Use Incentive Grant.

The total public cash assistance proposed for this project is $1,571,430 ($1,280,000 Housing Trust Fund and estimated $291,430 Land Use Incentive grant), which averages $24,554 assistance per unit and $47,619 per affordable unit. With a fifty (50) year affordability period, this incentive is $491 per year for all units and $952 per year per affordable unit.

The action complies with the following adopted City plans: (1) 2025 Comprehensive Plan; and (2) 2015-2019 Consolidated Plan for the Use of CDBG and HOME Funds.

Pros:

- 64 units of new mixed-income rental housing will be developed in the City's Central Business District, with excellent transportation access as well as walkable proximity to jobs, schools, services, and amenities ;
- 33 of those units will be affordable to low and moderate income households for 50 years;
- The new construction will be Energy-Star certified;
- The development will be of high-quality.
- The City will have expanded its public-private partnerships for the development of affordable housing, and will have supported an alternative to the highly competitive 9% LIHTC program.

Concerns:

- The project is highly leveraged and depends on the developer obtaining a HUD finance guarantee.

The project seeks a total of cash incentive from the City of $1,571,430: $1,280,000 in a loan from the Housing Trust Fund, and an estimated $291,430 in a Land Use Incentive Grant. This is a total incentive per unit of $24,554 and $47,619 per affordable unit. The promised 50 year term of affordability means the incentive per year per affordable unit is $952, and $491 per year for all units. This compares reasonably with other incentives provided. For example, the Simpson Street development incentive is estimated at $731/unit/year of affordability (70 units, 100% affordable); the Smith Mill Place assistance is $678/unit/year of affordability (72 units, 50% affordable).

Lease payments, new City property tax revenues and Housing Trust Fund repayments will provide revenue to the City over the term of the project. Estimated cash revenues are $344,300 in 10 years, $1,322,800 in 20 years and $3,996,473 in 50 years.

Staff recommends City Council approve the HCD's recommendation to adopt (1) a resolution authorizing lease of City-owned property by Kassinger Development Group for the development of affordable housing at 338 Hilliard Street, (2) a resolution approving a Housing Trust Fund loan to the development, and (3) a resolution approving a Land Use Incentive Grant to the development.

Councilman Bothwell said that we are getting a 50 year agreement because the City is making the land available.

Mayor Manheimer opened the public hearing at 5:35 p.m.

Ms. Sabrah n'haRaven asked that instead of using the percentages of "ami" that dollar amounts be used so people will understand exactly who the units will be affordable for. Mr. Staudinger then provided that information, along with the rates.

Ms. Melissa Clark felt that these rent rates will do nothing for low income people. Mr. Staudinger explained that the rental numbers come from a national standard. He then explained how the vouchers will be available in this project

Ms. Dewana Little felt that proposal is still not affordable for the people who live here. She felt it should be mandatory that vouchers be accepted for a certain number of apartments.

Ms. Ashley Cooper felt that this is only appeasing to a certain population of people and does not address the lower income people.

Mayor Manheimer closed the public hearing at 5:59 p.m.

Councilman Young suggested that in future projects, we consider revising our policy to get a project that will provide more units for ower income people in our community. He didn't want to undervalue what the City brings to the table.

Councilman Smith felt it would be good to revisit our policy; however, due to escalating construction costs, it may limit developers from submitting proposals. He understood the the rents will not be affordable to everyone, but it will be important to the people who live there. He didn't want to underestimate the good faith of the developers who are trying to make the numbers work.

Councilwoman Mayfield said that every piece of City-owned property that we use for this purpose will have different components. We want to make as many affordable units as we can on City land, but we need a partner to accomplish that task.

Mayor Manheimer said that this is this the first time we have gone into this type of arrangement for City property, as we move forward, our discussion will be more informed and meaningful.

Councilman Smith said that the term "affordable housing" the City is using comes from the U.S. Dept. of HUD. There is a significant need in this area, but acknowledged we need more housing for the homeless, people on fixed income and people on minimum wage.

Councilman Bothwell noted that addressing affordable housing hinges hugely on federal money and we have to abide by the regulations established by the federal government.

Councilman Haynes said that the City's land is valuable and he hoped our next project will include units for the lower income community.

Mayor Manheimer said that members of Council have previously received copies of the resolutions and they would not be read.

Councilman Smith moved for the adoption of Resolution No. 17-115. This motion was seconded by Councilman Bothwell and carried on a 6-1 vote, with Councilman Young voting "no".

RESOLUTION BOOK NO. 38 - PAGE 514

Councilman Smith moved for the adoption of Resolution No. 17-116. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Young voting "no".

RESOLUTION BOOK NO. 38 - PAGE 515

Councilman Smith moved for the adoption of Resolution No. 17-117. This motion was seconded by Vice-Mayor Wisler and carried on a 6-1 vote, with Councilman Young voting "no".

RESOLUTION BOOK NO. 38 - PAGE 516

V. UNFINISHED BUSINESS:

A. ORDINANCE NO. 4589 - ORDINANCE ADOPTING THE FISCAL YEAR 2017-18 ANNUAL OPERATING BUDGET AND AMENDMENTS TO THE FEES & CHARGES MANUAL

City Manager Jackson provided Council with some key performance outcomes and measures from the Police Department, Fire Department, Human Resources Department, Parks & Recreation Department, Office of Sustainability, and Community & Economic Development Department.

Director of Finance & Management Services Barbara Whitehorn said that this is the consideration of an ordinance to adopt the Fiscal Year 2017-18 Annual Budget, and amendments to the Fees & Charges Manual

The Fiscal 2017-18 Proposed Annual Operating Budget was presented to City Council on May 9, 2017. In accordance with the North Carolina Local Government Budget and Fiscal Control Act, a summary of the Proposed Budget along with a notice of the Public Hearing was published on May 13, 2017. City Council conducted a public hearing on the Proposed Budget on May 23, 2017.

The 2017-18 Proposed Budget includes a property tax rate of $0.4339, an increase from the revenue neutral property tax rate of $0.3939. 0.035 (3.5-cents) is dedicated to debt service for the 2016 GO Bond program. The additional 0.050 (0.5-cents) to the General Fund will pay for Transit service enhancements and the purchase of new buses.

Changes to the Proposed Budget - Since the Proposed Budget was presented to City Council, there have been some adjustments per Council direction that have altered the budget that is presented tonight for Council adoption.

- **Revenue Neutral Property Tax Rate.** The revenue neutral estimate in the Proposed Budget document is $0.395. The proposed budget now includes a revenue neutral estimate of $0.3939, slightly less than the original estimate.

- **Firefighter 401(a).** An increase to the City matching contribution to the fire personnel 401(a) retirement program from 2% to 4%, effective January 1, 2018. Approximate cost: $150,000. This expenditure has been added to the Fire Department budget with an

offsetting increase to revenue that reflects more refined information about revenue trends.

- **Compensation Budget clarification.** The operating budget includes a 2.5% increase to all City employees to be implemented with the July 1-14 pay period. This is a general wage increase. Performance metrics for the implementation of merit increases in FY 2018-19 are included in management work plans.

- **Organizational Changes.** Modifications to the City's organizational structure which, though they do not involve changes to the total budget being adopted by City Council, alter the budgeted amounts and the full-time equivalent (FTE) position count in certain departments. These changes include:

    - The City's Real Estate function is being reassigned from the Community and Economic Development Department to the General Services Department.
        - 2 FTE positions and
        - $170,855 reallocated between the two departments.
    - Zoning Enforcement and Board of Adjustments responsibilities are being reassigned from the Development Services Department (DSD) to the Planning and Urban Design Department.
        - 3 FTE positions and
        - Approximately $246,000 reallocated between the two departments.
    - The DSD FTE position count in the budget document has been adjusted by 1.5 FTE positions to reflect the amount that was originally included in the adopted FY 2016-17 budget. This is a correction only and does not have a fiscal impact.

Fees and Charges Manual Amendments

City Council adopted fee adjustments for Fiscal Year 2017-18 at its March 14, 2017 meeting. Since that time, additional minor fee adjustments have been brought forward in Development Services and Parking Services, and are included with adoption of the FY 2017-18 budget ordinance. These adjustments, which were reviewed by the Finance Committee at its May 23, 2017 meeting, are summarized below.

- Development Services: Fee structure modification to provide a rate for the construction of roofed porches and screened porches - $150 plus $0.30 per square foot over 500 square feet for porches with a roof, including screened porches, but excluding sunrooms. Staff also recommends a retroactive adjustment for the fiscal year 2016-17 in order to offer refunds to customers who paid this higher rate and make the refund request in writing.

- Parking Services:
    - Use of parking space for an entire day (metered) – New fee = $22.00 (Current fee = $18.00)
    - Use of parking space for an entire day (non-metered) – New fee = $22.00 (Current fee = $0.00)
    - Validation Tickets (Parking Garages) – New fee = $1.50 (Current fee = $1.25)

Budget Ordinance (Capital Fund Amounts)

The Capital Improvement Program (CIP) presented in the Proposed Budget Document reflects expected cash flows over the next five fiscal years for debt-funded projects and includes a number of projects that have budgets that have been fully adopted in prior years. The FY 2017-18 Budget Ordinance, however, only includes the adoption of new project budgets and budget additions to existing projects, some of which may be non-debt related. Budget staff provided

Council with a detailed listing of new projects and project budget additions that are included in the FY 2017-18 Budget Ordinance.

This action complies with the Thriving Local Economy and Smart City focus areas of City Council's Strategic Themes. The budget reflects City Council's ongoing commitment to providing a living wage as an example for other organizations in the area and managing the City to the highest levels of fiscal responsibility and prudence.

Pros:

- Ensures City's compliance with North Carolina General Statutes that require local governments to adopt a balanced budget ordinance by July 1 of each year.
- General Fund Budget is balanced with no fund balance appropriation for ongoing operating expenses and all essential City services are continued.

Con:

- None.

As noted above, the Proposed FY 2017-18 General Fund budget is balanced with no fund balance appropriation for ongoing operating expenses. The FY 2017-18 General Fund does budget includes a $1.18 million appropriation from fund balance for one-time expenditure items, which is consistent with the City's fund balance policies and the FY 2016-17 revenue and expenditure forecast.

In response to Mayor Manheimer, Ms. Whitehorn explained that the proposed budget on-line has not been changing after each worksession. All changes are tracked and then made in the adopted budget. Moving forward, a reconciliation will be posted on-line after each worksession, as we want to be as transparent as possible.

In response to Councilman Bothwell, Ms. Whitehorn explained the $430,000 in the Police Department's budget was accumulated by shifting resources from a different number of line items in the Police Department's budget in order to address some of their staffing issues. She said that we are delaying purchases.

Mayor Manheimer has asked the City Manager to come up with a plan to absorb the $630,000 in transit improvements without the .5-cent additional property tax increase.

City Manager Jackson said that staff has prepared a summary of the impact to the FY 2018 Proposed Budget if transit funding was increased by $630,000 annually without a ½ cent property tax rate increase. In general, absorbing this amount into the current budget would include several strategies some of which include longer term service impacts. Staff will attempt to outline those impacts in terms of strategies with shorter and longer term impacts.

The following strategies could be considered:

(1) ***Managing vacancies - except in public safety and bond implementation ($100,000)*** Evaluate vacant positions to determine where positions could remain open for six to nine months with the least impact on service delivery.

(2) ***Deferring maintenance/ replacement of fleet ($315,000) and facilities ($50,000)*** - Defer the replacement of fleet equipment (likely one large vehicle) and some less critical facility maintenance work (like painting, concrete repairs, carpet, pressure washing, etc.).There is also the possibility to realize savings in the cost of new fleet purchases in the upcoming fiscal year.

(3) ***Reducing temp/seasonal employees by limiting hours worked and the number of workers- ($50,000)*** - Reducing temp/seasonal employee hours would result in less

maintenance in parks and program staffing for summer camp and after-school programming.

(4) ***Delaying contracted services ($65,000)*** - Evaluating all discretionary contracts and deferring some, such as the Citizens Survey, that are not time sensitive or required to meet basic operational needs.

(5) ***Managing overtime ($50,000)*** - Managing overtime by converting eligible employees to compensatory time (comp time). While improving cash flows when the comp time is awarded, comp time owed to employees is a long-term liability of the City and must be paid out with separation. Service is impacted while the employee works for the City and uses the comp time. There is a fiscal impact with separation from the City.

Strategies (1), (3),(4) and (5) will be recurring costs that will need to be included in the FY 2019 budget if the intent is for these savings to be a one year only.

City Manager Jackson said that he would come back in the next quarter and let Council know what the forecast will look like.

Vice-Mayor Wisler moved to approve the budget as proposed with all but one of the adjustments itemized in the staff's report above, and that would be to remove the ½-cent property tax increase to fund Transit operations and the purchase of buses. Instead of the ½-cent property tax rate increase, the City Manager and department directors will determine a reallocation of funds within the General Fund to cover the $630,000 in Transit Costs. This will make the Property tax rate: 42.89-cent and General General fund budget total - $120,705,145. This motion was seconded by Councilman Bothwell.

Councilwoman Mayfield read a prepared statement. In summary, she explained that the proposed budget to add new police officers has been reduced by almost half and most of that money will come from reallocating existing dollars in the police budget rather than from new allocations. While to some degree the additional funding does not address deeper problems, it does not mean the funding is not needed. She agreed with Councilman Smith that this is a budget for the people and it advances many priorities that help people and improve our quality of life. This year we are increasing funding for affordable housing, sidewalks, sidewalks, crosswalks, greenways, parks, youth programs, partnerships with nonprofits, staff salaries, and retirement for firefighters. She was also pleased with the over $2 Million increase for transit. Asheville is being responsive in the areas of sustainability/energy/climate, affordable housing/food policy/insecurity, and multimodal transportation, and is also being responsive in the areas of equity and race, but this will not be solved overnight. She will work on the issues and try to be effective.

Councilman Young read a prepared statement. In summary, he supported the City to look at their budget process and seriously consider moving toward participatory budgeting. This is a move that will bring people closer to democracy in our City and closer to transparency and the decision-making. He asked Council to support directing staff to bring information forward on the participatory budgeting concept to the Finance and Governance Committees. Because our community needs a voice in decision-making and needs to work together for a stronger community, he supported the efforts of creating a new Human Resources Commission. That Commission will focus on the needs of our community and offer tangible solutions for serious Council consideration. We need to promote policies that provide serious and momentous opportunities for dialogue and action involving residents and police that will lead to better relationships, more equitable treatment by the police, greater police responsiveness and accountability, and greater willingness of residents to work with police. He did not believe this budget is bad, that it does not serve our community or it doesn't allocate funds to areas that serve the most vulnerable. However, he could not support the budget because he stands in empathetic support not only for the courage shown of those who protest a process and seek better

transparency and equitable outcomes, but also for those who serve in public safety roles who deserve a better process, as well as one that will support a thorough recruitment and retention effort that would include a better opportunity for minority recruitment and a very attractive compensation package, and an emphasis on higher educational and mental standards for officers that would be compensated appropriately. He would also like to see active efforts in recruiting home grown talent from the same communities that harbor distrust in police.

Mayor Manheimer said that this has been one of the most challenging budget she has worked on in her past seven years on Council. Even though the budget is not perfect, it does reflect a lot of input we have heard from the community. She felt that a participatory budget is an interesting idea and should be explored for the upcoming budget process.

Mayor Manheimer stated that since the public hearing was held on May 23, 2017, no public comment would be accepted.

Mayor Manheimer said that members of Council have previously received a copy of the revised ordinance and it would not be read.

The motion made by Vice-Mayor Wisler and seconded by Councilman Bothwell carried on a 5-2 vote, with Councilman Haynes and Councilman Young voting "no."

ORDINANCE BOOK NO. 31 – PAGE 230

VI. NEW BUSINESS:

A. RESOLUTION NO. 17-118 - RESOLUTION AUTHORIZING THE CITY MANAGER TO ENTER INTO A CONSTRUCTION AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A PROJECT TO IMPROVE PEDESTRIAN SAFETY ALONG FAIRVIEW ROAD FROM BLEACHERY BOULEVARD TO NC 81 (SWANNANOA RIVER ROAD)

ORDINANCE NO. 4590 - BUDGET AMENDMENT TO FUND THE CITY'S 50% SHARE OF THE CONSTRUCTION AGREEMENT WITH THE N.C. DEPT. OF TRANSPORTATION FOR A PROJECT ALONG FAIRVIEW ROAD

Director of Transportation Ken Putnam said that this is the consideration of (1) a resolution authorizing the City Manager to enter into a construction agreement with the N.C. Dept. of Transportation (NCDOT) for a project to improve the pedestrian safety along Fairview Road from Bleachery Boulevard to NC 81 (Swannanoa River Road); and (2) a budget amendment in the amount of $450,000 from fee-in-lieu-of sidewalk revenue to fund the City's 50% cost share of the project.

A tragic crash occurred on December 1, 2016, at 6:17 pm involving a motor vehicle and three pedestrians along US 74-A (Fairview Road) at a point east of the intersection at US 74-A (Fairview Road) and Gold's Gym / Babies R Us / River Ridge Business Park. Two of the pedestrians, ages 10 and 5, died and the third pedestrian was injured.

The crash was thoroughly investigated by the Asheville Police Department, the NCDOT's Western Regional Field Operations Engineer, the NCDOT's Blue Ridge Mountains Region Traffic Safety Engineer, and the Pedestrian & Bicycle Working Group (Working Group). The Working Group includes local NCDOT and City staff members.

After much review and discussion, the Working Group recommends a joint safety-related project on a 50%/50% basis between the NCDOT and the City of Asheville (City) that will improve the pedestrian experience and safety in the area. The project would include a new sidewalk along the "north" side of Fairview Road from Bleachery Boulevard to NC 81 (Swannanoa River

Road), pedestrian friendly safety rails along the bridges, and pedestrian amenities (pedestrian signals and marked crosswalks) at the three signalized intersections. The total estimated cost of the project is approximately $900,000. Once the funds are approved, the work should be accomplished during the Summer and Fall months of 2017. The NCDOT will handle all aspects of the work including preliminary engineering, design, utilities, and construction and the City will be responsible to maintain the new sidewalk. In addition, the City is moving forward with Duke Energy to install new street lights along the Fairview Road corridor.

In order for the NCDOT to obligate funds including Spot Safety and Small Construction Funds, a resolution from the City indicating its support of and participation in the project is required.

The Multi-Modal Transportation Commission reviewed this item on May 12, 2017, and endorsed it. The Public Safety Committee also reviewed this item on May 22, 2017, and recommended that it move forward to City Council for review and approval.

Pros:

- A much needed safety project will be constructed via a partnership between the NCDOT and the City of Asheville.
- The pedestrian experience will be improved for the citizens of the Oakley Community.
- A second direct connection to the future Swannanoa River Greenway will be provided.

Con:

- The City's local match of $450,000

The City would be responsible for 50% ($450,000) of the total estimated cost ($900,000). The City's share is proposed to be funded from the current balance in the sidewalk "fee-in-lieu-of" monies.

Staff recommends City Council adopt (1) a resolution authorizing the City Manager to enter into a construction agreement with the NCDOT for a project to improve the pedestrian safety along Fairview Road from Bleachery Boulevard to NC 81 (Swannanoa River Road); and (2) a budget amendment in the amount of $450,000 from fee-in-lieu-of sidewalk revenue to fund the City's 50% cost share of the project.

When Ms. Melissa Clark asked if the property owners along this route will be compensated for any loss of right-of-way, Mr. Putnam said that the NCDOT owns all the right-of-way.

Mayor Manheimer said that members of Council have been previously furnished with a copy of the resolution and ordinance and they will not be read.

Councilwoman Mayfield moved for the adoption of Resolution No. 17-118. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 517

Councilwoman Mayfield moved for the adoption of Ordinance No. 4590. This motion was seconded by Councilman Bothwell and carried unanimously.

ORDINANCE BOOK NO. 31 - PAGE 238

B. RESOLUTION NO. 17-119 - RESOLUTION RE-AFFIRMING THE CITY OF ASHEVILLE'S COMMITMENT TO REDUCING CLIMATE POLLUTION IN ALIGNMENT WITH THE CITY COUNCIL VISION, AND CONTINUED

SUPPORT OF THE PRINCIPLES OF THE PARIS AGREEMENT AND THE PARTICIPATION OF THE UNITED STATES OF AMERICA AS A PARTY TO THE PARIS AGREEMENT

Mayor Manheimer read the resolution. In summary, the City of Asheville re-affirms its commitment to taking action to reduce climate pollution in alignment with the City Council Vision, the City of Asheville continues to support the principles of the Paris Agreement and the participation of the United States of America as a party to the Paris Agreement; and that the City of Asheville will continue to stand with cities and other public and private sector partners throughout the world to advance actions to reduce climate change.

Mr. Joe Caudle spoke in support of the resolution.

Ms. Melissa Clark felt that the City of Asheville needs to do more if we want to change global warming.

Councilman Bothwell moved for the adoption of Resolution No. 17-119. This motion was seconded by Vice-Mayor Wisler and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE 518

C. RESOLUTION NO. 17-120 - RESOLUTION OF INTENT TO CONSIDER AMENDING THE CITY OF ASHEVILLE CHARTER TO PROVIDE FOR SIX SINGLE-MEMBER ELECTORAL DISTRICTS GOVERNING THE NOMINATION AND ELECTION OF CITY COUNCIL MEMBER AND SETTING A PUBLIC HEARING ON JUNE 27, 2017, ON THE PROPOSED CHARTER AMENDMENTS

City Attorney Currin said that this is the consideration of a resolution of intent to consider an ordinance amending the City of Asheville Charter to provide for six single-member electoral districts governing the nomination and election of City Council member and setting a public hearing on June 27, 2017, on the proposed Charter amendments.

The City of Asheville Charter provides for the composition of the City Council, as well as the method used for electing Councilmembers and the Mayor. Currently, the Charter provides that the Council is comprised of six (6) Councilmembers and a Mayor. All Councilmembers and the Mayor are elected by all qualified voters of the City (commonly referred to as an "at-large" method of election). N.C. Gen. Stat. §160A-102 allows the City Council to change the mode of election by ordinance, and also allows Council to provide that such an ordinance will only become effective "if approved by a vote of the people."

A bill ("SB 285") has been filed in the North Carolina General Assembly, which would require the City to amend the Charter to create six (6), single-member electoral districts, to govern the nomination and election of Councilmembers. The bill also requires that the qualified voters of each electoral district shall nominate and elect City Council candidates who reside in the district for the seat apportioned to that district. The Mayor would still be elected at-large. At this time, SB 285 provides that, if the City fails to create electoral districts within the time set forth in the bill, the General Assembly will establish electoral districts for the City.

The City commissioned a poll to determine, among other things, the preferences of the citizens as to the mode of election, and whether the citizens would like to vote on the mode of election by referendum. The majority of the citizens polled indicated they would like to have the question regarding the mode of election to be on the ballot. City Council has indicated a desire to move forward with such a referendum, and to put the question regarding whether the City Council should be elected from six districts on the November 2017 ballot. As explained below, the first action toward this objective is before the Council on June 13.

The General Statutes set forth a statutory process that cities must follow when enacting Charter amendments which change the mode of electing City Council members, and to submit the same to a vote of the people by referendum. The statutes require action at a series of three Council meetings. Below is a summary of the steps Council must take at each Council meeting, as well as the date on which each meeting will be held, to allow Council to vote to approve the charter amendments prior to the current proposed deadline for Council to act in SB 285, and to place the ordinance on the ballot in November.

First Council Meeting (June 13, 2017)	Adopt a resolution of intent to consider an ordinance amending the Charter. At the same meeting, call a public hearing on the proposed Charter amendments.
Second Council Meeting (June 27, 2017)	Hold a public hearing on the proposed Charter amendments.
Third Council Meeting (July 25, 2017)	Adopt an ordinance amending the Charter. If Council chooses to make that ordinance effective only upon a vote by the people, at the same meeting, adopt a resolution calling for an election on the referendum.

The action taken at the June 13 Council meeting will be the first step in the statutory process.

Mayor Manheimer said that we do not know if the bill will pass or not; however, if we want to move forward with a referendum on this issue, adoption of the resolution and setting a public hearing needs to occur at this meeting.

When Mayor Manheimer asked for public comments, none were received.

Councilman Bothwell moved to: 1) adopt a resolution of intent to consider an ordinance amending the City of Asheville Charter to provide for six single-member electoral districts to govern the nomination and election of City Council Members; and 2) to set a public hearing on the proposed charter amendments, to be held by the City Council of the City of Asheville during the regular meeting of the City Council on June 27, 2017, beginning at 5:00 pm in the Council Chamber on the second floor of the City Hall Building of the City of Asheville. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 520

D. BOARDS & COMMISSIONS

Regarding the African American Heritage Commission, the following individuals have applied for a vacancy: Michael Zuckerman, Debra Barnes and Samantha Singer. It was the consensus of Council to continue this vacancy until attendance records can be obtained.

Regarding the Historic Resources Commission, the following individuals have applied for a vacancy: Christopher Brian Cobb, Leslie Humphrey, Kevin Saum, Wayne Wheeler and Gerry Leonard. It was the consensus of Council to re-advertise for the vacancies.

Regarding the Multimodal Transportation Commission, the following individuals have applied for a vacancy: Helen Hyatt, Han Winogrond, Keaton Edwards, Carson Dellinger, Tina Wexler, Scott Dickens, Andrew Stephen Kirby and Randy Warren. It was the consensus of Council, at the request of the Commission, to postpone appointment until the Multimodal Transportation Commission can review all applications and make a recommendation.

RESOLUTION NO. 17-121 - RESOLUTION APPOINTING MEMBERS TO THE CIVIC CENTER COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Corey Atkins, Carol Ann Lydon and Yvonne Cook-Riley as members on the Civic Center Commission, expire June 30, 2017.

The following individuals have applied for a vacancy: Freddy Morgan, Ali Conroy, Christine Sykes Lowe, Tana Macalusco and Larry Layton.

The Boards & Commission Committee recommended (1) postponing the seat of Mr. Atkins until they receive a clarification on attendance; and (2) reappointing Ms. Cook-Riley; and (2) appointing Christine Sykes Lowe.

Vice-Mayor Wisler moved to (1) reappoint Yvonne Cook-Riley to serve an additional three-year term, term to expire June 30, 2020, or until her successors has been appointed; and (2) appoint Christine Sykes Lowe to serve a three-year term, term to expire June 30, 2020, or until her successor has been appointed. This motion was seconded by Councilman Bothwell and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 522

RESOLUTION NO. 17-122 - RESOLUTION APPOINTING MEMBERS TO THE CRIMESTOPPERS BOARD OF DIRECTORS

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Anthony Mitchell and Karl Katterjohn, as members on the CrimeStoppers Board of Directors, expire on June 30, 2017.

The following individuals have applied for a vacancy: Beau Dean, Travis Smith, Alvin Malesky, Douglas Oeser and Tana Macalusco.

The Boards & Commission Committee recommended appointing Beau Dean and Tana Macalusco.

Vice-Mayor Wisler moved to appoint Beau Dean and Tana Macalusco to each serve a three-year term respectively, terms to expire June 30, 2020, or until their successors have been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 523

RESOLUTION NO. 17-123 – RESOLUTION APPOINTING MEMBERS TO THE NEIGHBORHOOD ADVISORY COMMITTEE

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Philip Lenowitz (representing 28804 zip code); Barber Melton (representing 28805 zip code); and Elaine Poovey (at-large member) expire on July 1, 2017. In addition, Greta Bush (at-large member) resigned, thus leaving an unexpired term until July 1, 2018.

The following individuals applied for a vacancy: Fred Caudle, Gerry Leonard, Kristin Baldwin, Carter Webb, Jackson Tierney and Mike Wasmer.

It was the consensus of the Boards & Commissions Committee, and recommendation from the Neighborhood Advisory Commission, to reappoint Philip Lenowitz, and Barber Melton appoint Carter Webb and Mike Wasmer.

Councilman Bothwell moved to (1) reappoint Philip Lenowitz (representing 28804 zip code) and Barber Melton (representing 28805 zip code); to serve each serve an additional three-year term respectively, terms to expire July 1, 2020, or until their successors have been appointed; and (2) interview Mike Wasmer, Carter Webb and Jason Tierney for an at-large seat. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38- PAGE 524

RESOLUTION NO. 17-124 - RESOLUTION APPOINTING MEMBERS TO THE PUBLIC ART & CULTURAL COMMISSION

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Jay Miller, Andrew Fletcher, Jay Fields, Gwen Rukenbrod Smith, Guillermo Rodriguez and Ron Laboray, as members of the Public Art & Cultural Commission, expire on June 30, 2017.

The following individuals applied for this vacancy: Travis Smith, Shelley Schenker, Susan Dunlap, Chris Patton, Michael Carlebach, Laura Sellers, Gerry Leonard, Emma Hutchens, Theodore Windish, Allen Roda and Katie Cornell.

It was the consensus of the Boards & Commissions Committee to (1) reappoint Jay Miller, Andrew Fletcher, Jay Fields, Guillermo Rodriguez and Ron Laboray; and (2) appoint Katie Cornell.

Vice-Mayor Wisler moved to (1) reappoint Jay Miller, Andrew Fletcher, Jay Fields, Guillermo Rodriguez and Ron Laboray as members of the Public Art & Cultural Commission to serve a three-year term respectively, terms to expire June 30, 2020, or until their successors have been appointed; and (2) appoint Katie Cornell as a member to the Public Art & Cultural Commission to serve a three-year term, term to expire June 30, 2020, or until her successor has been appointed. This motion was seconded by Councilwoman Mayfield and carried unanimously.

RESOLUTION BOOK NO. 38 - PAGE PAGE 525

RESOLUTION NO. 17-125 - RESOLUTION APPOINTING MEMBERS TO THE RECREATION BOARD

Vice-Mayor Wisler, Chair of the Boards & Commissions Committee, said that the terms of Todd Dunnuck, Tiffany DE'Bellott, Sheneika Smith and Patrick Dennehy, as members of the Recreation Board, expire on June 30, 2017.

The following individuals applied for this vacancy: Ali Mangkang, Beau Dean, Taylon Breeden, Lauren Weldishofer, Gerry Leonard, Jeff Luttrell and Ron Nelson.

It was the consensus of the Boards & Commissions Committee to reappoint Ms. DE'Bellott and Patrick Dennehy and to appoint Ali Mangkang and Lauren Weldishofer.

Vice-Mayor Wisler moved to (1) reappoint Tiffany DE'Bellott and Patrick Dennehy as members of the Recreation Board to each serve a three-year term, terms to expire June 30, 2020, or until their successors have been appointed; and (2) appoint Ali Mangkang and Lauren Weldishofer as members to the Recreation Board to each serve a three-year term, term to expire June 30, 2020, or until their successors have been appointed. This motion was seconded by Councilman Smith and carried unanimously.

RESOLUTION BOOK NO. 38 – PAGE 526

E. BLUE RIBBON COMMITTEE ON HUMAN RELATIONS COMMISSION

Vice-Mayor Wisler provided the Council with the proposed charge of the Blue Ribbon Committee on Human Relations Commission as follows: "The purpose of the Blue Ribbon Committee on a Human Relations Commission will be to serve in an advisory capacity to define a mission and scope concerning a newly created Human Relations Commission. The Committee will hold one initial orientation meeting at which time the Chair, Vice-Chair and subcommittees will be formed. The Committee shall hold at least three broad community meetings. The Committee will meet at least one time a month. The City Manager's Office, with Legal Department support, will be responsible for providing support to the Committee. The Committee will select its own Chair and self-facilitate. The Committee and all subcommittees shall adhere to the City of Asheville Rules on Boards and Commissions and North Carolina Open Meeting Laws and all other applicable laws and regulations. The Committee is expected to achieve the following goals: define and provide recommendations of the mission, scope and duties of the Human Relations Commission. After the Committee's first meeting, the Chair and Vice-Chair shall present at the next regular Boards & Commissions Committee meeting the operation and process strategy of the Committee. The Committee must submit final recommendations to City Council by November 6, 2017. The Committee shall be composed of no more than 15 members. Appointments to the Committee shall be made in accordance with the Rules of Procedure for City Council. All recommendations for appointments to the Blue Ribbon Committee will be made by the Boards and Commissions Committee and voted on by Council in an open meeting. Decisions of the Committee are reached by a simple majority vote of the members unless otherwise required by law. All voting will be conducted in open meetings with a quorum present. When the Committee has completed its function, as determined by City Council, the Committee shall be dissolved and the members of the committee shall be informed of the termination by e-mail from the City Clerk's office. City Council will consider, but not be bound by, the Committee's recommendations or concerns."

Vice-Mayor Wisler moved to approve the charge of the Blue Ribbon Committee on Human Relations Commission. This motion was seconded by Councilman Young.

When Councilman Bothwell suggested a friendly amendment that the votes be taken by secret ballot, City Attorney Currin said that it would be a violation of the Open Meetings Law. Councilman Bothwell then withdrew his friendly amendment suggestion.

The motion made by Vice-Mayor Wisler and seconded by Councilman Young carried unanimously.

Mr. Joe Caudle recommended Council look at the City of Atlanta as they have a well-established Human Relations Commission.

Ms. Ashley Cooper questioned what type of power the Human Relations Commission will be charged with.

Ms. Nichole Townsend wanted to make sure that the Human Relations Commission will have the power to make changes and that a diverse group of citizens is appointed to the Commission.

Vice-Mayor Wisler said that Council members have been in the process of sending in their nominations for the Committee and noted that applications for Council-nominated applicants and at-large members are due by Wednesday, July 19, 2017, at 5 p.m. The Boards & Commissions Committee recommended Council appoint the five Council nominations received. Therefore, she moved to appoint Mr. Patrick Conant, Dr. Dwight B. Mullen, Dr. Darin J. Waters, Mr. Joseph Hackett and Ms. Marta Alcala-Williams to serve on the Blue Ribbon Committee for the Human Relations Commission. This motion was seconded by Councilman Bothwell and carried unanimously.

Vice-Mayor Wisler said that the Council is looking to appoint people with expertise in the following areas: Asheville African American history, policy experience, City Hall operations, land use, economic development, community development, housing, arts, law, a Citizen-Police Advisory Committee representative, along with at-large members.

City Clerk Burleson was directed to contact other Council nominations to remind them of the application deadline of July 19, 2017, at 5 p.m.

VII. INFORMAL DISCUSSION AND PUBLIC COMMENT:

Ms. Sharon Sumrall, resident on Beaucatcher Mountain, expressed concern over the clear-cutting of property on Beaucatcher Mountain. Mayor Manheimer asked Ms. Sumrall to provide the pictures and information to City Manager Jackson who would follow-up on her complaint.

Ms. Dewana Little relayed an incident in which she was discriminated against when she tried to register her children for summer camp. City Manager Jackson noted that he would follow-up on the complaint.

Closed Session

At 7:48 p.m., Councilman Young moved to go into closed session for the following reasons: (1) to prevent disclosure of information that is privileged and confidential, pursuant to the laws of North Carolina, or not considered a public record within the meaning of Chapter 132 of the General Statutes. The law that makes the information privileged and confidential is N.C.G.S. 143-318.10(a)(3). The statutory authorization is contained in N.C.G.S. 143-318.11(a)(1); and (2) To consult with an attorney employed by the City about matters with respect to which the attorney-client privilege between the City and its attorney must be preserved, including, but not limited to, a lawsuit involving the following parties: Siemens Real Estate Holdings, LLC, and Jim Siemens, individually, vs. the City of Asheville. The statutory authorization is N.C. Gen. Stat. sec. 143-318.11(a)(3); and (3) To discuss matters relating to the location or expansion of industries. The statutory authorization is contained in N.C. Gen. Stat. sec. 143-318.11 (a) (4). This motion was seconded by Vice-Mayor Wisler and carried unanimously.

At 8:08 p.m., Councilman Young moved to come out of closed session. This motion was seconded by Councilman Bothwell and carried unanimously.

VIII. ADJOURNMENT:

Mayor Manheimer adjourned the meeting at 8:08 p.m.

Magdalen Burleson
CITY CLERK

Esther E. Manheimer
MAYOR

Department of Natural and Cultural Resources
Division of Archives and Records
Collections Services Section

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